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# HOW WE CAN HELP YOU?

- Tax Advisors
- Property Specialists
- Strategic Tax Mitigation Planning
- Accounting Services
- Company Compliance Services
- Financial and Investment Services
- Mortgages and Loans

# Disclaimers

- Views expressed are my take
- Based on practical experience
- Take separate professional advice before taking any action

# Today's Agenda

1. Section 24- Get over it!!!!
2. Common (**and expensive errors**) made by landlords and their advisors
3. Forthcoming Changes
4. Airbnb/Serviced Accommodation/Rent to Rent neglected tax issues
5. Update on Principal Private Residence
6. Saving six figures on your tax bills by incorporating correctly
7. How to Structure your next Acquisition – Considerations

# S24 GET OVER IT!

In March 2018 1.1 million landlords were unaware of Section 24 implications.

Lets accept S.24 is here to stay and plan accordingly

1. Tax relief restrictions (40% landlord's will be losing money from April 2017)
2. Most landlords seeing higher tax bills already ....just the start!
3. Loss of wear and tear relief already actioned
4. Loss of exemptions on PPR

# ■ What does this mean?

- A small Portfolio of just 3 or 4 properties could result in ADDITIONAL tax of > £10,000
- RLA – Recent survey, many landlords will be selling part/all of their portfolios

## Unintended Consequences:

- Lose Personal Allowances
- Lose Child Tax Credit
- Lose Child Benefits
- Pay more student loan

# Common Errors

## Jointly held or in sole name?

- Important to separate each property for reporting purposes
- Separate calculations
- Cannot merge into one return
- If married/civil partnership assumed 50:50
- If different ratios must have trust deed or noted on deeds
- Form 17 to be filed within 60 days of date of declaration (evidence now being required)

# Common Errors

- Flavour of the month. All these should ring a bell to say PROCEED WITH CAUTION
  - ❖ Management companies
    - ❖ Joint ventures
    - ❖ Rent to Rent –
    - ❖ Buy in Limited companies – ATED
    - ❖ Holding company and subsidiaries
- NOT understanding how Ltd companies work
- Understand what you are doing and why?**



# Case Studies

## Loans to Developers/Property Dealers/JV Finance

- Interest paid by companies to individuals must have tax deducted. CT61
- Agreement in name of individual but money loaned by lenders company (and vice versa)

## VAT

- Vat implications on new build, commercial and mixed use developments –very complex!

## Overseas Property

- Rental income not reported – misconception it's not taxable
- Losses incorrectly set off against UK rental profits

# Case Studies

**Ltd Companies are a separate legal entity** – cannot mix transactions with the directors

- Cannot take out money without tax implications
- Rent to Rent. – Agreements are different to reality

**Portfolios incorporated into a company incorrectly**

- All 'boxes not ticked' ie conditions not met
- Possibly no tax advantage
- Unidentified tax liability
- Possible greater costs
- Out of frying pan and into the fire

# Case Studies

## ATED –

- Need to complete declaration if a residential property is held in a Ltd Co

## Stamp Duty

- Beware first property can be anywhere in the world!

## TRAINING/COURSES

- Incurred Pre or Post property activity? Think of university fees (not allowed)
- Mileage, hotels, network events, viewing expenses etc:
- *'Expenses for **preparation** are not an allowable expense'*

**Take advice BEFORE** finalising deals eg; buying, mortgages, selling or other action that may have tax implication

# Rent to Rent/Airbnb - Serviced Accommodation

**Rent a Room** - £7,500 exemption -BUT likely to be removed for SHORT TERM LETTINGS

HMRC review under way

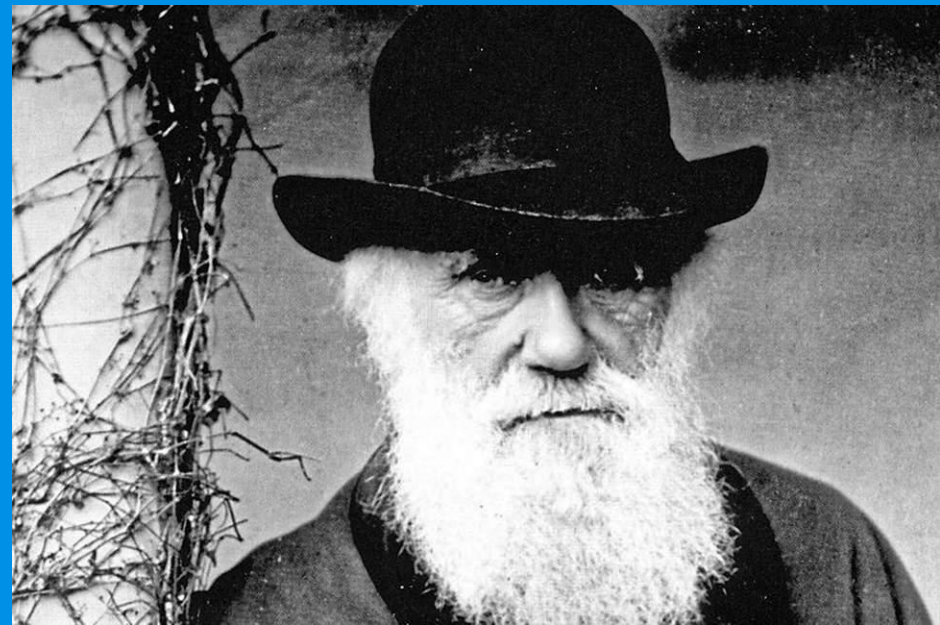
## Rent to Rent and Airbnb

- ❑ This is a self employed business. It is not Rental income!
- ❑ NI implications 9% (£8,424 to £46,350 then 2% thereafter) for 2018/19  
Also need to Pay class 2 NIC
- ❑ Different expense rules apply.
- ❑ Tell insurers/mortgage company
- ❑ Check lease if leasehold property involved

# 'Who will survive'

'Its not the strongest of the species that survives, nor the most intelligent that survives. It is the one that is the most adaptable to change.'

Charles Darwin



# Forthcoming changes- Capital gains tax payment window- Part 1

- Historically CGT only charged on disposal by UK residents.
- In April 2015 expanded to include disposal of UK residential property by non-UK residents
- **From 6 April 2019-** Non UK residents will have 30 days to pay CGT within 30 days of completion on all UK land and property not just residential property. Will affect UK commercial property non-resident owners and disposal of shares in 'property rich' companies.

## Forthcoming changes- Capital gains tax payment window- Part 2

- **Chancellor has discovered more cash flow –**  
As announced in Autumn Budget 2017, the UK government will legislate in Finance Bill 2018/19 to introduce a requirement for UK residents to make a payment on account of capital gains tax within 30 days of completion of a residential property disposal **from 6<sup>th</sup> April 2020**. The new legislation will also replace and extend the existing reporting and payment on account rules for non UK-residents.
- Implication is it removes delay of between 10 and 22 months for payment.

## Forthcoming changes- HMRC Requirement to Correct

- Undeclared tax liabilities relating to income tax, capital gains tax, and other liabilities held offshore (outside of UK)
- Requirement to declare this offshore income before **30 September 2018**
- Penalty if they do not notify and pay on time. 200% minimum charge on Income and 10% charge on value of assets.
- PLEASE ACT NOW.



# Interest relief on capital withdrawn from a property letting business

- A worrying recent tax development is that HMRC appear to have changed their attitude towards remortgaged rental properties, denying interest relief on additional borrowings where capital is withdrawn from the property letting business.
  - Historically so long as your capital account is not overdrawn then you were ok and this was illustrated in Para BIM45700 of the Business income Manual.
  - Recently HMRC saying additional mortgages should be used to provide working capital for the property letting business and should not be extracted for private purposes. Refer to HMRC guide entitled 'Income Tax When You Let Your Property: Work Out Your Rental
- Income*' – Under the heading 'Increasing your mortgage'.

# Making Tax Digital

- **Inception April 2019** for VAT registered businesses with turnovers over £85,000 (management companies, developers etc)
- All other businesses and self employed individuals (non vat registered) and landlords but not before April 2020
- Will require specialist software (mandatory -not a choice)
- Must make quarterly returns
- Digital recording direct to HMRC
- Failure to meet deadlines will incur penalties
- Different rules for Companies

# Principle Private Residence

- There are no rules on how long
- Degree of permanence and expectation of continuity for the property to qualify for PPR
- Recent tribunal held 6 months was not necessarily enough
- Moved from 4 bedroom house to 2/3 bedroom flat with 3 young children
- Failed on expectancy and permanence



# PPR and letting relief- act now to preserve it

Budget 2018- bad news

- The final period exemption was 36 months until 2014. Then changed to 18 months. From 6 April 2020 will be reduced to 9 months.
- **Worse still** letting relief will only be available if you co-occupied the property with the tenants. This could cost a married couple an extra £22,400 in tax
- **So time to review portfolio and consider a sale before that date on properties that are most affected.**

# What Do You Do Going Forward?

1. Buy new properties in a Limited Co -?
2. Existing portfolio - More than one option?
3. Solution maybe ... do nothing

# What to Consider?

1. **Buy/Transfer to a new company – Not always!**
  - What if not a higher rate taxpayer?
  - What if retiring soon?
  - What if low gearing(borrowings)?
  - What if planning to pay off loans (eg pension proceeds)?
  - What if large losses built up?

**INITIAL DETAILED REVIEW MUST BE DONE**

# What to Consider?

## 2. Convert:

- You are a higher rate taxpayer now or will be soon
- You will continue to be a higher rate taxpayer
- You have plans to expand with high gearing
- You have high interest charges
- Spend 'substantial' time in the business
- Not always possible to do – Conditions to be met for CGT and Stamp duty reliefs

## 3. Do Nothing

But you have to do something in order to decide to do nothing!

Substantial tax advantages on incorporation are **possible**

NB. Could tax reliefs on transfers be removed in future announcements? **ACT NOW!**



# THREE HURDLES

1. Stamp duty
2. CGT
3. Refinance

# Is It A Business?

1. Need to be an LLP or a partnership to take advantage of SDLT exemption
2. People carrying on a business with a view to profit (Part Act 1890) – Partnership UTR, bank account , agreement etc helpful but not vital
3. Need to be a 'Business' to get S162 CGT relief
4. – No legal definition
  - Must be sufficient activity to make the lettings into a business as distinct from an investment
  - Scale (size) of the building does not make it a business
  - Degree of activity is material not number of properties
  - Run for profit etc
5. Expensive if you get it wrong!
6. Serviced business centre not a 'business' even though nearly £500k income pa Tribunal held it was mainly the holding of investments.
7. Rule of thumb –Do you work minimum of 20 hours?
8. Must transfer ALL the properties

# Existing Loans/Mortgages

## ISSUES:

- Attractive terms and rates
- Expensive to break and refinance
- Breach of lending T & C's ?
- Trust deed/Beneficial ownership T & C's mainly silent
- Ask lender? - Some lenders looking to reduce loan book already and to call in unprofitable loans. Don't ask?
- CHECK TERMS .... Capital Home Loans don't allow beneficial interests.
- Default reverts to Legal Owner
- Legal opinion is not consistent –depends on each lenders T&C's

You must take professional advice  
for your personal situation...

...There is no global solution or  
process that is suitable for everyone

**Q & A**

**Feedback Forms**

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