

Tenant tax relief

Generally the idea that the type of tenant an investment property is let to should make any difference would seem unusual to a landlord, but as Adam Waller, private clients director at Deloitte, explains, recent legislation has led to particular tenants improving the capital gains tax position.



TAPER RELIEF DOES NOT APPLY TO ASSETS OWNED BY INVESTMENT COMPANIES

Author

Adam Waller is a director in the Manchester offices of Private Client Services at Deloitte. He works primarily with clients who are business leaders, advising them on their personal tax affairs. He is involved with the tax structuring, tax planning, tax compliance and general financial affairs of a diverse portfolio of clients. He is a chartered tax adviser, and an MBA graduate of Manchester Business School.

The UK capital gains tax system was overhauled in 1998, with the introduction of taper relief and attractive tax rates for certain assets. The rules were amended with effect from 6 April 2000, to allow more assets to qualify for the generous rates, including, for the first time, investment properties in certain situations depending on the tenant.

At the time, many tax professionals thought that this was an oversight by the UK Government and changes were anticipated to correct this 'error'. However, the opposite happened, with the legislation subsequently amended to include investment properties used for the purpose of a trade carried on by an unincorporated trader. This change came into effect from 6 April 2004 and the rationale behind it was to neutralise the tax advantage for the landlord letting their property to either an unincorporated trader or an unquoted trading company.

Now, where an investment property is let to an unquoted trading company, the asset qualifies for business asset taper relief for this period. Where the tenant is an unincorporated trader (including a partnership) or an unquoted trading company, the asset should then qualify for business taper relief. The effective tax rate is therefore driven by the type of tenant, and it is possible to achieve a rate of 10 per cent in respect of investment property with the 'right' type of tenant.

The actual tax position can be complicated by periods of mixed use, for example, where a property has been owned since 1998 such that there are periods of business and non-business use for taper relief. Also, the definition of unquoted trading company needs to be considered, as a parent company quoted on an official exchange can compromise the position.

As always, you should discuss this with your adviser to understand the tax position and planning opportunities available. If you are considering investing in property, having the appropriate investment vehicle will also be important, as taper relief does not apply to assets owned by investment companies. The position is different where a landlord uses the asset for the purpose of his/her own trade or where property qualifies under the furnished holiday accommodation rules. □