

Inheritance Tax Planning Post Property Incorporation

Now you've done the hard part – incorporating your property portfolio!
So, what happens next?

You now own shares in your Property Company for the purposes of managing these properties and receiving rental income in a more tax efficient way.

However, unlike a “trading company” a “property or investment company” doesn't generally have access to the same tax reliefs.

Entrepreneurs Relief and investments – exclusion of relief

A trading company is defined in TCGA 1992, s 165A(3) as a “company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities”.

Most rental property is classed as an investment and not a trading asset, for capital gains purposes. Although rental properties do not generally affect the company's Corporation Tax rate, they most certainly can affect the owner's Capital Gains Tax rate.

Business property relief (BPR)

Subject to meeting certain other qualifying criteria, the shares in a trading company can usually be passed on free from Inheritance Tax due to business property relief.

To qualify for business property relief in the first place, the company must not be engaged 'wholly or mainly' in making investments. Investments for this purpose would include rental property.

Inheritance Tax

If you own shares in a Property Company, then the following applies:

1. Mortgage interest relief will be available to the company.
2. If you have recently incorporated your business taking advantage of S.162 TCGA 1992, the base costs of ALL properties will have been uplifted to current market value.
3. You have initially capped the tax liability on profits to corporate tax ("CT") rates of 19% (2016-17).
4. The tax on any future disposal of property by the company will be restricted to CT rates only on the growth.
5. Income can be paid in the form of salaries or dividends and split more favourably between spouses.
6. Business continuity.

However, for Inheritance Tax Purposes the value in your estate, ie the value of the properties, is reflected in the value of the shares and without any business property relief (available for trading companies) the inheritance tax exposure is 40% on the value of the shares in the property company.

There are a number of ways we can alleviate the effects of IHT.

One of these is by using a special purpose trust. This benefits from a number of favourable and long standing statutory reliefs, the IHT liability can be reduced significantly, making it a highly tax efficient vehicle through which to hold valuable shareholdings.

If you hold shares in a valuable investment company, then we can help protect your family assets and wealth.

For more information on how to protect your property assets, please contact us.

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