

How To Own A Business Property

Should you buy a business property in your own name or within your company, which will use the property for its trade?

You Own It

You can charge the company a commercial rent for using the property. There is no National Insurance on the rent, so this is a tax efficient way of extracting funds from your company. Although you will have to pay income tax on the rent received. Your company can claim a tax deduction for the rent paid.



Think ahead

If your spouse or civil partner pays tax at a lower rate than you, holding the property in your joint names can reduce your family's total tax bill. The part of the rent relating to your partner's portion of the property will be taxable at a lower rate. The property can be held in any proportion (not just 50:50), but we need to tell HMRC, so you are both taxed on the right proportion of the rent received.

If you sell the property for a profit the gain will be taxed at 18% or 28% in your hands, after deduction of your annual exemption (£10,100 in 2010/11). Holding the property jointly with your spouse can also produce tax savings on the sale.

Where the property has been used by your company with no rent paid, you may be able to claim entrepreneurs' relief to reduce the tax on the sale to 10%. But this tax relief only applies if the property is sold in association with your withdrawal from the business and the disposal of some of your shares.

Company Owns It

When your company sells the property it will pay tax at 21% or 28% on the profit, with no deduction for the annual exemption but it can deduct an inflation allowance. However, the net proceeds will be trapped within the company, and may incur another tax charge when you extract them.

When your company owns the property, its full value is sheltered from inheritance tax. If you hold the property personally only 50% of the value escapes inheritance tax.

As you can see, the tax implications of each purchase are quite different, so please discuss your purchase with us in advance.

PAYE 'errors'

The PAYE system does not work perfectly, so overpayments and underpayments of tax do arise. HMRC has now begun the huge task of reconciling all the PAYE records for the tax years 2008/09 and 2009/10 to identify those under and overpayments.

Unfortunately the Tax Office has decided not to send us copies of the calculations it is sending to taxpayers regarding tax owing, or overpaid. So PLEASE send us a copy of any tax calculation you receive from HMRC. We need to check the figures ASAP to ensure you only pay what is actually due.

Tax Deadlines

- 17 September**
PAYE & NIC cheques to reach HMRC for month to 5 September.
- 22 September**
Electronic payments of PAYE & NIC to clear HMRC account for month to 5 September.
- 30 September**
Private company and LLP accounts for year to 31 December 2009 must reach Companies House. Final day to claim small business rate relief for 2009/10, for properties in England.
- 1 October**
New National Minimum Wage hourly rates:
Adults - £5.93;
aged 18-21 - £4.92;
aged 16-17 - £3.64;
apprentice rate £2.50.
Corporation tax due for year to 31 December 2009.
- 5 October**
Inform HMRC of new sources of income or gains if no Tax Return received for 2009/10.
- 19 October**
Income tax and class 1B NIC due under PAYE Settlement Agreements for 2009/10. PAYE & NIC cheques to reach HMRC for 2nd quarter 2010/11 and month to 5 October.
- 22 October**
Electronic payments of PAYE & NIC must clear HMRC account for periods to 5 October.
- 31 October**
Paper tax returns must reach HMRC (exceptions apply). Automatic £100 fine if tax for 2009/10 is unpaid at 31 January 2011. Unpaid tax of up to £2,000 can be collected through 2011/12 PAYE coding.
- 2 November**
Forms P46 (car) to HMRC where a car is first provided in quarter ended 5 October.
- 19 November**
PAYE & NIC cheques to reach HMRC for month to 5 November.
- 22 November**
Electronic payments of PAYE & NIC to clear HMRC account for month to 5 November.

Are All Your Dividends Legal?

It's important to prove all the dividends you take from your company are legal, as the Tax Inspector can treat illegal dividends as bonus payments or loans. In which case additional NI and tax may be due from the company and sometimes from you.

To pay a legal dividend it is not sufficient to write 'dividend' on the cheque stub or against the entry in the director's loan account. The directors should first review the company's profits and cash available after setting aside amounts to pay the company's creditors and future tax bills. You need to prove this was done, so a record must be made when you decide to pay an interim dividend.

When the accounts for the year are finalised and show a profit, the directors can recommend that surplus profits are paid out as a final dividend. The shareholders can either accept the directors' recommendation or suggest a lower figure of dividend. Both these decisions need to be properly

recorded at the time they are made.

When any dividend is paid, dividend vouchers must be prepared for each shareholder showing the total due, the dividend tax credit and the date of payment. The dividend can be paid by cheque or bank transfer into the shareholder's private bank account. If the shareholder is a director his account in the company's books can be credited with the dividend due to him, but this needs to be done as soon as possible after the decision to pay a dividend is taken.

We can help you with this paperwork, but it is important that the decision to pay a dividend is made and recorded in advance of any cash being paid out of the company.



The key is correct paperwork

Making The Best Of Capital Losses



Claim the loss

Have you made losses on your investments in 2009/10 or earlier tax years? Even if the loss is small we should report it on your tax return so it can reduce any future taxable gains, or even gains rolled forward from an earlier tax year.

Gains can only be rolled forward when you reinvest the proceeds or gain in qualifying business assets, or in new Enterprise Investment Scheme (EIS) shares. This will not be possible for everyone.

Where you own shares or property that has become worthless while you held it, you may be able to submit a negligible value claim. This creates a capital loss just as if

you had sold the shares for their current market value (probably nil). If you make that claim now, the loss can be treated as arising in 2009/10 or 2008/09 if the shares were worthless at that earlier date.

Losses arising on shares that you subscribed for in trading or EIS companies, can sometimes be converted into income tax losses. It does depend on exactly what trade the company undertook, as some trades, such as leasing, are disallowed.

If you sold your business and received payments based on its future performance, those payments may have been less than expected. You were taxed on the original sale, so the 'loss' on the performance payments can be set against the original sale price.

Please talk to use if any of these situations applies to you.

Tax Relief On Irrecoverable Loans

Friends and family often make loans or guarantee loans to their loved one's business, but sometimes those loans cannot be repaid. Lenders in this position may be able to claim the irrecoverable loan is a capital loss. This also applies where money has been paid under a guarantee. The loss can then be set against the lender's or guarantor's capital gains made in the same tax year or a future year, but not against income tax liabilities.

The Tax Inspector will only agree the loan has become a capital loss if it really is irrecoverable. This is taken as read where the business that borrowed the money has gone bust.

While the business is still trading there is a slim chance the money could be repaid, even if the loan has been written-off

in the accounts. The Tax Inspector will need evidence from the business's bankers and sources such as Court judgements to be convinced the loan can never be repaid by the business.

In addition the business must have been viable when the loan was made, and the money must have been used for trading purposes, and not diverted into the pockets of the business owner.



Evidence is needed