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Beware the second residential property UK anomaly

Depending upon which part of the UK the property is situated you will pay either Stamp Duty Land Tax (SDLT) in England and Northern Ireland (NI), Land and Buildings Transaction Tax (LBTT) in Scotland or Land Transaction Tax (LTT) in Wales upon purchase.

On top of that, if you are acquiring a residential property for investment purposes or as a holiday home or even if you are going to occupy it as your new main residence but not dispose of your old home, you can incur a further additional land tax liability.

In the case of England and Northern Ireland that is known as the SDLT Surcharge at 3%. In Wales it is the LTT Higher Rate charge also at 3%. Whilst in Scotland it is called the LBTT Additional Dwellings Supplement (ADS) at a rate of 4%. **In all three cases this extra charge can be calculated on the full amount of the purchase price!!**

So undoubtedly **it is a case of buyer beware,** especially if you are acquiring a residential property in a different part of the UK to where you reside. You may not be up to speed with not only the subtle differences in the land taxes rates and bands, but also how the tax rules, in this perspective, are applied. **There can be quite significant anomalies in the amount of land taxes you could end up paying,** particularly as regards property purchases in Scotland as opposed to the rest of the UK. This has been further exacerbated as a result of the differing ways each Government in the UK has tried to stimulate the property market due to the Covid-19 pandemic.

For example:

- Tom and Mary live together as common law husband and wife.
- Their main residence is in Mary's name.
- **They are contemplating buying a holiday home now for £400,000.**

Depending upon which part of the UK the property is situated the couple may incur the following land taxes:

Wales LTT and the 3% Higher Rate charge = £21,950
England and NI SDLT and the 3% Surcharge = £12,000
Scotland LBTT and the 4% ADS = £27,250

If Tom only was to purchase the property the land taxes would be the same in **Scotland (£27,250)** but in the rest of the UK it would be:

Wales LTT only = £7,500
England and NI SDLT only = Nil

These variation in the amount of Land Taxes which could be paid will change again once the Covid-19 concessions come to an end on 31st March 2021.

Likewise, if the £400,000 property acquired by Tom and Mary was deemed to be of mixed use, part residential, part commercial (e.g. a flat and a shop or a house with woodlands attached) and the residential element was worth say £250,000, then the land taxes as regards each part of the UK would be:

Wales LTT (non-residential rate) = £8,500
England and NI (non-residential rate) = £9,500
Scotland LBTT (non-residential rate) and ADS on the value of the flat = £18,500

Before purchasing this 'second' property it is wise to review what the land tax might be and to see if there is any legal means of mitigating that liability. We, of course, would be happy to carry out this review.

Top tip:

It is possible, in some cases, to reclaim the additional 3%/4% land taxes you have suffered, but you must do so in a timely manner. We offer, through our tax specialists, a 'no win no fee' Land Taxes Reclaim service. As part of that same offering, we can also review past land/property transaction purchases (previous 12 months), commercial or residential, to see if there are any taxes which can be refunded to you, as often reliefs and exemptions are missed when carrying out the calculation.

Maximise the Corporate loss benefits

Many companies' profits can derive from various sources such as, for example, from a trade, rental income or a taxable gain from the sale of an asset. The combination of these profits is commonly known as total profits.

As a result of the Covid-19 pandemic, many companies are facing trading losses arising in their present accounting period. Looking at the cup half full, there are a number of options which might be open to these firms which may mitigate their economic pain.
Let's look at an example:

- Valiants Ltd, in the accounting period ended 31st December 2020, made a trading loss of £120,000 and has total profits (rental income) of £20,000.

- In the accounting period ended 31st December 2019 it had total profits (trading income and rent) of £80,000.

- In the accounting period ended 31st December 2021 it has total profits (trading income and rent) of £60,000.

- Firstly, the company would set £20,000 against the 31st December 2020 total profit of £20,000. This wipes out any corporate tax liability for that accounting period.

- Secondly, Valiants Ltd could carry back that loss and set it against total profits of the previous 12 months (year ended 31st December 2019), as long as, at some point in time, the trade was carried on in that previous accounting period. This could trigger off a much-needed corporate tax repayment.

• Thirdly, as there are still corporate losses available, in the case of Valiants Ltd this amounts to £20,000, this can be carried forward to set against the total profits for the accounting year ended 31st December 2021. This is as long as the trade continues into that accounting period. This mitigates their future corporate tax liability.

If a company is deemed for tax purposes to be a member of a corporate group, then it may be possible to share those trading losses with other members of the group, thereby mitigating the overall corporate group's tax liability.

If the company ceases trading and makes a trading loss in that final accounting period, it is feasible to carry back that loss over the previous 36 months, starting with the latest 12 months first. This may also trigger off a corporate tax refund.

HMRC have also announced that, as a result of these extraordinary times, in exceptional cases, they may allow companies to make loss relief claims and tax refunds even if that company's present accounting period has yet to come to an end.

Top tip:

Please do not hesitate to contact us to review how best to utilise a corporate loss and to see if your particular companies' circumstances could justify an in-year loss claim.

Take stock and plan for the future

Many businesses are going through uncertain times at present. There are, and there will continue to be, financial challenges ahead as a result of the impact from Covid-19.

It is understandable if people want to simply bury their heads in the sand and hope that it is all some big nightmare which they will wake up from and reality is restored to normal. This sadly, ultimately, will not achieve anything apart from exacerbating the situation.

It is time to take a deep breath and take stock of the present situation and plan ahead. Use professional support, like your accountant to:

• Provide an independent expert overview of what the business's current financial situation is and to project forward as to where the likely future pinch points may be.

• Put together a cash flow forecast to have an idea of the likely cash coming in and the expenditure going out. This could be projected ahead on a daily, weekly or monthly basis dependent upon your needs. Consider where the likely cash gaps will be.

• Carry out an up to date review to ensure that all the relevant help out there, which could be of benefit to your business, has been accessed or is in the process of being so. That could be the various Government grants and loan schemes or other funding options such as invoice/asset financing.

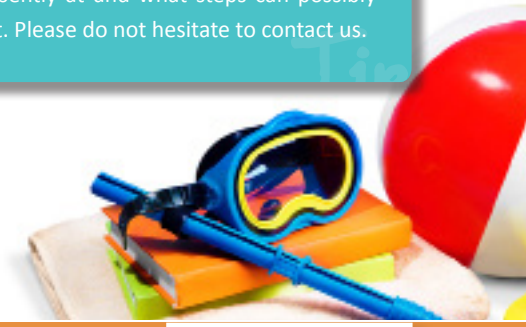
• Ensure that all the tax angles have been covered off, such as Research & Development tax relief, capital allowances claimed in full, losses incurred utilised in a tax efficient manner, switching the accounting year end, if appropriate and feasible to do so to name but a few. This could help with cash flow and in some cases trigger a tax refund.

• Explore areas to save costs both from a financial viewpoint and a timesaving perspective. That could sadly be redundancies but does not have to be. For example, it could be switching your energy supplier, outsourcing your payroll, leasing instead of purchasing a business asset outright or even reducing or giving up the office space.

This should be an ongoing review as the pandemic is a moving feast and any decisions taken should therefore be monitored for their impact and adjustments made accordingly.

Top tip:

It is difficult at present to see the wood for the trees. We would be happy to assist you in providing clarity as to where your business is presently at and what steps can possibly be made to rebuild it. Please do not hesitate to contact us.



It's all in the Grand Design of things

It would appear that there is an ever-growing trend of people building their own homes. A multitude of reasons are given for this upsurge ranging from the housing shortage, to the spiralling costs of acquiring a property, to the excitement and desire of building your own creation, perhaps as a result of watching the popular TV programme, Grand Designs.

If you are buying land off a business who has opted to tax for VAT purposes, for example, a farmer, be careful that they do not charge you VAT on the cost of that purchase. Let us use an example.
Tom and Mary are buying land at a cost of £200,000 from Peter, the vendor, who has opted to tax for VAT purposes. He aims to charge the couple £200,000 + VAT of £40,000. A total purchase price of £240,000.

This has a double negative financial impact on Tom and Mary. Firstly the £40,000 VAT charge. Secondly, they may have to pay land taxes on acquiring the land. If it is in England and Northern Ireland that would be Stamp Duty Land Tax, in Scotland, Land and Buildings Transaction Tax and in Wales, Land Transaction Tax. Using the Tom and Mary example, the land taxes would be calculated not on the £200,000, but on the VAT inclusive figure of £240,000!!

This could be avoided though, if prior to the exchange of contracts, Tom and Mary notify Peter, in writing that they intend to build a house on the land for their own use as a home and not for business purposes. Peter could then remove the VAT charge on the purchase price, resulting in a £40,000 VAT saving for the couple and a land taxes saving as well. The amount of land taxes saving will differ depending upon which country within the UK the land is situated.

Top tip:

Don't forget, if you are building a new home or converting a non-residential property into a dwelling for yourself, you may able to claim back the VAT incurred on the cost of the building work and materials. This claim must be done within 3 months of completing the work. We can help to review whether or not you qualify in the first place and to deal with quantifying the sums involved and processing through any claim which fits the relevant criteria.

We are here to help

We can help you by ensuring that you're aware of the changes that will affect you, your family and your business. To find out more about the ways that we can help you, do not hesitate to contact us.

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