



To Own or not to Own – That is the question

Chris Connor

In fairness though there is no one correct answer. There are a number of combinations which may also be determined by the type of property – residential or commercial, farmland, development land etc. Common ownerships options are as individuals, partnership, company, trust or pension scheme. Each one has its own benefits as well as problems, some of which are noted below.

Individuals can own residential and commercial property and invariably will rent these. Commercial consideration should be given to whether the income stream covers the associated borrowing costs and the tax position on the rental income. Also, it is important to consider the life time of the investment. Is it to be held to benefit from short term gains or over the long term. Capital gains tax will invariably be an issue with only Non Business Asset Taper Relief available and capped at 40% after ten years of ownership. If held for the long term, then Inheritance tax is in point and there are no reliefs on residential investment property so the value could be taxed at 40%.

The same is in point where property is held in partnership although where that partnership is husband and wife then there are opportunities that could be maximised. However, in a normal partnership, rents and capital gains are split in accordance with each individuals share. That individuals share of the property is also exposed to inheritance tax should it become an issue.

Ownership via a trust is an area requiring careful consideration, especially with the new trust regime to contend with.

If a company owns property, net profits are liable to corporation tax. Profits are then extracted from the company by various means, some of which are more tax efficient than others. When sold, the company is liable to corporation tax on any gain arising but the company is not entitled to Taper Relief, instead indexation is still applied.

Only commercial property can be owned by a pension scheme (SIPP/SASS). Property can be transferred to the scheme by an individual or a company or acquired by the scheme itself – funds permitting and funding rules permitting. Although there are advantages of using a pension scheme, this must be balanced with the possible loss of flexibility and the need to adhere to pension scheme rules when a member retires and requires a pension!

Much of a professional adviser's time is spent unraveling property ownership situations that have just happened over time and with no planning. But if you are considering a new acquisition now, time spent looking at ownership issues can save professional fees and tax at later date. It is always possible to alter ownership but given the continuing rise in the property market, tax does become a major stumbling block. Add to this the cost of Stamp Duty Land Tax and possibly VAT if an option to waive exemption has been exercised on the property, the cost of getting it wrong mounts very quickly.

Allied to the above and the commercial viability of property (income and capital) it is vital now that you have a plan/aim for the property that includes financial gains and an ultimate exit strategy. There are pitfalls and it is essential that you take advice from Accountants and Tax Advisors who specialise in the property sector.

STREETS

Tower House
Lucy Tower Street
Lincoln
Lincolnshire
LN1 1XW

Tel: 01522 551200
Fax: 01522 533234

St Peters Chambers
2 Bath Street
Grantham
Lincolnshire
NG31 6EG

Tel: 01476 590838
Fax: 01476 590795

Halifax House
30 George Street
Hull
East Yorkshire
HU1 3AJ

Tel: 01482 225399
Fax: 01482 219964

Lloyd's Building
12 Leadenhall Street
London
EC3V 1LP

Tel: 020 7816 5827
Fax: 020 7816 5826

87 Park Road
Peterborough
Cambridgeshire
PE1 2TN

Tel: 01733 312191
Fax: 01733 896214

Churchgate House
33 Churchgate
Retford
Nottinghamshire
DN22 6PA

Tel: 01777 869955
Fax: 01777 869962

e enquiries@streetsweb.co.uk
www.streetsweb.co.uk

These notes are for general guidance only. No liability is accepted by Streets for actions taken in reliance upon these notes and it is essential that detailed advice relating to the particular circumstances of the case in question should always be obtained before action is taken.

Streets is a trading style of Streets LLP, Streets Northern LLP, Streets Southern LLP, Streets Tax LLP, Streets Audit LLP and Streets Financial Consulting plc Streets LLP (registered number OC309545), Streets Audit LLP (registered number OC309381), Streets Northern LLP (registered number OC309382), Streets Southern LLP (registered number OC309380) and Streets Tax LLP (registered number OC309379) are all Limited Liability Partnerships registered in England. Their registered office is Tower House, Lucy Tower Street, Lincoln LN1 1XW. A list of the names of the members is available for inspection at this address. Streets Audit LLP is registered by the Institute of Chartered Accountants in England and Wales to carry out company audit work Streets Financial Consulting plc (registered number 2029793). Registered office : Tower House, Lucy Tower Street, Lincoln LN11 1XW. A list of directors is available for inspection at this address. Streets Financial Consulting plc is authorised and regulated by the Financial Services Authority For regulation purposes, corporate finance work undertaken may be dealt with by Streets Financial Consulting plc, which is authorised and regulated by the Financial Services Authority