247 Property Tax Questions Answered

By

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About Arthur Weller

Arthur Weller is a tax specialist who advises other accountants. He is one of the most knowledgeable and respected tax specialists in the country. He is also the lead technical tax specialist and design consultant for www.property-tax-portal.co.uk.

Arthur is based in the northwest and qualified in 1997 as a certified accountant in a small firm of accountants. They specialised to a degree in property, and he worked for some years in their tax department.

He then moved on to a medium-sized firm, where he was the technical manager in the tax department.

In 1998 he passed the exams of the Institute of Taxation, and in June 2000 he left to set up his own tax consultancy.

Arthur works mainly in an advisory capacity for accountants in all areas of taxation. He also runs a telephone help line, giving phone advice on all areas of taxation to accountants around the country.

Much of his work has been focused in the following areas:

- property taxation (Arthur is regarded as a property tax specialist);
- capital gains tax;
- stamp duty;
- income tax;
- company tax.

Arthur also provides tax expertise to the following businesses:

landlord vision	**Landlord Vision** Landlord software solution that runs in the cloud. Try For FREE today. Visit:www.landlordvision.co.uk
taxinsider	**Tax Insider** A website providing monthly tax newsletters to help UK tax payers minimise their taxes. Visit: www.taxinsider.co.uk

Income Tax

1. What Expenses Can I Offset Against Rental Income?

Question: I have just purchased my first buy-to-let property and have managed to successfully let it out. However, I am unsure as to what expenses I can offset against my rental income.

Answer: Remember the golden rule: If you have incurred a revenue expense for the purpose of your property, then you can offset it against the rental income.

This means that you can continue to lower your tax bill - *legitimately*. Most investors are aware that they can offset mortgage interest, insurance costs, rates, costs of decorating/repairs, wages and costs of services. Note new rules for mortgage interest from 6 April 2017.

However, so many investors fail to claim the following costs, which when added together can provide a significant tax saving:

- Costs incurred when travelling back-and-to the investment property.
- Advertisement costs.
- Telephone calls made (or text messages sent) in connection with the property
- Cost of safety certificates.
- Cost of bank charges (i.e. overdraft). But note new rules from 6 April 2017.
- Advisory fees e.g. legal and accountancy.
- Subscription to property investment related magazines, products and services.

2. Switch Property With Your Spouse

Question: My husband works full-time and I have the more difficult job of looking after the home and children yet receive no income. Would it be better for me to own the property in my name?

Answer: If you have a spouse who is a lower rate (or even nil rate) taxpayer and you are a higher rate taxpayer, then consider moving the greater portion of the property ownership into their name. This means that a greater part of the profit will be attributed to the lower (or nil rate) taxpayer thus meaning that any tax liability could be significantly reduced.

This is a very powerful strategy if your spouse does not work, as any tax liability can be legitimately wiped out. Please note that in order to use this strategy you partner must be trustworthy as legally they will 'own' a greater share of the property.

3. Any Tax Due For Unemployed Person?

Question: My wife owns our only buy-to-let property. There is no outstanding mortgage on the property and therefore it generates a monthly profit of £375. Is there any tax due on this profit, as she received no other income in the 2018-19 tax year?

Answer: As you have mentioned that your wife receives no other income then there will be no tax due on the rental profits. This is because over the year she will make a profit of £4,500 (i.e. £375 * 12), and this amount is within the annual personal tax allowance, which for the 2018-2019 tax year is £11,850.

4. Can I Offset Property Losses Against Other Income?

Question: I have bought a property to let out and it is possible that in the first, and perhaps the second, year I will make a loss after accounting for insurances, mortgage interest and loan interest used to get a deposit. Can I offset that loss against my earnings from employment during the same period? If so which IR form do I need to use?

Answer: The answer is 'no'. The losses cannot be offset against your employment income. However, they can be carried forward and offset against future rental income profits that are generated from the property business.

If you have been making losses, then it is important that you register those losses with the HMRC. The reason for this is because any losses can be carried forward and offset against future profits. For example, if in one tax year you made a £1,000 loss and then the following year you made a £1,000 profit, there is no tax liability as the £1,000 loss has been carried forward and wipes out your future gain!

However, if you have any other properties that are being rented out in the same tax year at a profit, then the loss from the loss-making property can be set off against the profit from the profit-making property.

5. Can I Offset The Cost Of Buying A Vehicle?

Question: Is it possible to offset the cost of buying a vehicle for use in your letting business, and if so, what would be the best way of doing this?

Answer: Here is a quote from the Revenue manuals page PIM2220:

Capital expenditure on providing the means to travel (usually a car or van) isn't deductible in computing rental business profits; nor is a depreciation charge. But plant and machinery capital allowances may be available. These allowances are deducted in computing the business profit or loss. The 'wholly and exclusively' rule applies to these allowances but, as with revenue expenditure, the landlord can claim the business proportion of the allowances. Plant and machinery allowances on cars costing more than £12,000 are also further restricted.

6. Can I Offset Money Paid To The Tenant?

Question: Having bought an investment property with a sitting tenant paying a low rent, I paid the tenant £20,000 to vacate and have now rented the property to a new tenant for 10 years at a much higher rent. Can I claim this premium as an expense against rental income or only as capital expenditure once the property is sold?

Answer: Firstly, from the High Court case Wateys London Ltd. v Pike (1982) quoted by the HMRC's Business Income Manual page BIM35545, it can be seen that this is capital expenditure, not revenue.

Secondly, in order to be allowable expenditure to offset against the sale proceeds when the property is sold, as enhancement expenditure under TCGA 1992 sec 38 paragraph 1(b), it must be reflected in the state or nature of the asset at the date of disposal (HMRC Capital Gains Tax Manual page CG15180).

Page CG71262 there says that if, after obtaining vacant possession, the landlord granted a new lease on essentially the same terms, the benefit would not be there at the date of disposal, and therefore the expenditure would not be allowable.

However, in this case, the new rent is much higher, so, by implication, this payment to the old tenant should be an allowable capital expenditure when the property is sold.

7. Should I Contact HMRC Myself?

Question: I have had a BTL property for nearly 2 years. I am in PAYE employment so rarely get a tax return to complete. Can I wait till I get a tax return to complete before declaring it or would that be counterproductive?

Answer: If a taxpayer receives any taxable income in a tax year of which the HMRC is unaware, then they have a legal duty to inform the HMRC about this by 5 October.

So, for example, if any income was received between 6 April 2018 and 5 April 2019, then the individual must inform HMRC by 5 October 2019.

8. Can I Offset These Losses?

Question: In year one, I earned income from a house sale, but made a loss from a house sale in year two. Can I offset the loss incurred in year two against income earned in year one, or alternatively any income that is earned in year three?

Answer: The answer to this question depends on whether we are discussing capital gains and losses, or trading gains and losses.

If the two houses sold are investment assets, so that in year 1 you made a capital gain and in year 2 you made a capital loss, then the general rule is that a capital loss cannot be carried back and offset against a capital gain in a previous year (see CG15811). However, the capital loss in year 2 can be carried forward to set off against a capital gain in year 3, or future years (see CG15810).

However, if you are a property developer so that in year 1 you made a trading gain, and in year 2 you made a trading loss, then the story is different. A trading loss in a tax year can be set off against general income of the tax year of loss and/or the previous tax year. BIM85015. Alternatively, this trading loss can be carried forward to a future tax year to be set off against profits of the same trade (see BIM85060).

9. Is There A Difference When Offsetting Interest?

Question: When offsetting mortgage interest payments, does it matter if the mortgage is ‘interest only’ or a ‘repayment mortgage’?

Answer: No, it does not matter. The interest charged on both mortgages can be offset against the rental income. What this means in reality is that if you have an ‘interest only’ mortgage then the **full** mortgage payment will be offset.

However, if you have a ‘Repayment’ mortgage then only the ‘interest repayment’ part of the mortgage will be offset. You will not be able to offset the capital part of the repayment. This means that you need to find out from your bank for each payment what part was 'interest' and what part was 'capital'. In most cases, you find this out when the mortgage lender sends you your end of year complete mortgage statement.

From April 2017, new rules have become effective for a residential property landlord claiming relief for interest paid to a lender.

10. Can My Client Re-Arrange His Affairs To Offset Interest?

Question: Can interest relief can be claimed in the following scenario:

<u>The client</u>
a) owns a PPR valued at £900k with a mortgage secured on it of £400k
b) subsequently acquires a buy-to let property purchased for £450k with a mortgage of £200k secured, using savings to fund the deposit without actually re-mortgaging or physically transferring money.

Is the client allowed to 're-arrange his affairs' by deeming that £60,000 of the existing mortgage secured on the PPR is funding/replacing the deposit on the letting property, and hence claim a tax deduction in his Schedule 'A' comp for the interest on the £60,000?

Answer: The interest is not allowable. The loan was originally taken out for the purpose of purchasing the PPR, and it is not possible to 're-arrange matters'. The taxpayer would have to physically transfer money or actually re-mortgage.

11. When Do I Pay My Tax If I Have Sold A Property?

Question: I have sold a property in June 2016. When do I need to declare the sale to the HMRC and when do I need to pay the tax by?

Answer: Your property has been sold in the 2016-2017 tax year which started on April 6th 2016 and ends on April 5th 2017. This means that you need to notify the HMRC of your sale in the 2016-2017 tax return.

If you complete a paper return, then you must return your completed paper form by 31 October 2017. You will then be required to pay any tax due by 31st January 2018.

Alternatively, if you file online, then the tax return must be completed and returned with any tax due by 31st January 2018.
The Government proposes that from April 2019 a payment on account of any capital gains tax due on the disposal of residential property will be required to be made within 30 days of the completion of the disposal.

12. Can We Merge Our Portfolio And Split The Income?

Question: My Partner (life) and I operate 3 BTL's. She owns 1 and we jointly own 2. When completing tax-returns can we merge all 3 and split 50/50?

Answer: If the first property is solely in her name and not in joint ownership, it cannot be merged with the other two properties and must be attributed only to her. The