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1. About The Authors

Some words about the authors of this unique guide, bringing together UK tax specialists and a property investor!

1.1. Sarah Bradford – Tax Specialist

Sarah Bradford BA (Hons) FCA CTA (Fellow) is a director of Writetax Ltd, a company providing technical writing services on tax and National Insurance.

Sarah writes widely on tax and contributes to a number of newsletters, books and reports available through the **TaxInsider.co.uk** website. These include:

- Business Tax Insider;
- Property Tax Insider;
- Tax Insider Professional;

1.2. Arthur Weller - Tax Specialist

Arthur Weller (CTA) 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 has advised over 2,000 landlords, property investors and tax professionals through the Property Tax Portal Consultancy page here:

>> https://www.property-tax-portal.co.uk/consultancy_arthur.shtml

1.3. Amer Siddiq - The Landlord

First and foremost, Amer Siddiq is a UK landlord/property investor. He is passionate about all aspects of property investment and over the last nine years has grown a portfolio in the northwest of England

As well as growing a portfolio and speaking in public at various property investment events, Amer has also brought to market a number of websites to help landlords to better manage and grow their portfolios whilst reducing their taxes.
These include:

landlord vision	**Landlord Vision** Our next generation landlord software solution that runs in the cloud. **Take your FREE Trial today.** Visit: www.landlordvision.co.uk
taxinsider	**Tax Insider** A website providing monthly tax newsletters to help UK taxpayers minimise their taxes. Visit: www.taxinsider.co.uk

1.4. Acknowledgements

Lee Sharpe, Chartered Tax Advisor and author of:

- How to Use Companies to Reduce Property Taxes,
- Tax Secrets for Property Developers and Renovators

Both books can be purchased through www.property-tax-portal.co.uk website.

Lee is also a public speaker and provides valuable tax expertise to the www.property-tax-portal.co.uk and www.taxinsider.co.uk websites.

Other acknowledgements include:

- Mark McLaughlin CTA (Fellow) ATT (Fellow) TEP
- Jennifer Adams FCIS TEP ATT (Fellow)- Principal
- Alan Pink FCA CTA

2. The Importance Of Tax Planning

We all instinctively do some tax planning in our daily lives, even if it is simply remembering to buy our "duty frees" when we return from our holiday abroad.

If you are going to make the best of your property business, then you need to be alert to the tax implications of your business plans, and to any opportunities to reduce the likely tax bill. Your instinct may be enough for your duty-free goodies, but for tax on your business, you need a more structured approach!

"Tax planning" means arranging your business affairs so that you pay the minimum amount of tax that the law requires. It does not mean trying to conceal things from the Taxman, and it does not mean indulging in highly complex (and expensive!) artificial "tax avoidance" schemes.

"Every man is entitled if he can to order his affairs so that the tax attaching under the appropriate Acts is less than it would otherwise be." That is what the House of Lords said in 1935, when they found for the Duke of Westminster and against the Inland Revenue. This still holds true today, though there is now a mass of "anti-avoidance" legislation to consider when thinking about tax planning – and before you ask, the Duke's tax planning idea was stopped by anti-avoidance legislation!

2.1. Knowing When To Consider Planning

A question you will most certainly ask yourself is 'when should I consider tax planning for my property business?'

The short answer is "all the time", but to be realistic, no-one is likely to do this. The trick is to develop by experience, a sense of when a tax planning opportunity (or a potentially expensive tax pitfall) is likely to present itself.

You should consider tax planning in all of the following situations, for example:

2.1.1. Buying

If you are buying a property, you need to consider:

- Buying the property – It could be you as an individual, you and your spouse, you and a business partner, a Limited Company owned by you, or perhaps a Trust you have set up. Your decision will depend on your future business strategy

- Financing the property – You will need to consider whether you are taking out a mortgage, and if so how will it be secured. It may not always make sense to secure the loan on the property you are buying if you have other assets on which you can secure the loan.

- Plans for the property – It could be that you are you buying the property to sell it again in the short term, or to hold it long term and benefit from the rental income. The tax treatment will be different according to which is the case, and different planning should be done before the property is bought.

2.1.2. Repairs And Refurbishment

If you spend money on a property, you need to consider:

- Whether you are doing it in order to sell it again in the short term, or whether you will continue letting it.

- If the work being done is classed as a **repair** to the property, or an **improvement.** See icon below for the difference between the two.

  The distinction between a repair and an improvement to a property is very important, because although the cost of repairs can be deducted from your rental income for tax purposes, an improvement can only be claimed as a deduction against CGT when you sell the property.

  Essentially, a repair is when you replace like with like, whereas an improvement involves adding to the property (say, a conservatory or a loft conversion), or replacing something with something significantly better (say, removing the old storage heaters and installing oil-fired central heating).

  HMRC do not always behave logically when it comes to repairs versus improvements.

  James Bailey shares the following experience with us:

  "A client of mine sold a seaside property, in circumstances where he would have to pay CGT on the sale profit. He had spent a lot of money on this property, which when he bought it had not been touched since the early 1950s.

  He had ripped out the old "utility" kitchen, for example, and replaced it with a state-of –the –art designer affair in gleaming slate, chrome, and steel. The old 1950s cooker had had some Bakelite knobs to turn the gas on and off – the new kitchen range had the computer power of the average 1970s space capsule.

  Clearly an improvement, and so deductible from his capital gain, but HMRC tried to argue that one kitchen is much like another and he was just replacing like with like – so they said it was a repair, which was no good to him in his case as there was no rental income from which he could deduct the cost of repairs."

2.1.3. Selling

When you decide to dispose of a property, there are other tax issues to consider:

- Who is the property going to? – If it is to someone "connected" with you, such as a close relative or a business partner, and if you do not charge them the full market value, HMRC can step in and tax you as if you had sold it for full value.

- Will you be paying CGT or income tax on the profit you make? – The planning opportunities are very different, depending on which tax is involved.

- What are the terms of the sale? Is it just a cash sale, or is the buyer a developer who is offering you a "slice of the action" in the form of a share of the profits from the development? There is important anti-avoidance legislation to consider if this is the case.

2.1.4. Life Changes

Whenever your life undergoes some significant changes, you should consider tax planning.

Here are some examples when tax planning should be considered:

- Getting married – a married couple (and a civil partnership) have a number of tax planning opportunities denied to single people, but there are also one or two pitfalls to watch out for.

- Moving house – it is usually not a good idea to sell the old house immediately, as there are often tax advantages to keeping it and letting it out.

- Changing your job. You may become a higher or lower rate taxpayer, and this may mean you should change your tax strategy.

  If you are moving house, and you sell the old residence, you will have the cash left after you have paid off the mortgage and the various removal costs to spend on your new home. If you need a mortgage to buy the new home, the interest on that mortgage is not allowed as a deduction for tax purposes.

  If, instead, you remortgage the old house and let it out, ALL the mortgage interest you pay can be deducted against the rent you receive (subject to the new rules for interest paid by residential landlords) whatever you do with the cash you have released – and you may well be able to sell the house after nine months of letting (or sometimes a longer period), and pay no CGT on the increased value since you stopped living there.

- Death – IHT is charged at 40% on the value of your estate when you die, to the extent that the value is greater than (for 2023/24) £325,000. By planning early enough it is possible to reduce the IHT burden considerably.

2.1.5. Politics

There are two occasions each year when you need to be particularly alert – the Budget Report in the Autumn, and The Spring Statement in March.

On both these occasions the Chancellor of the Exchequer announces tax rates, and new tax legislation, which might well affect you and your property business. In some cases, however, new tax legislation is announced at other times – it pays to keep a weather eye on the financial pages of the newspaper, or to subscribe to a magazine or journal that will alert you to important tax changes that may affect your business.

2.1.6. End And Start Of The Tax Year

The tax year ends on the 5th April each year and it is a good idea to review your tax situation before this date to make sure you are not missing any planning opportunities.

2.2. The Real Benefits Of Tax Planning

Robert Kiyosaki, author of the number one bestselling book ‘Rich Dad Poor Dad’, says ‘*Every time people try to punish the rich, the rich don’t simply comply, they react. They have the money, power and intent to change things. They do not sit there and voluntarily pay more taxes. They search for ways to minimize their tax burden’*

The whole purpose of tax planning is to save you tax and to put more profits in your pocket. That is why the rich are always looking at ways of beating the taxman, because they benefit from tax planning.

2.2.1. Paying Less Tax

When I (co-author Amer) started investing in property the challenge to me was not to just grow a property portfolio but to grow it in the most tax efficient way possible.

It soon dawned on me that implementing just the simplest of tax saving strategies was going to help me to make considerably more profits.

Don’t fall into the trap where you only think about tax when you are considering selling or even worse after you have sold the property.

By taking tax advice at the right times and on a regular basis you will legitimately avoid or reduce taxes both in the short and the long term.

This means that you will have greater profits to spend as you wish.

2.2.2. Clear ‘Entrance’ And ‘Exit’ Strategies

When you sit down and analyse properties that you are considering for investment, you will no doubt look at how much rental income the property will generate and what you expect to achieve in capital appreciation.

Knowing the estimated tax liabilities right from the outset will save you from any nasty surprises in the future.

> Your personal circumstances can change at a whim. The last thing that you want to do is fall into a situation where you are forced to sell a property but are unable to pay the taxman because you never considered your tax situation.

2.2.3. Staying Focused

When you are deciding on the property investment strategies that you are going to adopt it is a good idea to talk them through with a tax adviser.

If your investment strategy changes then it is likely to have an impact on your tax strategy, so it should be reviewed with your tax adviser.

Your tax strategy will go hand in hand with your investment strategy and will help you to keep focused on your property investment and financial goals.

2.2.4. Improving Cash Flow

One of the challenges that you will face as a property investor is cash flow. In other words, you need to make sure that you have enough money coming in from your property business to pay for all property related bills, maintenance and repairs, and of course tax on the rental profits.

> Remember, timing of expenditures can be the difference between a 'high' and a 'nil' tax bill. Therefore, keeping in regular contact with your tax adviser, especially when coming towards the end of the tax year can have a significant impact on your property cash flow.

2.2.5. Avoiding Common Tax Traps

There are many tax traps that you can fall into if you have not taken any tax advice at all, not to mention the numerous great tax planning opportunities you will miss out on too. It is not uncommon to hear stories about investors who have made a £100,000 profit on a single property and then sold it without taking any tax advice whatsoever. If you fall into this situation, then you could be hit with a hefty tax bill.

It will hurt you even more if after selling you realise that you could have easily turned the tax liability to zero had you taken some simple tax advice.

Good tax advisers will know of the most common traps that you are likely to fall into, so a few minutes spent wisely could save you thousands in taxes.

2.3. Asking HMRC For Tax Advice

From time to time people tell the TaxInsider.co.uk office that all the effort that goes into offering them tax advice is a waste of time, and tax consultants are also unnecessary, because you can simply telephone HM Revenue & Customs (HMRC) and get free advice. However, free advice is not always the best advice.

2.3.1. Making Use Of HMRC Services

Getting advice from HMRC in some circumstances is always a good idea – for example, they operate a number of "clearance" services whereby you can set out the details of a proposed transaction for them, and they will tell you the tax consequences they believe will flow from it.

Some of these clearances are enshrined in statute – there are some quite draconian examples of anti-avoidance legislation which can also catch quite innocent commercial transactions, and there is a statutory process for obtaining HMRC's agreement in advance that they will not wheel out their sledgehammers to crack your innocent commercial nut.

There are also other informal HMRC clearance procedures which can be useful when you are considering a transaction where the tax treatment may turn on a matter of opinion, and it is useful to know HMRC's opinion in advance.

It is also possible to agree valuations of assets for capital gains tax purposes where these are needed to complete a tax return – much better to have the discussion before you put the return in than to hope for the best and submit it, only to have the same discussion as part of an HMRC "Aspect Enquiry" where the possibility of penalties looms if they consider your valuation was a little sloppy!

Tax specialists use such services frequently on behalf of clients, and they are a great help in providing a better service for them.

2.3.2. The Drawback

However, the "help" that the people who contact Tax Insider are referring to is the "help" you can get by ringing HMRC up while filling in your tax return, or when confronted by a tax situation that you do not understand. In some cases, no harm will result, and you may even get the right answer, but on the whole professional advisors am very nervous about this "Do it yourself" approach to tax.

HMRC's own policy on giving advice is contained in their "Code of Practice 10", and the following sentence from that document illustrates a major gap in their service:

"However, we will not help with tax planning, or advise on transactions designed to avoid or reduce the tax charge which might otherwise be expected to arise".

2.3.3. Practical Tip

There is a serious point here – HMRC do their best to promote the view that there is a "correct" amount of tax that is due as a result of any particular transaction, whereas in all but the simplest of cases, there are grey areas and the way a transaction is structured can make a big difference to the resulting tax bill.

As Lord Tomlin said in the House of Lords during the case of The Duke of Westminster v The Commissioners of Inland Revenue in 1936 ***"Every man is entitled if he can to order his affairs so that the tax attaching under the appropriate Acts is less than it would otherwise be"***.

That remains good law and seems to me a sensible way to deal with the State's demands for ever higher taxes, but don't expect HMRC to help you!