Welcome

Aims of the 1947 Club

- Furtherance of Social and Professional Contacts
- Providing assistance to Branch RICS Matrics
- Preservation of the history and tradition of the 1947 Club

To SPV or not to SPV?

Steve Lant – tax partner, UNW

28th October 2022

Some questions in SPV decision

Is the buyer a corporate group or an individual?

Development or investment?

Commercial or residential?

Borrowing or cash?

Potential advantages of an SPV

- SDLT saving for subsequent purchaser
- Lower annual tax rate in SPV compared to personal ownership (19% corporation tax but increasing to 25% in April 2023)
- No interest restriction for corporate residential landlords

Potential disadvantages of an SPV for an individual

- Requirement for company accounts etc
- Subsequent sale may be more complicated (purchaser may not be willing to buy the company despite SDLT saving and/or warranties may be required)
- Higher effective tax rate on annual profits which are extracted
- Significantly higher effective tax rate on capital gains when the cash is extracted

Illustration – rental profits

Company		Individual	
Profit	100	Profit	100
Corporation	(25)	Income tax	(45)
	75		
Dividend	75		
Income tax (39.35%)	(30)		
Net receipt	**45**	**Net**	**55**
Tax leakage	**55**	**Tax leakage**	**45**

Illustration – capital gains

Company		Individual	
Capital gain	100	Capital gain	100
Corporation tax	(25)	CGT	(20)
	75		
Dividend	75		
Income tax (39.35%)	30		
Net	**45**	**Net**	**80**
Tax leakage	**55**	**Tax leakage**	**20**

Property Development

Key question – develop to sell or retain?

If develop to sell – risk of double tax charge if use SPV and sell SPV

SPV could be an investment company which develops the property to hold as an investment

SPV to develop property followed by liquidation no longer works for individuals due to TAAR

Targeted Anti Avoidance Rule (TAAR)

- Introduced in 2016
- Designed to stop “Phoenixism”
- Sledgehammer to crack a nut
- If you are a (>5%) shareholder in a close company and receive proceeds from its liquidation.....

  .....the proceeds will be treated as dividend income.....

  .....if you are “involved with” a similar business at any time in the two years after receiving the liquidation proceeds

TAAR Illustration

Property development through an SPV with SPV being liquidated following property sale

Before TAAR		After TAAR		
			Current rates	23-24 rates
Profit	100	Profit	100	100
Corporation tax	(19)	Corporation tax	(19)	(25)
	81		**81**	**75**
Liquidation proceeds	(81)	Liquidation proceeds	81	75
CGT with ER	(8)	Income tax (39.35%)	(32)	(30)
	73		**49**	**45**

The government does not like residential landlords

- 3% SDLT surcharge
- 28% v 20% CGT for individuals
- Interest relief against rent from residential properties is restricted to basic rate for individuals

The government definitely does not like expensive residential property in a company for personal use

Annual Tax on Enveloped Dwellings (ATED)

ATED change is payable by the company. Individual will have a Benefit in Kind income tax change

ATED rules for dwellings with value > £500,000

Reliefs for property development, rental and trading businesses.

Value	Annual charge (22/23)
	£
£500k - £1m	3,800
£1m - £2m	7,700
£2m - £5m	26,050
£5m - £10m	60,900
£10m - £20m	122,250
> £20m	244,750

Capital allowances

- 18% WDA for plant and machinery
- 6% WDA for integral fittings/special rate assets
- 100% FYA if Annual Investment Allowance (£1m) available (but restrictions on property loss relief)
- 130% Super deduction for companies – on plant and machinery until 31 March 2023
- 50% FYA for special rate assets for companies until 31 March 2023
- New builds – one off exercise to determine allowances available
- Second hand buildings – allowances available determined by history, elections and negotiation
- 3% Structures and Building Allowances on new builds, renovations and conversions from 28 October 2018.

How does gearing impact the decision between personal or corporate ownership?

- Residential – full tax deduction for interest only available to companies
- Commercial – full tax deductions for interest available to both individuals and companies
- Interest only loans – cash flow comparison is fairly straightforward
- Capital repayments – must be funded from after tax income (or new cash injections) therefore harder to fund with personal ownership because of the greater tax changes

A final thought on tax and property

- VAT on property is very complicated
- The best property VAT advisers in the region are:

  Mark Hetherington –

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Next event

Friday 18th November 2022

The Current and Future Outlook of ESG in the Property Investment and Tenants Occupation Market

Presented by

Ben Lawry (Roberts Environmental) & Tim Hill (Eversheds)

At Twenty Twenty Bar, 5 Bigg Market, Newcastle upon Tyne.

www.the1947club.co.uk