



CHARTERED  
ACCOUNTANTS

# PROPERTY TAX GUIDE

*Prepared for*

**DAVIS TATE**

*by Kench & Co Ltd*

*from whom further copies may be obtained*

Kench & Co Ltd 10 Station Road Henley-on-Thames Oxfordshire RG9 1AY UK  
t+44 (0) 1491 578207 f+44 (0)1491 578918 w [www.kench.co.uk](http://www.kench.co.uk)

---

Registered to carry on audit work and regulated for a range of investment business activities by the Institute of Chartered Accountants in England and Wales.  
Registered in England & Wales No. 6527696. Registered Office as above. Directors: Eric Kench FCA, Richard Evans BA (Hons) FCA, Linda Manson.

# PROPERTY TAX GUIDE

<b>Contents</b>	<b>Page</b>
Introduction	1
Tax Returns	2
Your Home - Letting Part of your Home	3
Your Home – Using Partially for Business	4
Your Home - Letting your Home while Living Abroad	5
Your Home - Letting a Former Home	6
Your Home - Capital Gains / Permitted Area	7
Investment Property (Buy to Let)	8
The Student Scene	9
Rental Income	10
Furnished Holiday Lettings	11
Property Development/Trading	12
Inheritance Tax	13
And Finally ...	14

# PROPERTY TAX GUIDE

## Introduction

People buy property for a variety of reasons – for most it is the purchase of their home, but for some it is an investment, a means to help their children onto the property ladder or part of a property development business.

Whilst this brochure sets out some useful information on various tax aspects relating to property, it is not possible to cover every eventuality and we strongly advise that if you believe that any tax consequences arise regarding your property, you should seek professional advice.

For a free initial consultation or for further information, please contact :

Kench & Co Ltd  
10 Station Road,  
Henley on Thames,  
Oxfordshire.  
RG9 1AY

<b>TELEPHONE -</b>	National	(01491) 578207
	International	+ 44 1491 578207
<b>FAX -</b>	National	(01491) 578918
	International	+ 44 1491 578918
<b>EMAIL -</b>	property@kench.co.uk	
<b>WEBSITE -</b>	www.kench.co.uk	

Directors Eric Kench, Richard Evans and Linda Manson will be pleased to be of assistance.

# PROPERTY TAX GUIDE

## Tax Returns

If any of the information in this Property Tax Guide affects you, it is likely that you will need to complete a Self Assessment Tax Return. If a Return form is not issued to an individual, it is that person's responsibility to request one from H. M. Revenue & Customs for completion.

Strict time limits apply for notifying H. M. Revenue & Customs of a new source of income or of a capital gain and advice should be sought on this matter as soon as possible.

It should be noted that if a property is in the joint names of several individuals, each individual must declare their share of rental income or Capital Gain on their personal Tax Return. In the case of a husband and wife or Civil Partners jointly owning a property, the income or Capital Gain must be declared for tax purposes as divided equally between them unless an election is made otherwise on the appropriate H. M. Revenue & Customs form and professional advice should be taken before making such an election.

The filing deadline for a Self Assessment Tax Return, if filing online, is 31st January following the end of the fiscal year (5th April) in which the income or Capital Gain arose. However, if a paper Tax Return is being filed, the deadline is 31st October following the end of the fiscal year, although the due date for tax is the following 31st January. If a Tax Return is filed late and tax is paid late, penalties, interest and possible surcharges will be enforced.

Whilst the "Self Assessment" regime is now in operation, this does not mean that the tax-payer has to complete the Tax Return and compute their tax liability personally. It is just the tax-payer's responsibility to deal with these matters and we would strongly recommend the use of a competent accountant. Kench & Co Ltd will be happy to assist in this respect.

# PROPERTY TAX GUIDE

## Your Home

### Letting Part of your Home

If an individual lets a room or rooms in his only or main private residence, it is currently possible to claim up to £4250 of that income as exempt from tax.

Only one exemption can be claimed per property and so if rent is received jointly by more than one person, the exemption must be shared.

If the rent received amounts to more than the exemption of £4250, it is possible to choose between:

- ◆ paying tax on the total profit (income less allowable deductions) made from letting the room(s) or
- ◆ paying tax on the amount of rent over £4250 (NB: no expenses are deductible if using this option).

H. M. Revenue & Customs must be notified of the decision within one year of the end of the tax year, although the decision can be altered from year to year.

# PROPERTY TAX GUIDE

## Your Home

### Using your Home Partially for Business

If you use part of your home *exclusively* for business, interest on the relevant portion of any borrowing (mortgage) will be allowed as a business expense.

In these circumstances, a Capital Gains Tax issue will arise on eventual sale of the property.

However, if you use no rooms *exclusively* for business purposes, the Capital Gains Tax problem should not arise.

Where there is mixed use of property, business rates may well be payable as well as council tax, unless the business use does not materially detract from the private use.

# PROPERTY TAX GUIDE

## Your Home

### Letting your Home while Living Abroad

If an individual goes abroad to live, but retains property in the UK to let, he will be considered a 'non-resident landlord' and as such should receive the rental income net of basic rate tax. This is achieved by the Lettings Agent or, where there is no Lettings Agent, the tenant deducting tax from the rental income and accounting for that tax to H. M. Revenue & Customs.

However, the non-resident landlord can apply to receive the rental income gross with no tax deducted provided:

- ◆ his UK tax affairs (including payment of tax) are up to date; or
- ◆ he has never had any UK tax obligations; or
- ◆ he does not expect to be liable to UK income tax for the tax year in which he applies.

Applications to receive rental income with no tax deducted should be made on a form NRL1 which can be obtained from H. M. Revenue & Customs, the Agent or an Accountant.

If an individual lives abroad and is ruled non UK resident he will need to complete the "Non-Residence" Section of the Self Assessment Tax Return and is able to claim Personal Allowances to set against his UK income (such as Property Lettings) if he or she is one of the following:

- ◆ A Commonwealth Citizen.
- ◆ A present/former employee of the British Crown (or widow/widower/surviving civil partner thereof).
- ◆ A UK missionary society employee.
- ◆ A Civil Servant in a territory under the protection of the British Crown.
- ◆ A resident of the Isle of Man or Channel Isles.
- ◆ A former UK resident living abroad for the sake of his health (or of the health of a member of his family).
- ◆ A National of a state within the European Economic Area.
- ◆ A National and/or resident of a country with which the UK has a double taxation agreement which allows such a claim.

If letting your property whilst living abroad, you will need to declare the income and expenses to H. M. Revenue & Customs. Please see page 10 for further details.

# PROPERTY TAX GUIDE

## Your Home

### Letting a Former Home

When buying a new home, some people, for various reasons, decide not to sell their original home, but to let it instead.

If this is the position in which you find yourself, please refer to page 7 regarding Capital Gains Tax and the main residence election requirement.

When a property has been a person's main residence for a period of time, it is exempt from Capital Gains Tax for that period and for the final 36 months of ownership.

If such a property has been let and the period for which it has been let is not covered entirely by the main residence Capital Gains Tax exemption for the final 36 months, there will be an element of gain which might be chargeable. However, in these circumstances, that element of chargeable gain may be reduced further by Lettings Relief of up to £40,000. If the property is in joint names, each person is entitled to Lettings Relief of up to £40,000 on his share of the gain.

Capital Gains Tax is a very complicated area of taxation and we recommend that you seek professional advice from us in this respect.

If letting your former home, you will need to declare the income and expenses to H. M. Revenue & Customs. Please see page 10 for further details.

Upon letting a main residence on which there is an existing mortgage, the individual should inform the lender in order to avoid a breach of contract. It is also necessary to ensure that any insurance policy is not invalidated by letting the property

# PROPERTY TAX GUIDE

## Your Home

### Capital Gains

Your main residence is exempt from Capital Gains when you sell it, provided it has been your only or main residence during the whole period of ownership (or since 31st March 1982).

Various rules allow periods of temporary absence to be disregarded.

If you have more than one home, you may elect which property should be treated as your main residence and therefore exempt from tax on disposal, but there are a number of conditions.

- You must make the nomination in writing within two years of the date you acquire an interest in the second property. Once you have made your choice you can change your election at any time in the future, but the change can only take effect up to two years before the date you tell H. M. Revenue & Customs.
- You must actually live in the property you nominate as your main home for at least some part of the year, perhaps using it as a summer home or weekend retreat. You cannot nominate a property that is, for example, completely rented out or otherwise unavailable to use as your home.
- A married couple or Civil Partners can only have one main home between them.

When a property is your main home for only part of the time it is owned, the gain on sale is apportioned and is only exempt from tax for the period for which it was your main home. In addition, the last three years of ownership are treated as exempt from Capital Gains Tax if the property was your main home at some point.

### Permitted Area

Many people are not aware that the Capital Gains Tax exemption for your home normally only covers an area of land, inclusive of the house, of half a hectare (1.235 acres). It is very occasionally possible to argue that a greater area of land can be exempt if, in view of the size and character of the house, a larger area is required for the reasonable enjoyment of that house as a residence.

We recommend that if you are considering the sale of your house with land in excess of half a hectare, you seek professional advice, if possible, before putting it on the market.

# PROPERTY TAX GUIDE

## Investment Property (Buy to Let)

With recent poor performance of some pension funds, many people have turned to property as an alternative form of investment. This has spawned a significant expansion in the 'Buy to Let' sector. Basically, this involves investing in property in the expectation of capital growth, and in the meantime, earning rent which can be applied to cover the costs of ownership.

Many investors are encouraged by the prospect of soaring house prices, but it must be recognised that prices do not always rise. Rent levels may not be sustained, and there could well come a stage where it may not be possible to cover mortgage repayments out of rents.

Typically a rental yield of about 6% is required to cover mortgage interest of about 5% and any additional costs such as letting agents' fees, but yields can be as low as 3% (and as high as 9%). Please remember that the greater the borrowing, the greater the risk.

However, experts believe that 'Buy to Let' investors can expect a reasonable rate of return on their capital if they take a long-term view of at least seven years. Properties should be chosen with care, in areas where tenant demand is high. The cautious investor will build up a cash reserve to be able to cut rents or go without a tenant for a number of months, if necessary.

If letting a property in this way, you will need to declare the income and expenses to H. M. Revenue & Customs. Please see page 10 for further details.

Upon disposal of an investment property, Capital Gains Tax may become payable and as this is a very complicated area of taxation, we recommend that you seek professional advice. We would be delighted to assist you with these matters.

# PROPERTY TAX GUIDE

## The Student Scene

One special area where 'Buy to Let' makes very good sense is in the provision of accommodation for student members of the family. Traditionally, this has involved paying out fairly high rents over a period of three or four years and seeing nothing in return (except perhaps a sizeable student loan).

By buying a house in the university area, your offspring can be assured of somewhere decent to live and should be able to cover most of the costs by renting rooms to other students.

Careful consideration is required of whether the property is to be owned by the student or the parent. If the property is owned by the parent, any rental income will need to be declared on the parent's Tax Return (see page 10) and a chargeable capital gain may arise on sale. As Capital Gains Tax is a very complicated area of taxation, we recommend that you seek professional advice and we would be delighted to assist you.

Alternatively, the property could be owned by the student, possibly with a loan from the parent for the deposit and a separate mortgage. Lenders are normally happy to offer a mortgage to a student if the parents act as guarantors and good rates should be available to the student first time buyer. The property should qualify as the student's principal private residence and so the Capital Gains Tax exemption will be available on any profits from the eventual sale (see page 7). Also, any rental income should qualify for Rent-a-Room relief (see page 3). You should bear in mind that upon sale, the proceeds, after repaying loans, belong to the student in this case.

Another bonus to consider is that if there are only students living in the house, there is no Council Tax to pay on the property. However, please be aware that if there are five or more students in the property or if the property consists of three storeys, or more, you must check with the local authority whether you require a Landlords' Licence.

It is important to ensure that this is set up correctly in order to make use of the various tax reliefs available and Kench & Co Ltd will be pleased to advise further if required.

# PROPERTY TAX GUIDE

## Rental Income

Those with rental income will need to prepare Property Lettings Statements of Income and Expenditure annually to 5th April in much the same way as for a self-employed trader. The relevant figures will then be entered on the Self Assessment Tax Return.

The amount which is taxable is the total income (including rents and any other receipts for items such as dilapidations, use of telephone, etc.) less all allowable expenses such as the following:

- ◆ Loan interest
- ◆ Water charges
- ◆ Management charges
- ◆ Letting Agents Fees
- ◆ Repairs and maintenance
- ◆ Insurance
- ◆ Accountancy fees
- ◆ Wear and tear allowance for furnished properties

Capital expenses are not allowable as a deduction against income and it may therefore be important to establish the nature of the expenditure before it is incurred. The date of the expenditure may also be a very important factor to consider.

Any tax liability arising on this income will be payable on the relevant due dates with any other tax liabilities arising for the same year. The due dates for tax under self-assessment are 31st January and, if payments on account are required, 31st July.

Interest on tax paid late will automatically accrue from the due dates.

It should be noted that losses arising from Lettings Income cannot be set off against other general income unless the income arises from Furnished Holiday Lettings (please see page 11 for details). Losses which cannot be set against general income are carried forward to set against lettings profits arising in future years.

Kench & Co Ltd will be happy to provide any further advice regarding these matters if required.

# PROPERTY TAX GUIDE

## Furnished Holiday Lettings

The purchase of a dwelling with a view to short term letting for at least part of each year can give rise to some quite striking beneficial tax concessions.

The qualifying conditions are that the accommodation must be let on a commercial basis (i.e. not merely to offset the costs of ownership). It must be available as holiday accommodation for at least 140 days in the tax year and actually let as such for at least 70 of those days. It must not normally be in the same occupation for a continuous period of more than 31 days during at least seven months of the year, which need not be continuous but includes any months containing any of the 70 let days.

If these conditions are met, then the income is broadly treated as trading income. Interest paid on a loan to purchase or improve the property is allowed as a trading expense (restricted if necessary by any private use proportion). Capital allowances and loss relief against general income may be claimed and the income qualifies as relevant earnings for personal pension purposes. This last point has become of less significance since the personal pension contribution regime was relaxed on 6th April 2006.

Properties used for qualifying furnished holiday lettings are also eligible for Capital Gains Tax rollover relief and business gifts relief.

# PROPERTY TAX GUIDE

## Property Development/Trading

Spurred on by recent television programmes or articles in the media, a number of people have been buying property on the open market or through auction to sell on immediately at a higher price or to 'do up', to then sell on for a profit.

It should be noted that if the **intention** when buying a property is purely to sell it for a profit, then you are trading in property and any profits on sale are assessable to Income Tax rather than Capital Gains Tax. The Capital Gains Tax annual exemption is therefore not available to offset against such profits.

If you are trading in property, H. M. Revenue & Customs must be informed within 3 months of the commencement of the trade in order to avoid a penalty.

If you are contemplating such a business there are several things to consider such as various H. M. Revenue & Customs forms, National Insurance matters and Value Added Tax registration and Kench & Co Ltd would be delighted to assist.

# PROPERTY TAX GUIDE

## Inheritance Tax

Inheritance Tax is charged at 40% on the value of an Estate above the nil rate band (£325,000 for 2009/2010) although transfers of an Estate to a spouse, Civil Partner or charity are exempt. In many cases the value of a property alone is well above the nil rate band. Unfortunately, the favourable concessions for Income Tax and Capital Gains Tax do not extend to Inheritance Tax.

Whilst it is possible to give away cash and some other assets in order to reduce one's Estate, the main problem with a property is the difficulty of giving it away but still continuing to occupy it, which most people want to do if it is their home!

You could consider moving to a smaller home, creating a tax free gain that can be given away, or to reduce the value of the home by mortgage and give away the proceeds.

There are potentially other tax planning tools available, but they are very specialist and professional advice should be sought.

Please contact us if you would like more help or advice in this area.

# PROPERTY TAX GUIDE

## And Finally ...

We hope that this brochure has been of interest to you. We would be delighted to discuss any of these matters with you in more detail. It is often wise to take professional advice at the outset to ensure that you are not missing any tax-planning opportunities.

If you would like to know more about us, take a look at our website at [www.kench.co.uk](http://www.kench.co.uk) where you will find a wealth of additional information.

... Alternatively just pick up the phone, call Linda Manson on 01491 578207 and make an appointment for a free initial meeting. Or get your Lettings Agent to do it for you.

We look forward to hearing from you.

This Information Pack is based on our understanding of the law and practice at 22 May 2009. Every effort is made to ensure the accuracy of the information contained in this publication but any person entering into transactions on the basis of such information should seek the services of a competent professional adviser. Kench & Co Ltd expressly disclaim all and any liability and responsibility to any person in respect of anything, and of the consequences of anything, done or omitted to be done by any such person in reliance, whether wholly or partially, upon the whole or any part of the contents of this publication.

© This publication is copyright Kench & Co Ltd (2009).