

WHAT KIND OF PROPERTY INVESTOR ARE YOU?

PART 1: THE 'PRIVATE LANDLORD'

By specialist property accountant Stephen Fay FCA

Most property investors start their investing career by operating in their own personal name. But what do you tell lenders, friends, family, tenants and 'nosey parkers' when they ask about your business structure?

This article explains how to describe yourself, and operate day to day, if you operate your property business in your own personal name.

WHAT EXACTLY IS A 'PRIVATE LANDLORD'?

Operating as a 'Private Landlord' is the most common way to invest in residential property to rent out. The large majority of landlords own their properties in their own personal name, usually because that is the easiest way to get mortgages at good rates and Loan-to-Values.

For business and tax purposes, this is known as operating as a 'Private Landlord'. When such an investor is asked about their business structure, they would say that they are a 'Private Landlord'.

SO, I'M NOT A SOLE TRADER THEN?

No, a 'Sole Trader' is an individual that buys and sells products, or sells a service. Typical examples are plumbers, electricians, taxi drivers etc. Like a Private Landlord, a Sole Trader operates their business in their own personal name. However, crucially, unlike a Private Landlord, Sole Traders pay National Insurance at approximately 10% on their business profits – this typically means 50% more tax payable than a Private Landlord on the same income!

ME AND MY SPOUSE OWN OUR PROPERTIES JOINTLY – ARE WE A PARTNERSHIP?

A partnership is where two or more people join together to create a joint business that is not a company. The vast majority of landlords who own properties with their spouse (whether jointly or in separate names) are NOT partnerships i.e. they do not file partnership tax returns, and do not need to.

The main benefit of operating as a partnership is the ability to shift profits more easily between partners – but as the 'beneficial' interest in a property can easily be changed from the 'legal' position, it is rarely worthwhile to register with HMRC as a partnership.



BUT I OPERATE UNDER A TRADING NAME – AM I STILL A PRIVATE LANDLORD?

Absolutely – many landlords use a 'trading as' name to operate their business. So, if you want to 'name' your portfolio as 'Super Duper Properties', you can do that. Your business bank account debit card and cheque book would show the trading name and the name of the individual underneath. You may also have a website, email address, named bank account, stationery and business cards etc – all to give a more business-like image to a property portfolio. Underneath this glossy exterior, the business structure still remains that of a 'Private Landlord'.

WHAT ARE THE TAX IMPLICATIONS OF OPERATING AS A PRIVATE LANDLORD?

Private Landlords are deemed by HMRC to be 'investors' rather than 'sole traders'. Most landlords take umbrage with this! However, a key benefit is that investors don't pay National Insurance, whereas sole traders do – and this is around 10% of net profit, on top of tax at 20%!



Private Landlords are able to claim the £9,440 income tax personal allowance, and pay 20% income tax up to the Higher Rate limit of £41,450 (2014 tax year).

This means a personal tax bill of £6,402 on net profits of £41,450: a tax rate of just 15.4%. Some people move offshore to pay tax at that rate, and yet being a Private Landlord requires no special structure and does not mean a higher tax risk or any special set-up other than having a good accountant. Hence why being a Private Landlord is so popular!

For Private Landlords who operate as a couple (whether spouses or two business partners), rental profits would need to reach £82,900 before any Higher Rate tax is payable – and that is after all possible reliefs, claims, allowances and expenses have been identified.

WHAT ABOUT GETTING MORTGAGES AS A PRIVATE LANDLORD?

Obtaining finance at a reasonable rate, and at the highest possible Loan to Value, is where Private Landlords really have an advantage over companies. Investors operating as a company will find they have far fewer lenders to choose from, pay higher

interest rates and fees, and have to put far higher deposits down – not good news!

SUMMARY

Most property investors operate as Private Landlords, as this is usually the most beneficial business structure for finance and tax purposes. In time, a property company may become worthwhile, but, for most investors, operating in their personal capacity enables more rapid portfolio growth and their deposit capital to be stretched further – hence operating as a 'Private Landlord' is the structure of choice for most investors.



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