

Can company money be used to offset a mortgage?

Introduction

Contractors using the [contractor limited company](#) route for structuring their payments often have fairly large sums of money sitting in the company account ready to pay tax bills at a later date.

With offset mortgages being popular contractors often ask if they can utilise this money better to offset their mortgages.

We examine the issues surrounding using company money to offset personal mortgages.

IR35

This situation can only arise if you are working outside the scope of [IR35](#), since if you are caught by IR35, then all company income must be paid out by way of salary subject to the [IR35 rules](#).

If however you are working outside the scope of IR35, then you may be in the situation where a large amount of money is accumulated in the company bank account, which you may prefer not to draw as further [dividends](#) if you are already a higher rate tax payer.

Can you use the money to offset a mortgage?

Firstly, banks will not allow you to use the accounts directly to offset a mortgage. The only feasible way of using the money would be to move it into your current account.

There are two potential options:

- o Loans
- o Pay early dividends

However, as we will see, these create much further complications.

Loans

The company can lend you up to £5,000 tax free without giving rise to a benefit in kind. However, a loan of around £5,000 is unlikely to save you much when offset against your mortgage.

If the loan is for more than £5,000, then you are required to pay interest to your limited company at HMRC approved rates.

You will also have to pay to HMRC, an amount equal to 25% of the loan if it is not repaid within nine months of the company's year end.

A refund of this tax can be reclaimed when the loan is eventually repaid. You could, in theory, pay off one company loan by taking another but you should be certain that all transactions are fully documented and that actual money passes through the company bank account in order to pay off the company loan – mere book entries will not suffice for this purpose. You should also ensure that the transactions are minuted and that all transactions are fully documented in the company records.

One suggested idea is to pay the loan off the day before the nine month end and then take it out the day after. However, tax is avoided as in substance there is a loan throughout the period in question and likely to get caught. If you repay the loan a few days before and take it out a few days later then HMRC are likely to argue substance over form. I.e. that essentially there was a loan throughout and the 25% should be accounted for.

Thus, any loan over £5,000 is not a feasible option. A loan up to £5,000 is feasible but this comes with a huge warning. HMRC watch out for [directors loans](#) and by taking one you are raising a big flag saying 'come and investigate me!' The time, cost, stress and possible financial losses resulting from this option does not justify the small saving you might make on your mortgage repayments.

Taking early dividends

This is a clever idea, but unfortunately illegal.

The idea is based on the fact that the company will tend to have reserves of money ready to pay the tax man for corporation tax nine months after year end. This means you could have up to 21 months of tax money saved at any one time.

The idea would be to declare a [dividend](#) using this money with a view to using all future earnings to pay the tax bill when it arrives.

This option is not legal, since it would constitute an [illegal dividend distribution](#). Dividends can only be paid from profits. When dividends are paid during the year an interim balance sheet of the company should be calculated to ensure dividends are only paid from profits.

Since the timing of dividends is not actually declared on the balance sheet or other returns to Companies house it is impossible for HMRC to catch illegal distributions of dividends unless they actually do an investigation of your company.

A good inspector who has an understanding of company law will look at the timings of the dividends for any illegal distributions. If any are found then there are quite painful options. Firstly, you might be required to pay the dividend back to the company. Secondly, it might be claimed that the money was taken as salary and thus full N.I. and PAYE will be due.

Suffice to say, making illegal distributions to offset your mortgage is a really bad idea!



Conclusion

Using company money to offset your mortgage is not possible unless you take a directors loan of up to £5,000. A loan that small, compared to your mortgage would not have a significant impact on reducing your mortgage and would only encourage the revenue to investigate you.

Paying yourself dividends out of tax money is illegal and you could find yourself in serious trouble.

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