Considering property investments via your contracting limited company

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Introduction

Contractors who fall outside IR35 and use a limited company structure pay themselves a low salary and receive the rest in dividends from the company profit.

Some contractors consider the possibility of using profits for property investment within the company. However, in most cases it is not advisable for the following reasons:

Capital gains tax issues

Investing via a limited company means losing out on many exemptions and reliefs available only to individuals, including exemption for principle place of residence (if you live in the property) and taper relief.

In addition, when the property is sold, you may face a double tax bill on the proceeds, since the company will have to pay tax on the capital gain and if you then wish to extract the profit from the company, you will need to pay further personal tax on the income or gain arising.

Questionable tax saving

The allocation of company profits after corporation tax to the purchase of investment property rather than distribution to the shareholders, will not generate any tax saving whatsoever if you are a basic rate tax payer.

Only in the event that you are a higher rate tax payer will you **postpone** the higher rate tax liability. On the assumption that you will one day sell the property and hopefully make a profit, the day will come that you will wish to extract that profit, at which time you will need to pay the tax at whatever rates apply then. Only in the event that the investment turns out bad, would you have actually saved tax.

Contractual risks

As a consultant you do run the risk, however small, of being sued for negligence, etc., and in the event that you are not fully covered by a professional indemnity policy, any legal action directed at your limited company would put at risk any assets held in that company.

P11D / Benefit in kind issues

If you derive any personal benefit from the company's ownership of the property, e.g. occupation, holiday home, etc., then you will be taxed on the benefit in kind. No such charges arise if you own the property personally.

Business climate

Without wishing to take a political slant, it can hardly be denied that the advent of IR35, the settlements legislation (formerly known as Section 660) and increasing regulation on small limited companies, has significantly decreased the average life span of a one person consultancy company.

The placement of an investment property within such a company may prove a great inconvenience in the event that you wish to have the company dissolved. Prior to dissolution, the property would need to be transferred out of the company, which would crystallise any capital gains, in addition to stamp duty and legal costs of transfer.

Conclusion

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David Colom qualified as a Chartered Accountant in the City of London in 1981 and is the founder and principal of D J Colom & Co Chartered Accountants established in 1989.

Started specialising in serving IT contractors in 1993 and is now one of the longest standing suoppliers of accountancy services to computer contractors. **Read Full Profile...**

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For all of the above reasons, you would be best advised to keep your investment property outside of your consultancy company. It may be that your personal circumstances and future plans would make it appropriate for an investment property to be placed within a limited company, but this should be a separate limited company set up for the specific purpose of property investment.

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