July 2022

The Property Round

In This Issue

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GERALD EDELMAN

EDITORIAL

Welcome to the summer edition of our property newsletter. The country has been basking in glorious weather over the last month and the forecast looks good for those staying in the UK over the holidays. From the whole team at Gerald Edelman, we hope you have an enjoyable summer.

With the UK now looking to move forward in its economic recovery from the pandemic and Brexit, there are new challenges facing the UK economy. In addition to political uncertainty, the biggest challenges facing the UK economy are global in nature: higher energy prices, pandemic and war related inflationary pressures, labour shortages, supply chain challenges and, as Richard mentioned in the last editorial, the mounting risk of climate change.

Despite the economic uncertainty that the UK has faced, the housing market remains busy. Compared to the last 'normal' market of 2019, buyer enquiries are up 31% and mortgage approvals and sales are up by 12% and 11% respectively. The average UK property rose in price by 13% to a record £294,845 in the year to June 2022, according to the latest property market data from Halifax and 433,000 homes in the UK changed hands in the first four months of 2022, with the average home selling within 31 days.

I am also seeing a lot of activity within our own client base and from speaking with agents there is optimism in the market. Developers are continuing to source new opportunities, funds are actively looking at commercial and residential assets to add to their portfolio and overseas buyers are returning to the UK market. For many, the question is when, not if, the property market will start to moderate. However, any gear change is likely to be slow and steady, and not an emergency brake as was the case in the global financial crisis of 2008.

We hope you find this edition of our property newsletter useful and if you would like to contribute to our next edition we would love to hear from you.

Amal Shah

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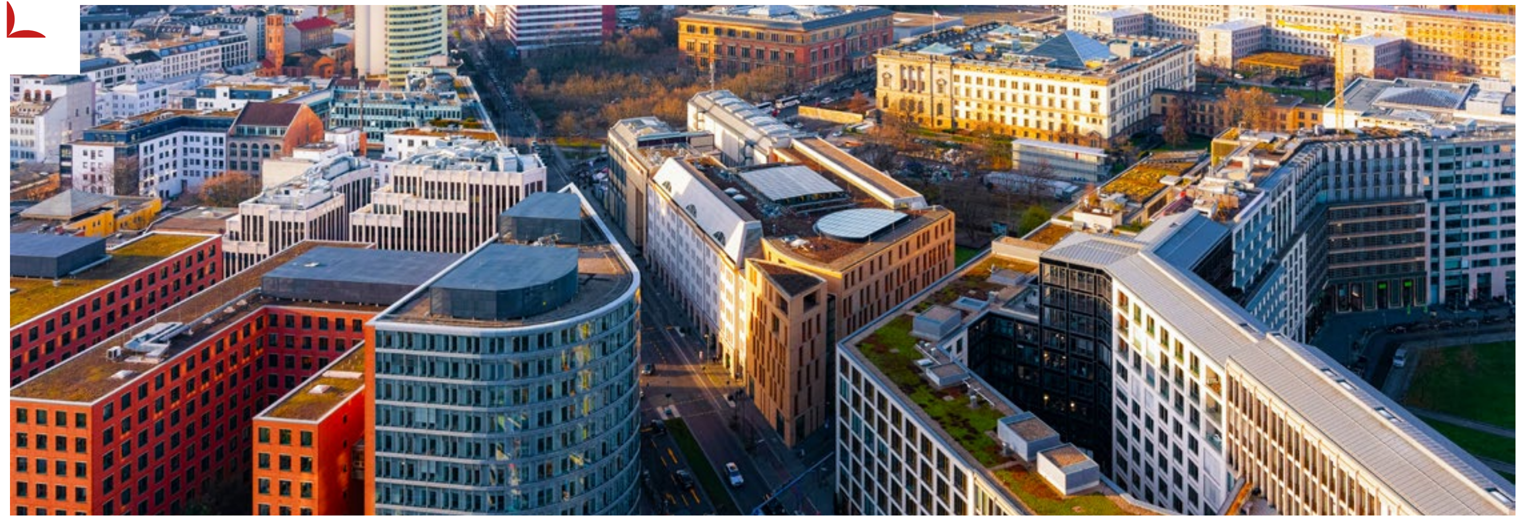
XLNC FOUNDING MEMBER



PROPERTY SECTOR UPDATE

There continues to be a high demand for property and house prices continue to grow. Although, the pace is beginning to slow.

The continued imbalance between supply and demand has supported the price growths witnessed since the pandemic. However, the effects of the increasing cost of living, increasing mortgage rates for buyers and bleaker economic outlook is beginning to be witnessed by some. In the immediate future, rising interest rates means buyers are keen to lock into fixed mortgage rates now, but long term it is expected to limit house price growth.

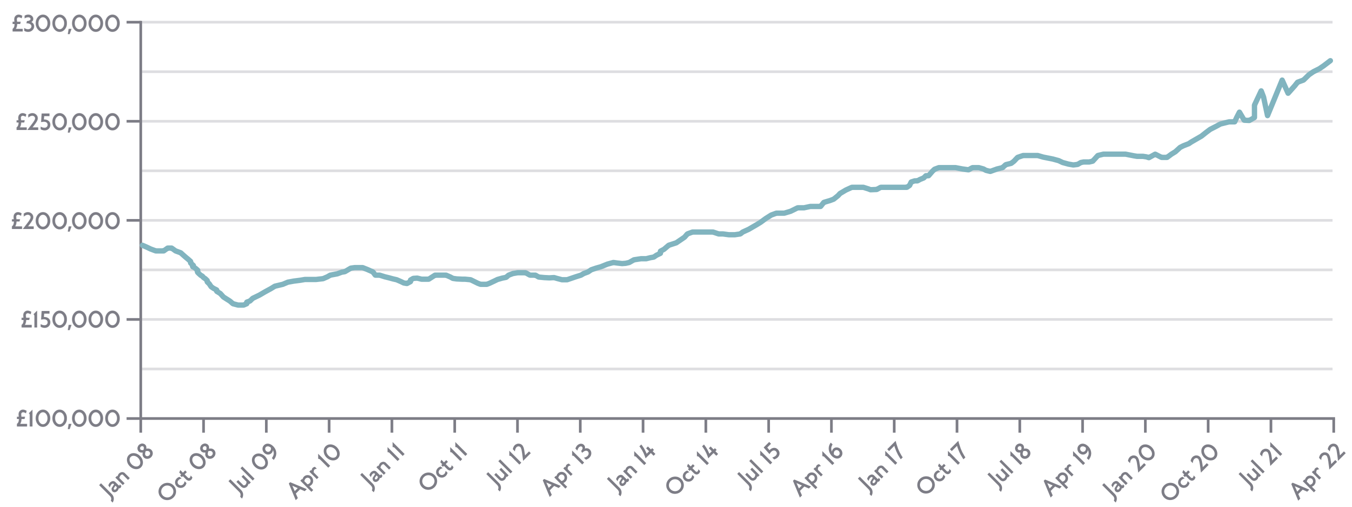
In contrast, the London rental market is booming. In Benham & Reeves's latest market update it reported that demand for rental accommodation in the Capital remains at an all-time high, far outstripping the supply of properties available.

THE HOUSING MARKET

Property prices are continuing to rise, albeit at a slower pace. According to Zoopla, a typical UK property now costs £251,554, which is just 0.1% higher than April's average and is the lowest monthly growth rate since December 2019. Year on year growth has also dropped to 8.4%. This is down on the April figure of 9.2%.

According to Benham & Reeves, the market is busy, but it feels a lot more stable now than it did in the first half of 2021. The company also reports it is seeing many sellers looking to put their homes

AVERAGE UK HOUSE PRICES



(Sources: HM Land Registry, Registers of Scotland, Land and Property Services Northern Ireland, and Office for National Statistics)

on the market to take advantage of the buoyant summer season, an increase in international clients visiting the UK in person, cross-rail boosting sales enquiries in London and buyers wishing to lock into mortgage rates now before rates increase. In the short term, there is optimism in the market, but the impact of the rising cost of living and mortgage rates remains to be seen.

THREE FACTORS THAT WILL IMPACT MARKET GROWTH THIS YEAR…

Rising mortgage rates

UK mortgage rates rose at their fastest pace for a decade in the six months to May according to data from the Bank of England. Zoopla suggests market growth is consequently slowing.

The average interest rate on newly drawn mortgages increased by 13 basis points to 1.95% in May. This is 46 basis points above the rate in November, marking the fastest six-month increase since 2012.

With interest rates increasing and the cost of living soaring, it is feared that house price growth might not only slow, but also contract.

Cost of living

The cost-of-living crisis is adding to affordability concerns, with banks building the higher costs into their checks on borrowers.

Given the intense pressure on disposable incomes from the increase in the cost of essentials, it is predicted that available buyers will begin to decrease adding to the market slowing down.

Increased supply of homes

The number of homes on the market has increased in each of the first three months of 2022, reverting to normal seasonal trends, according to TwentyCi.

However, Savills reports that the number is still 44% down on pre-pandemic levels and it could take many months to recover to more normal levels. Strong house price growth is therefore likely to continue over the short term, but long-term may be another factor in slowing market growth.

THE COMMERCIAL SECTOR

Landlords continue to concentrate on alternative sectors in the property industry, such as warehouses and student accommodation. However, there are signs that the office sector and retail are improving.

The RICS occupier demand metric for the former shows a positive net balance of +30%, while the comparable figure for the whole of the retail sector is – 1% (the least negative result since the early part of 2017). (Taken from RICS, Economy and Property Market Update May 2022).

Shopping centres continue to be under threat from online rivals. However, this does mean that there continues to be huge demand for warehousing and logistics space – every £1 billion of additional e-commerce is estimated to require an extra 1.36 million square feet of warehousing space. (ICAEW, Conditions right for real estate M&A activity).

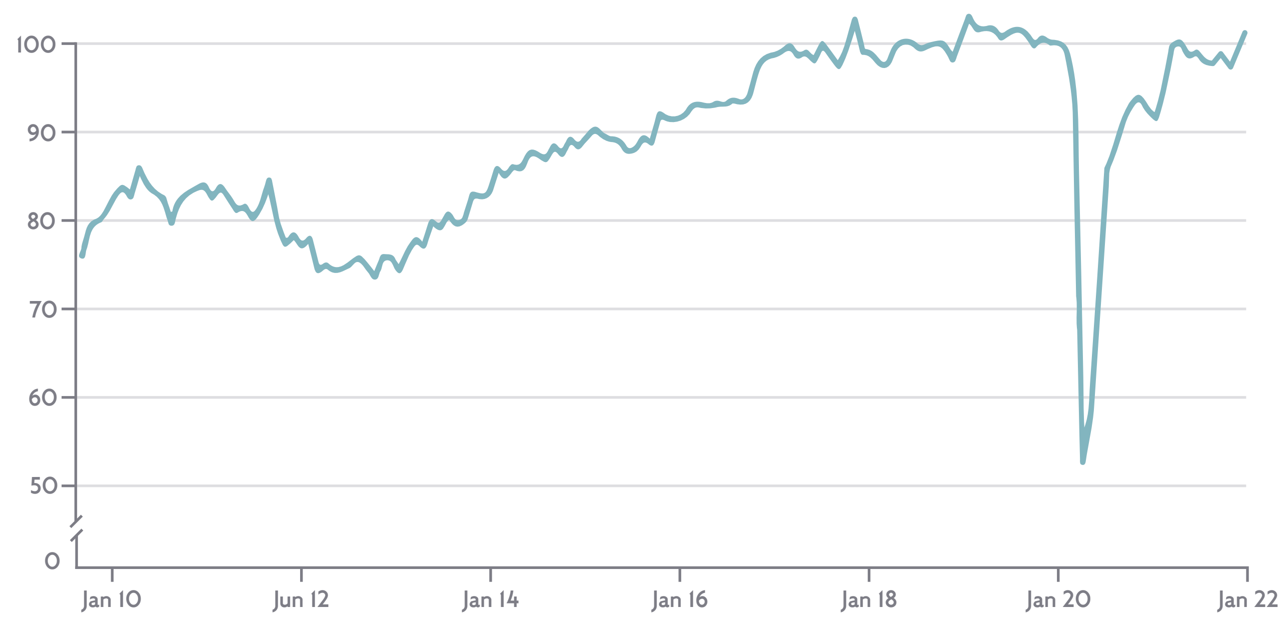
PROPERTY SERVICES

The COVID-19 pandemic initially led to severe disruption in on-site construction activity and impacted both supply chains and new sales activity, which naturally reduced revenue opportunities. However, data tracking construction output shows healthy gains through the first quarter of 2022 with the volume of activity now almost 4% above its pre-pandemic level (February 2020).

Currently, a key concern for the industry is rising building costs; official data shows costs of materials to be 25% higher than a year ago. For some parts of the sector, access to construction products is also challenging and there continues to be skills shortages with many businesses struggling with recruitment.

Consequently, businesses in the sector are looking to increase investment in workforce development and training as there is no indication that materials or labour pressures will ease in the short term. (Taken from RICS, Economy and Property Market Update May 2022).

CONSTRUCTION OUTPUT



(Sources: Office for National Statistics – Construction Output and Employment)

MERGERS AND ACQUISITIONS

Date Acquired	Target/Company	Acquirer/Investor	Enterprise Value
08/03/2022	Unite Students' 11 property portfolio	Lone Star	306,000,000.00
12/05/2022	32-50 Strand in London	Sinarmas Land Limited	195,000,000.00
24/05/2022	Blackburn Shopping Centre	ADHAN COMMERCIALS PLC	40,000,000.00
17/05/2022	St Michaels Retail Park	DTZ Investors	50,950,000.00
05/01/2022	Cheshire Oaks Designer Outlet	LaSalle Investment Management	600,000,000.00
31/05/2022	Leftfield Advisors' Urban Logistics Portfolio	Kennedy-Wilson Holdings Inc	227,791,900.00

M&A is still going strong despite factors impacting the property market. In a low-interest-rate environment, real estate has been a very alluring asset class for many investors. It has provided unlevered annual returns of approximately 6% and Baa bonds more like 3.5%. (ICAEW, Conditions right for real estate M&A activity).

Real estate has been a safe haven for investors, with low interest rates across the world. But it's also a sector in flux, due to economic uncertainty, new technologies and changing working environments. All of which is good news for M&A.

CONCLUSION

It is expected that the housing market will continue to remain in a strong position for months to come as people make the most of the current lower rate of mortgages. However, long-term the effect of the rising cost of living and increase in mortgage rates will begin to slow growth. Regarding M&A, there seems to be no signs of this slowing down with the soar in ecommerce and moves to new ways of working, including more people at home affecting investors portfolio

LATEST TRANSACTION NEWS

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Gerald Edelman advises on the sale of The Austin Company of UK Ltd (Austin UK) to The Austin Company US.

We are delighted to announce that we have advised on the sale of Austin UK to The Austin Company US. Austin UK, founded in the 1920s, is a design and construction management business, focused on complex scientific, research and manufacturing facilities.

The Gerald Edelman team, led by Carl Lundberg (Partner) and William Abell (Associate Director), were appointed by the selling shareholders at a late stage to advise on the financial and accounting aspects of SPA. We quickly identified that the proposed acquisition structure could be improved as it was inefficient for the selling shareholders from a tax perspective. Our advice resulted in a material tax saving for the selling shareholders.

Prakash Davda, selling shareholder and outgoing managing director of Austin UK, commented: "I am extremely glad that we engaged the Gerald Edelman team to advise on this transaction. Their advice has proven invaluable, not only ensuring that the deal completed smoothly but also achieving a substantial taxation saving for me and the other departing shareholders. I extend my sincerest thanks to Carl and Will, whose pragmatism, knowledge and drive was key to securing the successful result. I would strongly recommend them both as corporate finance advisors."

> "I am extremely glad that we engaged the Gerald Edelman team to advise on this transaction. Their advice has proven invaluable."

WEST END JIGSAW

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A year ago, I wrote about the redevelopment of Oxford Circus and other initiatives by Shaftesbury and Capco – this seems pretty timely right now given the ongoing conversations around a West End merger.

The biggest concern at the time was footfall – we were still in and out of lockdown restrictions, with workers, shoppers and tourists remaining very much absent from the West End scene. Fast forward to today, the West End has substantially recovered, with its vibrancy returned and vitality restored.

It seems to me that central London is now seen as a leisure destination, perhaps much more than it once was. The variety of restaurants and bars is world class and hard to beat, likewise with its choice of theatres, museums, and members clubs. However, there seems to be a missing piece that I think would complete the picture.

Our food hall scene is still burgeoning, with some bright stars shining through, such as Arcade in London Centre Point, and soon to be Battersea Power Station. My sense is, however, imaginations are stretching, and visitors are envisaging and expecting a much more complete offer. It's no longer about great F&B and great retail; it's the mix of the two, bridged together by inspiring leisure concepts to create that rounded offer. We seem to be short on competitive socialising, and you only need to look at the runaway success of Swingers in Oxford Circus, with its triumph proven in its expansion of a further floor. We are also lacking music venues – I think we could benefit from a Madison Square Gardens type setting to bring in that scene.

I understand that sometimes its difficult to justify these larger venue spaces on a micro level, as they don't always win the value proposition. However, more than anything right now, our London Estates have the potential to assemble an offer which creates that total entertainment and leisure arena.

Now is the time to see the bigger picture, and not only attract the best from the UK and overseas but make room for the next generation of larger entertainment venues, ensuring we continue to be the leaders in hospitality.

REGISTER OF OVERSEAS ENTITIES OWNING UK PROPERTIES – NEW MEASURE TO TACKLE FINANCIAL CRIME

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It is perfectly legal for offshore entities to acquire UK properties and such schemes are generally structured for legitimate reasons.

However, the Pandora papers as well as recent events have highlighted the vast misuse of illicit funds being invested in UK property, which are then effectively hidden behind corporate shells. For this reason, the Government pledged to introduce a Register of Overseas Entities with the main aim to increase transparency and powers to tackle financial crime by revealing the identities of beneficial owners of UK property.

WHAT IS THE REGISTER OF OVERSEAS ENTITIES AND WHAT ARE THE REGISTRATION REQUIREMENTS?

The Register of Overseas Entities will be maintained at UK Companies House and will be publicly accessible.

All overseas entities owning UK property in England and Wales which meet the registration criteria must apply for registration and provide details of their beneficial owners.

To comply with the Economic Crime Act, the officers of overseas entities must:

- Identify any registerable beneficial owners of the entity;
- Deliver a statement about its registrable beneficial owners and provide the required information for that statement to Companies House;
- Complete an annual return on the Register of Overseas Entities to update the register;
- Request removal from the register at the appropriate time.

What we must also be highlighted here is that offshore entities that are planning on acquiring UK properties will have to register on the Register of Overseas Entities before such acquisitions.

WHO WILL THE REGISTRATION REQUIREMENTS APPLY TO?

The registration rules will apply to overseas entities that acquired a registrable property in England and Wales after 1 January 1999 or will acquire it in the future.

A registrable property, in this context, refers to a freehold estate in land, or a leasehold estate in land granted for a term of more than seven years from the date of grant.

An overseas entity, in this context, is broadly defined to include foreign companies, partnerships and other legal entities which are legal persons governed by the law of a country or territory outside the UK.

Entities may only be exempt from registering if they provided beneficial ownership information to registers in their own jurisdictions and the government considers those registers to be equivalent to the UK Register of Overseas Entities.

WHO ARE THE REGISTERABLE BENEFICIAL OWNERS?

A person will be a beneficial owner if they own more than 25% of the overseas entity's shares or can control more than 25% of its voting rights, or if they have the right to appoint or remove a majority of the board of directors or exercise significant influence or control over the overseas entity.

If the overseas entity's beneficial owner is another entity, then it must continue up the chain of ownership to disclose the beneficial owners. If there are no beneficial owners, it must include a statement from its managing officers (i.e. directors, managers or secretaries) including a description of their roles and responsibilities in relation to the overseas entity.

WHAT ARE THE DEADLINES TO REGISTER ON THE OVERSEAS ENTITY REGISTER?

Overseas entities must apply to register as an overseas entity within six months of the date of commencement. We are yet to be informed of the commencement date.

In addition, an overseas entity must also state whether or not it has made any relevant disposals of registrable land since 28 February 2022. If there has been a relevant disposal, the overseas entity must provide to Companies House the information which would normally be required on registration on the Register of Overseas Entities, together with information on the disposition such as the date of sale and the title number. This must be done within the six month transitional period either as part of the application for registration or separately if the entity does not need to register.

WHAT ARE THE CONSEQUENCES OF NOT COMPLYING WITH THE ACT?

Foreign entities that do not comply with the registration requirements will be unable to deal with UK land.

Failure to comply with such Act will also be deemed a criminal offence for the overseas entity and its officers, which could result in facing unlimited fines or up to five years in prison, depending on the severity of the breach.

CONCLUSION

Companies House are still working towards implementing the register as quickly as possible whilst liaising with the UK's land registries. We have yet to see how the Overseas Entity Register will operate and await further news from the Government.

TAX ON THE SALE OF UK PROPERTY

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The tax treatment of selling a property held in personal ownership is different depending on whether the property was acquired with a view to resale or for rental income and long-term investment.

TAX WHEN SELLING TRADING PROPERTIES

Those who acquire or develop a property for resale are normally regarded as "trading" and profits on sale are taxable as income, whether the property owner is a resident or non-resident in the UK. Trading income is taxed at rates up to 45%.

TAX WHEN SELLING AN INVESTMENT PROPERTY

Where property is acquired to hold for rental income, this is generally regarded as "investment". Sales of investment property are normally subject to Capital Gains Tax (CGT). CGT is a tax on the profit you make when you sell or 'dispose of' an asset that has increased in value since you purchased it. To clarify, you are not taxed on the full amount you make from the sale, only the profit or 'gain'. This would apply to the sale, a gift, or transfer to somebody else, exchanging it for another asset or receiving compensation.

Individuals are subject to CGT at 18% or 28% depending on their level of UK income, but an annual CGT exemption amount is available. If a property is owned by a trust the rate of CGT is 28%, with a trust only entitled to half of the annual exemption an individual is entitled to.

TAX WHEN SELLING A MAIN RESIDENCE

Under most circumstances, you will not be taxed on the sale of your main home due to a tax relief called Private Residence Relief (PRR).

PRR will exempt the gain from CGT when you're selling a home you have lived in as your main residence for the entire period of ownership. You must meet this and all other PRR criteria to be eligible for the relief.

There are a number of scenarios that may limit your entitlement to PRR, including:

- Letting out all or part of your main residence (not including having a lodger who shares the house with you)
- Using part of your main residence for business purposes only
- Generally, the grounds must not exceed 5,000 square metres
- You must not have bought the property simply to sell it for profit

So, what qualifies as my 'main residence' for Capital Gains Tax purposes? What makes the main residence is a complicated issue in tax law, very simply put, it is your home.

If you own more than one home, you can nominate which property you would like to be your main, tax-free residence. This doesn't have to be the one you live in. You may wish to nominate the property you expect to make the most profit on when you sell it. Once you have purchased a second home, you have two years within which to nominate your main, tax-free residence.

It should be noted that if you are married or in a civil partnership, you can only nominate one property between you.

OTHER TAX CONSIDERATIONS WHEN SELLING PROPERTY

CGT Reporting within 60 days

From 6 April 2020, UK residents selling a home that is not their main residence will have 60 calendar days from the date of completion to notify HMRC of the gain on a new CGT return and pay any CGT owed.

Company ownership

Companies are subject to corporation tax on their gains at the corporation tax rate, currently 19%. Indexation allowance is available up to December 2017. Companies are taxed on trading profits at the same rates but without any indexation allowance.

Whether a property is trading or investment is a question of fact which depends primarily on the intention at the time of acquisition. Some reliefs such as indexation allowance and rollover relief are available only for investment properties. Some reliefs such as Business Asset Disposal Relief and Substantial Shareholding Exemption are only available where a company owns trading property.

Non-UK residents are not generally within the scope of UK CGT but for UK property, they are now taxed in broadly the same way as UK residents, although for non-residents who already owned UK property in April 2019 some favourable rules still apply.

PROPERTY INVESTMENT – PERSONAL OWNERSHIP VS COMPANY OWNERSHIP

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When an individual has found a suitable residential investment property to acquire and it makes commercial sense, the very next question should be... how should the property be purchased?

An initial decision needs to be made whether to purchase the property:

- As an individual
- As a joint owner or via a partnership (often with a spouse)
- Via a company.

In order to assist in the decision-making process it is important to consider the following factors:

- How long do you intend to own the property?
- Will you need the income from the property?
- Are you looking to purchase more investment properties in the future?
- Do you already have an investment company?

PERSONAL OWNERSHIP

This is the simplest method of acquiring and running your property business. Other advantages include potentially lower mortgage interest costs, cheaper ongoing compliance costs compared to that of a limited company, and if you are a basic rate taxpayer or have unused personal allowance, there will not be any restriction to mortgage interest.

If you are not intending to hold the property for the medium to long term and there is likely to be a capital gain, personal ownership will avoid being taxed twice on any gain on disposal of the property.

The main disadvantage of personal ownership is that if you are a higher rate taxpayer you will be subject to tax at the higher and additional rates of tax as well your mortgage interest being restricted to the basic rate of tax.

OWNERSHIP THROUGH A PARTNERSHIP

The rental profit or loss incurred on a property held jointly (or held within a partnership proper) need not be allocated in the same proportion as the underlying ownership. Where a genuine partnership exists, the profits and losses from that business can be allocated between the partners in any ratio that the partners agree, and that ratio may be varied from year to year.

Usually, joint property ownership between spouses is allocated 50:50 unless the underlying ownership of the property is different. There are significant planning opportunities when structuring property investments held jointly or through a partnership which can result in income tax and inheritance tax benefits.

As mentioned before, the liability of an individual or partnership can be unlimited. However, partnerships can be created with limited liability. This allows for a partnership structure where each partner's liabilities are limited to the amount they put into the business.

COMPANY OWNERSHIP

Legal identity

A company has its own legal identity and third parties will contract with the company and not the individual directors or shareholders.

Tax efficiencies

A property investment company is a tax-efficient vehicle to use as a personal 'money box' or as an alternative to a private pension pot, this is because:

- The money can be kept in the company until it is needed, without triggering further tax charges
- As the rate of corporation tax is much lower than the top rates of income tax, undrawn profits retained in the company grow more quickly compared to holding and being taxed in your own name.
- Retained profits can be invested in the company's own name.
- When the funds are required, for example, at retirement, you may be a non-taxpayer or basic rate taxpayer.
- The amounts withdrawn can be planned and controlled to ensure maximum tax extraction efficiency.

Bringing in the family

A property investment company can also be used as a means to provide an income to other family members, in addition to providing an IHT planning structure. Some key advantages of this are:

- You may give shares to family members
- You can use the company to maximise efficiency by using multiple personal allowances and basic rate bands. Care should be taken if shifting income to minor children
- You can provide for expenditure in a tax-efficient way, for example, school or university fees
- Family members can be encouraged to take an active part in the running of the company
- Control can gradually be passed down to children or grandchildren

It is important that you consider your long-term objectives, especially Inheritance tax from the outset.

Each individual's situation is unique and therefore it is important to take professional advice when deciding how best to structure your property business.

A property investment company is a tax-efficient vehicle to use as a personal 'money box'.

LONDON LETTINGS MARKET IS BOOMING

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The old adage that time flies is certainly true of the second quarter of 2022. As we move into the second half of the year we look back over a period of transition and a very busy market coming out the back of COVID.

As the capital has powered back into life, we saw an influx of buyers and tenants into London. Rents across the capital have risen at lightning speeds as the market corrects after the dip during COVID.

Rental stock dried up for several months, almost entirely across all price ranges, this put huge upward pressure on prices, and we began to see prices for apartments rising at record rates. The mid-summer market has seen more rental properties available but even this increase in supply is not enough to cope with demand levels.

The lettings market remains flooded with applicants and registration levels over the last few months have significantly increased month on month. With no indication that demand levels are dropping, predictions for a very busy summer in lettings are easy to make.

This demand is leading to increased prices, but also to many apartments receiving multiple offers and flats letting in record time, many on the first day of marketing.

After a long period of feeling lambasted and under pressure, Landlords are enjoying the sunshine of summer. Rental yields are pushing up and void periods are down, for Landlords this quarter has been refreshing.

Many overseas investors have again turned to London with a large number of buyer enquiries from the far east and especially China. We are also seeing a very weak pound against the US dollar, which means for anyone holding dollars, London is beginning to look very good value once again.

The spring and early summer markets have traditionally always brought a new flow of stock to the sales market. This year has been no different, a good number of best in class flats and houses have hit the sales market creating a frenzy of activity as buyers push and shove to grab this AAA stock. It is very much a case of make hay while the sun shines, the summer market can be fleeting, the stock can dry up just as fast as it came to the market.

Many owners are having a second go at selling their homes after taking them off the market due to the COVID lockdowns and restrictions on buyer movements. As with the lettings market, the sales market is strong across the board. We are having an increasing number of conversations with applicants who have concerns over inflation degrading their savings pots, these buyers are looking to get the money into property as soon as possible.

Buyers are also seeing interest rates creeping up for the first time in almost a decade. With inflation predicted to reach possible highs of 12% interest rates must begin to follow. Applicants still have access to some very good rates, but this may not last too much longer. Many lenders are still offering very attractive buy to let rates and 10% deposit mortgages are still widely available. If you are looking to buy a property in 2022, we would suggest sooner rather than later to help secure a cheaper mortgage.

GET IN TOUCH

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Many overseas investors have again turned to London with a large number of buyer enquiries from the far east.

COMMERCIAL RENT (CORONAVIRUS) ACT 2022 TO SOLVE THE ACCUMULATED £7 BILLION RENT DEBT

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With the eviction moratorium officially over, occupiers and tenants are no longer protected if they fail to pay their rent due to the ongoing pandemic.

The challenge is now between tenants and landlords to decide how they should deal with the accumulated £7 billion-plus rent debt.

The Commercial Rent (Coronavirus) Act 2022, which received Royal Assent on the 24 March, 2022, plans to solve this worrisome-incurred debt.

Paul Scully, Business Minister, explained the purpose of the new Bill. "This new law will give commercial tenants and landlords the ability to draw a line under the uncertainty caused by the pandemic so they can plan ahead and return to normality. Landlords and tenants should keep working together to reach their own agreements where possible using our Code of Practice to help them, and we've made arbitration available as a last resort. Tenants who can repay their rent debts in full, should do so, and when they cannot, landlords should try to share the burden, so we can all move on."

The Bill will only apply to business tenancies under the Landlord and Tenant Act 1954.

This protection will apply to all sums that are comprised within a lease, such as insurance, rent and service charges, among others.

While the government suggests that landlords and tenants should come to a mutual agreement, it will not be as easy as it seems. Those who fail to come to an agreement can apply for the arbitration unilaterally. Either the landlord or the tenant has six months to apply and the arbitration can assist in reducing the protected debt to pay or extend the time of payment of up to 24 months. This means that eligible firms are still protected for the upcoming six months or until the arbitration reaches a conclusion.

With the Commercial Rent Bill, the involved parties now have a similar ground to resolve their issues relating to the incurred rent. Occupiers and landlords must know that to benefit from this Bill, they must undergo both the pre-arbitration and eligibility stages.

OPTION TO TAX TRIAL PERIOD

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As most people are aware, land and property currently defaults to being exempt from VAT.

There are a number of exceptions to the exemption. These are the most common:

1. the freehold sale of new commercial property being taxable at the standard rate for the first three years;

2. the first grant of a major interest by a person constructing new dwellings being zero rated.

A person can also, in most cases, decide to waive the exemption in land and property by 'opting to tax'.

HMRC has always said that opting to tax is a two-stage process; a person decides to waive their exemption in land or buildings and then informs HMRC. If the person has not made any supplies of the property previously, HMRC has no real involvement in the matter apart from receiving the option to tax and sending an acknowledgment that it has been received.

My view has always been that HMRC are over egging their involvement in the process. Opting to tax is really one stage. A person decides to opt to tax and charges VAT as appropriate. For peace of mind, it is always recommended that HMRC is informed within thirty days in writing. HMRC will subsequently send an acknowledgement.

During the last few years the HMRC 'stage 2' has been fraught with delays. A simple acknowledgement can take over six months to obtain. This can cause problems when properties are being sold and large amounts of VAT are being charged.

As most people are aware, land and property currently defaults to being exempt from VAT.

HMRC's solution to the delays isn't to recruit more staff or become more efficient. Instead, HMRC is trialing a new option to tax acknowledgment, effectively with less information. This, goes the theory, will reduce the time HMRC need, and therefore reduce backlogs.

The big issue is that within the simplification, HMRC propose to no longer state the date the option to tax will take effect, but rather will state the date the option to tax was received. Where a property is being purchased as a Transfer of a Business as a Going Concern, the date the option to tax will take effect is crucial.

In addition, once an option to tax has been in place for over twenty years it can be revoked. Without that date on HMRCs acknowledgement it may be difficult in the future for a person to be certain that their twenty years has come to an end.

HMRC has not categorically said they will adopt the simplifications in the trial although they have said they are likely to. I will be writing to the head of the section in HMRC to explain the issues above. At the very least, it will cause a great deal more work for those affected and uncertainty when sales of a property business occur. Hopefully, HMRC will change its mind and stick with the original format of the acknowledgments.

During the last few years the HMRC 'stage 2' has been fraught with delays. A simple acknowledgement can take over six months to obtain.

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