

Table of contents

Main titles from Claritax Books.....	iv
About the author	v
Acknowledgments	vii
Abbreviations	viii
Foreword to 2022-23 edition	xi
Preface	xiii

INTRODUCTION

1. Introduction and overview

1.1	What this book is about	1
1.2	What this book is not about	2
1.3	Taxation and the UK property market	3
1.4	How this book is structured.....	6
1.5	Legislation and some conventions used in this book.....	8

START-UP ISSUES – ACQUISITION OF RENTAL ASSETS

2. Ownership structures

2.1	Introduction and overview.....	13
2.2	Individual investors.....	14
2.3	UK resident company.....	14
2.4	Offshore investors	21
2.5	Partnerships	22
2.6	UK funds	28
2.7	IPSX – trading property on the public markets	36

3. Trading or investing?

3.1	Introduction and overview.....	38
3.2	Trading or investing – why the distinction is important.....	40
3.3	Trading or investing – the statutory context.....	41
3.4	Trading or investing – the basic principles	43
3.5	Trading is a question of fact – how this issue is determined.....	44
3.6	Motive for the acquisition.....	46
3.7	Change of intention.....	50
3.8	Appropriation to or from trading stock on change of intention.....	52

3.9	Does the property owner have prior expertise or experience?.....	55
3.10	Loan finance – how the acquisition is funded.....	59
3.11	Accounting treatment	60
3.12	Supplementary work on the property	60
3.13	How long has the property been held prior to sale?.....	62
3.14	Does the land produce an income?.....	63
3.15	Reasons for selling.....	64

4. Stamp taxes

4.1	Introduction and overview.....	66
4.2	Basic elements of the SDLT charge.....	68
4.3	SDLT rates and bands.....	70
4.4	Chargeable consideration.....	84
4.5	Chargeable consideration and the interaction between SDLT and VAT.....	91
4.6	Consideration – is it all chargeable? (What is the purchaser paying for?)	93
4.7	Effective date of the transaction.....	97
4.8	Liability, payment and compliance matters	100
4.9	Purchase price not all paid in one go.....	102
4.10	Buying in bulk – multiple dwellings relief.....	109
4.11	Freeports relief for commercial property	122

5. VAT for landlords

5.1	Introduction and overview – VAT basics.....	125
5.2	VAT and property – a summary.....	126
5.3	VAT registration	128
5.4	Residential property and the zero rate.....	130
5.5	Commercial property and the option to tax.....	142
5.6	The capital goods scheme.....	156
5.7	Transfer of going concern rules – landlord buys the property	172
5.8	Supplies made by landlord to tenant.....	192

OPERATIONAL PHASE – RUNNING THE PROPERTY PORTFOLIO

6. Taxation of rental profits

6.1	Introduction and overview.....	197
6.2	Taxing the profits of a property business – the basic charging provisions.....	198
6.3	Taxing the profits of a property business – how much tax and when to pay it?.....	200

6.4	What is a property business?	202
6.5	When does a property business begin? Pre-letting expenditure.....	206
6.6	How are the profits calculated?.....	209
6.7	Calculation of profits – taxable receipts	215
6.8	Calculation of profits – deductible expenses	219
6.9	Covid-19 – impact on rental profits.....	233
6.10	The £1,000 property allowance – alternative profit calculation for small businesses	235
6.11	After the business ends – post-cessation receipts and expenses	235

7. Interest relief

7.1	Introduction and overview.....	239
7.2	Interest relief for individual landlords.....	240
7.3	Borrowing to invest in a property partnership.....	261
7.4	Withdrawing capital from the business – relief for loans to fund personal expenses?	264
7.5	Interest relief for corporate landlords – loan relationships.....	269
7.6	Corporate interest restriction – excessive borrowing.....	289
7.7	Interest relief – a comparison of individual and corporate landlords.....	293
7.8	Further restrictions on borrowing costs – excessive interest and transfer pricing.....	294
7.9	Withholding tax.....	298
7.10	Hedging against interest rate movements.....	300
7.11	What happens if the landlord gets into financial difficulties?.....	301

8. Capital allowances

8.1	Introduction and overview – why capital allowances?	304
8.2	Some general rules about claiming allowances.....	305
8.3	Plant and machinery allowances – what are the conditions?.....	311
8.4	Deeming provisions for plant and machinery – which assets qualify and which do not?	319
8.5	Plant and machinery allowances – how does the relief work?	324

8.6	Plant and machinery allowances and the special rules for fixtures.....	363
8.7	Plant and machinery allowances and the FA 2012 fixtures regime.....	376
8.8	Other types of allowance – the structures and buildings allowance	391
8.9	Land remediation relief.....	402
9.	Maintaining the property – the tax issues	
9.1	Introduction and overview.....	404
9.2	Tax relief for financing costs.....	405
9.3	Accounting treatment when work is done to property.....	405
9.4	Repairs, replacements and other property alterations.....	407
9.5	VAT.....	419
9.6	Construction industry scheme	422
9.7	Compensation and insurance payouts – building damaged or destroyed.....	426
10.	The lease premium rules	
10.1	Introduction.....	444
10.2	Structure of this chapter	446
10.3	What is a premium?.....	448
10.4	What is a short lease?.....	449
10.5	Landlord grants a lease for rent only	454
10.6	Landlord grants a long lease for a premium	454
10.7	Landlord with freehold or long leasehold grants a short lease for a premium.....	457
10.8	Landlord grants a sublease out of a short lease.....	471
10.9	Is there any way round the lease premium rules?.....	487
11.	The taxation of reverse premiums	
11.1	Introduction and overview.....	492
11.2	Direct tax treatment – tenant’s position	495
11.3	Direct tax treatment – landlord’s position	498
11.4	Can the transaction be structured to fall outside the reverse premium rules?.....	500
11.5	Stamp taxes.....	504
11.6	VAT treatment of reverse premiums.....	504
11.7	Construction industry scheme	507

12. The tax treatment of property losses	
12.1	Introduction and overview.....510
12.2	Landlords subject to income tax – individuals, trustees and non-residents511
12.3	Corporate landlords – basic rules for corporate loss relief514
12.4	Property losses – a comparison between individual and corporate landlords.....549
12.5	Anti-avoidance – buying loss-making companies to shelter corporate profits.....551
13. ATED for landlords	
13.1	Introduction and overview.....577
13.2	The annual charge – basic concepts579
13.3	Who is within the charge?584
13.4	The annual charge – how much is payable?.....590
13.5	The annual charge – relief for property investors592
13.6	ATED and the higher SDLT rate598

RE-STRUCTURING AND EXIT ISSUES

14. Re-structuring and exit issues for landlord and tenant	
14.1	Introduction and overview.....603
14.2	Re-structuring – landlord pays tenant to waive or vary terms of lease604
14.3	Re-structuring issues – tenant pays landlord to waive or vary terms of lease.....607
14.4	Exit issues – landlord pays tenant to surrender lease.....616
14.5	Exit issues – tenant pays landlord to surrender lease.....622
14.6	Exit issues – tenant assigns lease to a third party.....636
14.7	Exit issues – tenant sub-lets the property to a third party subtenant638
15. Selling up – re-structuring and exit issues for the landlord	
15.1	Introduction and overview.....642
15.2	Individual landlord becomes a partnership.....646
15.3	Incorporation of a property business.....649
15.4	Corporate groups.....654
15.5	Selling a single property.....661
15.6	Deferring the CGT charge by using options.....670

15.7	Deferring the CGT charge by using a venture capital investment	674
15.8	Selling the business	675
15.9	Share sales and pre-sale dividends	680
15.10	Share sales and deferred consideration – using loan notes to postpone a CGT charge	682
15.11	Share sales – substantial shareholdings exemption	685
15.12	The final sale	689
Appendix 1 – ATED – the annual charge.....		695
Appendix 2 – Statutory instruments.....		697
Table of primary legislation.....		701
Table of statutory instruments.....		727
Index of cases		729
General index.....		733