



Julia Casimo

Entrepreneurs' tax relief – the problem with rental

Q. I own a successful retail business, trading as a limited company, which I am planning to sell in a few years time. The properties which the business uses are owned personally by me, and the business pays me rent. I was banking on only paying 10% tax when I sold the business and properties but someone has told me the rules have changed. What is the position?

A. When the Chancellor originally announced the New Entrepreneurs' relief in early 2008, the rules contained a number of important differences from the old 'Taper Relief' regime. One of those related to property (usually land and buildings, but also occasionally plant and machinery) held outside the business.

Under the old Taper relief rules, subject to all other conditions being met, disposal of these assets would attract tax of only 10% even if they had been let to the business throughout the period of ownership at full market rent. Holding assets in this way and charging rent became a common set-up because it minimised tax through the life of the business and also eventually upon its disposal.

This changed in April 2008, because the new Entrepreneurs' Relief regime treats such assets as 'investments', i.e. owned personally and let at full market rent by the owner, which means they no longer qualify for relief.

Q. Is there anything I can do now to improve my position?

A. Potentially yes. The new rule is that that if a property is let to the business for rent then only the rent paid on or after the 6 April 2008 will be taken into account and also the extent to which the rent paid falls short of the full market rent will also be taken into consideration in the calculations.

In your case, if the property will be sold at the same time as the business and you will not utilise your £1million Entrepreneur's Relief limit against the business itself, then you may need to stop charging rent as soon as possible. You should speak to your accountant or tax advisor as soon as possible – as always good advice will be critical to optimise your position.

As with many decisions you really do need to take independent financial and tax advice. If you would like our help call Julia on **0151 228 8977** at **John Kerr Chartered Accountants** 369-375 Eaton Road, West Derby, Liverpool L12 2AH. Authorised and regulated by The Financial Services Authority

