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Property Investor or Property Trader?

Many property investors assume that if they buy and sell property, any profit will automatically be subject to Capital Gains Tax (CGT). Unfortunately, it isn't that simple.

One of the most common areas of dispute between landlords, developers and HMRC is whether a property has been held as an **investment** or whether the owner was actually **trading in property**.

Why does it matter?

If HMRC decides that you were trading rather than investing, your profits could be taxed as income (which is subject to income tax and maybe national insurance) rather than capital gains.

The classification can also affect:

- loss relief
- inheritance tax reliefs
- business asset disposal relief
- tax planning opportunities

Getting it wrong can therefore prove costly.

How does HMRC determine investor/trader status?

HMRC considers a long-established set of factors known as the **"badges of trade"**, together with the overall facts surrounding each transaction. No single factor determines the answer.

The nine factors are as follows:

1. **Your original intention**
   What was your plan when you bought the property? Long term rental ownership points towards investment. A quick resale for profit suggests trading.

2. **Length of ownership**
   Holding a property for several years supports an investment motive. Selling soon after purchase can indicate trading.

3. **Development and refurbishment work**
   Significant renovation followed by a prompt sale is a classic trading indicator, especially if repeated.

4. **Frequency of transactions**
   Occasional sales are less likely to raise concerns. Regular buying, renovating and selling looks more like a business activity.

5. **How the purchase was financed**
   Buy-to-let mortgages generally support investment. Bridging loans and short-term development finance may point towards trading.

6. **Rental income**
   Evidence that the property was let, or genuinely marketed for letting, strengthens the investment case.

7. **Your existing business activities**
   Builders, developers and estate agents may face greater scrutiny because property transactions are closer to their normal trade.

8. **Accounting treatment**
   Properties shown as fixed assets support investment status. Properties treated as stock may indicate trading.

9. **Reason for sale**
   A genuine change in circumstances, such as ill health, divorce or relocation, can explain an earlier-than-planned disposal.

If your intention is genuinely long-term investment, keep evidence that supports your position, such as business plans, correspondence, letting agent instructions and tenancy agreements.

Further information

We specialise in advising property investors and landlords, so do not hesitate to contact us if you'd like more information.

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