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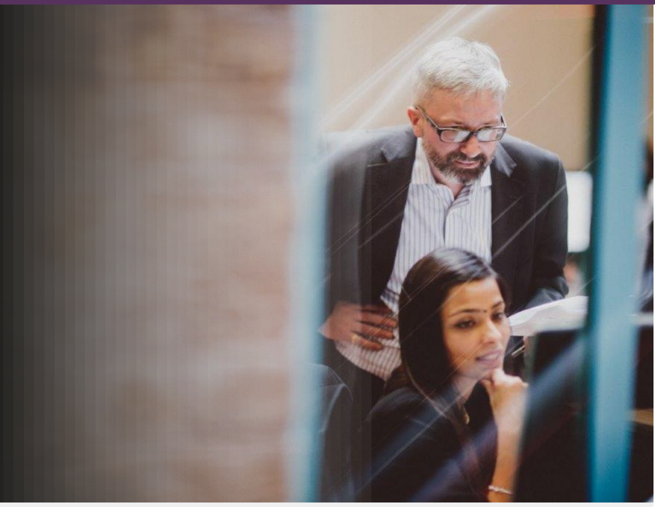
Feathering new nests for fledglings



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Exam results have been released and new students know where they will be heading for university. Following the relief of results day, the next big headache for parents is often the search for accommodation, whether for first-timers or returning students.

Faced with high rental costs, shortages and sometimes poor-quality student digs in many cities, increasing numbers of parents are investigating the option of buying property instead of renting, but the different options can make it a minefield.

Property lawyer, Kane Robin, explains:

"For parents who can afford it, purchasing a property for your child is an attractive option. But a property purchase for a student child involves a series of decisions that will be dependent upon your own individual circumstances and life planning. It's important to weigh up the options carefully. You need to work out what will best suit you and your children."

Kane added:

"A key decision to make is 'who will be the buyer?', which has a huge impact on asset protection, future tax implications and the overall purchase cost when stamp duty is taken into consideration."

Ownership options include:

- outright parental gift in the name of the child;
- jointly purchased in the names of parent and child;
- held in trust for the child;
- owned by the parent; and
- parent-backed purchase by the child.

Taxes that need to be considered include:

- **Income Tax**: if any of the property is let out, rental income will be included in any income tax calculation, with some reliefs available for occupying landlords.
- **Stamp Duty Land Tax (SDLT)**: where the purchase price is above a certain threshold, SDLT is payable. SDLT is payable at different rates dependent on property ownership status. A first-time buyer may pay a lower rate. A buyer that already owns property elsewhere will usually pay a higher rate.
- **Capital Gains Tax (CGT)**: where a property is not occupied as the primary residence of the owner, any gain made when selling the property is likely to be subject to CGT.
- **Inheritance Tax (IHT)**: payable on the value of assets owned at the time of death, with gifts made in the previous seven years included in any calculation. Where gifts are made into a trust and this exceeds the IHT nil rate band (above which IHT becomes payable) this may trigger an immediate and subsequent IHT liability.

Where the child is the legal owner, they are likely to benefit from first time buyer's relief on stamp duty and be able to claim rent-a-room relief against any rental income. Any income tax on rental income would be their liability. There may be an IHT tax advantage for the parent, if they survive the gift by seven years, taking the gift out of the equation for inheritance tax purposes. The downside for a parent is having no legal control over what happens with the property, and the asset may be vulnerable if any claim were made as a result of the child's debt or relationships.

Some lenders have a student-specific mortgage product which enables students to buy property in their own names and for parents to simply act as guarantor for the loan.

Where the parent is the legal owner, this may enable them to retain control of the asset, but if they already own property, it may give rise to higher rates of stamp duty as an additional charge is made on second and further property purchases. The property would remain part of the parent's asset base for CGT and IHT purposes, forming part of their estate on death and with no principal private residence relief for CGT on any subsequent sale. Any rent received by the parent would form part of their taxable income and there would be no occupier rent-a-room relief. If a mortgage were needed, the property may be treated on a buy-to-let basis with associated rental income criteria needing to be met.

Buying through a trust could bring greater asset protection for the parent's capital while also being set up in such a way as to enable the purchase to benefit from SDLT and income tax reliefs, although the pros and cons will vary, depending on how the trust has been set up. This can also determine what flexibility there is in enabling a subsequent sale of the property and return of funds when studies are complete. Trusts may be beneficial also in IHT planning, but while there may be a long term benefit this approach may give rise to immediate and subsequent IHT charges which must be taken into account.

If you have any queries relating to this article, speak to either property solicitor Kane Robin or private client partner James McMullan today.

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