

Chapter 4 - Should I incorporate my existing portfolio?

By the time many property owners start looking seriously at company structures, the problem is not the next purchase.

It is the portfolio they already have.

That creates a very different question from the one in Chapter 1.

Chapter 1 asks:

Should I buy personally or through a company?

This chapter asks:

If I already own the properties personally, can I move them into a company without creating an immediate tax problem?

Sometimes yes.

Quite often no.

And in many cases the answer depends on whether the facts support a genuine business-level incorporation rather than a simple transfer of investment assets.

Start with the real issue

As Chapter 1 explained, company ownership can be attractive going forward, especially where borrowing and reinvestment matter.

But that does not mean moving existing properties into a company is easy.

The real difficulty is that the transfer itself can create tax charges before the company has delivered any of the hoped-for future benefits.

That is why the key issue in this chapter is not whether the company route can be useful in general.

It is whether the **entry cost** of getting existing properties into the company is worth it commercially and tax-wise.

The default position

The starting point is that a transfer of property from you personally into your own company can create **two separate tax charges**.

The first is usually **Capital Gains Tax** on you personally.

The second is usually **Stamp Duty Land Tax** in the company.

Those are separate taxes with separate rules, and one does not automatically solve the other.

That is the first point many owners miss.

They focus on the future tax position inside the company but underestimate the cost of getting the portfolio into that structure in the first place.

Why Capital Gains Tax can arise even if no money changes hands

A transfer to your own company is not usually treated as an ordinary arm's-length sale.

HMRC's Capital Gains Manual says that where a disposal takes place between **connected persons**, the disposal is treated as taking place at **market value** rather than at the actual consideration, unless a specific exception applies. A person and a company they control are connected for these purposes.

In practical terms, that means you cannot usually move a property into your own company at cost and expect the tax system to follow that figure.

If the property is worth more at the date of transfer than when you acquired it, the transfer can create a real gain for Capital Gains Tax purposes even if no cash, or only limited cash, actually moves between you and the company. HMRC's manuals treat the connected-party market-value rule as the default position.

That is why incorporation is often more expensive than owners first expect.

Why SDLT can still arise

At the same time, the company may face SDLT on the acquisition.

For residential property, the higher SDLT regime is now materially more expensive than many older guides suggest. HMRC's SDLT guidance confirms that **Multiple Dwellings Relief** is abolished for transactions completing, or substantially performed, on or after **1 June 2024**, subject only to limited transitional rules for certain earlier contracts.

That matters because some older incorporation planning relied heavily on MDR.

For most current transfers, that is no longer a general planning route.

So, when existing property is moved into a company, SDLT often remains a live and potentially significant friction cost. The detailed rates are best left to the appendix and Chapter 8, but the practical point here is straightforward:

Even if the long-term company structure looks attractive, the transfer itself can still be expensive because SDLT is a separate tax problem.

Why people still look at incorporation

Owners still explore incorporation because the future tax profile inside a company may suit them better than continuing with personal ownership.

Chapter 1 has already explained that comparison, especially around mortgage interest treatment and the broader company framework, so there is no need to repeat it here.

The point in this chapter is simply that a good future structure does not automatically justify a bad transfer into it.

That is why the next question matters so much:

Is there any relief that can soften the Capital Gains Tax hit?

Is there any relief?

Potentially, yes.

HMRC's incorporation relief guidance says that where a person transfers a **business** to a company as a going concern, together with the whole of the assets of the business other than cash, and the consideration includes shares issued by the company, the gain may be deferred into the value of those shares rather than taxed immediately. This is the basic incorporation relief framework.

That is the route many landlords hope to use.

But there is a major difficulty:

Not every property portfolio is accepted as a business for these purposes.

That is usually the real battleground.

Why “business” is the real hurdle

In everyday language, many landlords say they have a property business.

Sometimes that is true in the ordinary commercial sense.

But for incorporation relief, the tax question is more specific. It is not enough simply to own investment properties and collect rent. The activity has to amount to a business that can qualify for the relief.

HMRC’s Capital Gains Manual says incorporation relief should be accepted where an individual spends **20 hours or more a week personally** carrying out activities indicative of a business. HMRC also says that cases outside that position must be considered on their own facts.

That is one of the most important points in the whole chapter.

A person with one or two passive rentals may struggle to show enough activity.

A person actively managing a larger, more involved portfolio may have a much stronger case.

There is no fixed number of properties that guarantees the answer. The issue is the **nature and extent of the activity**, not simply the number of titles owned.

What kind of activity helps?

This is a fact-sensitive area, but the kinds of activity that may help support a stronger business argument include:

- Dealing directly with tenants and prospective tenants
- Arranging viewings, renewals and move-ins
- Handling maintenance and contractors
- Dealing with emergencies and compliance
- Keeping systems and records
- Spending meaningful personal time running the portfolio

The point is not that every active landlord qualifies.

Rather, an actively run portfolio and a passive investment holding do not look the same, and that difference is key.

What incorporation relief actually does

Where the conditions are met, incorporation relief does **not** wipe out the gain.

It defers it.

The deferred gain is effectively rolled into the value of the shares received from the company, so the tax is postponed rather than paid immediately on the transfer.

That can be highly valuable where:

- The properties have risen significantly in value
- The owner wants to continue holding the portfolio
- The company structure is likely to suit the business better going forward

So yes, the relief can be powerful.

But it should not be described as an automatic landlord relief, because it is not.

One major caution: SDLT does not disappear just because CGT is deferred

This is the second point many owners need to keep firmly in mind.

Even if incorporation relief applies on the Capital Gains Tax side, SDLT is still separate and still has to be reviewed on its own merits.

That is why some incorporations still fail commercially even where the CGT position looks promising.

The planning has to work **overall**, not just under one tax heading.

Older SDLT planning should be treated carefully

This area has moved on.

Multiple Dwellings Relief (MDR) has been abolished for transactions with an effective date on or after **1 June 2024**, with only limited transitional rules for certain contracts exchanged on or before **6 March 2024**.

That means many older landlord-incorporation discussions are now out of date if they assume MDR is broadly available.

Caution should therefore be used if relying on an older article, template or scheme built around easy MDR access.

The practical reality after incorporation

Even where incorporation works technically, it changes the commercial position.

Once the properties sit in the company:

- The company owns them, not you personally
- Future rental profits belong to the company
- Future sale proceeds belong to the company
- And getting money out personally becomes an extraction question, which takes you back to Chapter 3

That does not make incorporation wrong.

It simply means the company route changes the framework. It is not a neutral administrative shift.

When incorporation may be worth exploring

A transfer into a company may be worth exploring where:

- The portfolio is actively run rather than largely passive
- The borrowing profile makes company ownership more attractive
- There is a genuine long-term intention to retain and grow the portfolio
- The evidence for business-level activity is strong
- The SDLT cost does not destroy the overall commercial case

When it may be the wrong move

It may be the wrong move where:

- The portfolio is small and largely passive
- The activity is unlikely to qualify for incorporation relief
- SDLT would be too expensive
- Most future profits are needed personally anyway
- The company would solve one issue while creating several others

Chapter takeaway

Moving existing properties into a company is not the same as buying the next property through the right structure.

The **default position** is that a transfer into your own company can create:

- Capital Gains Tax on you, usually by reference to **market value**
- SDLT in the company, with old MDR-based thinking now much less relevant because **MDR was abolished for most current transactions from 1 June 2024**

There may be a route to **defer** the Capital Gains Tax through **incorporation relief**, but only where a qualifying **business** is being transferred and the factual case is strong. HMRC says a person spending **20 hours or more a week personally** carrying out business-like activities will usually have a stronger case, but the wider facts still matter.

So, the right question is not:

“Can I put my properties into a company?”

It is:

“Does the overall tax and commercial position still make sense once the transfer costs and qualifying conditions are properly taken into account?”

That is the question that should drive the decision.