Landlord Guide

When a Property Portfolio Incorporation Needs Specialist Advice

Testing section 162 relief, coordinating CGT, SDLT, LTT or LBTT, lending and legal implementation, and planning the company structure before the transfer.

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A practical guide for portfolio landlords considering the transfer of an established property business to a company.

A GUIDE TO RECOGNITION, NOT SELF-ASSESSMENT

This guide helps you recognise when a proposed incorporation needs fact-specific tax and legal analysis. It is not a substitute for advice on your own facts, documents and implementation route.

Why should you read this guide?

Every property portfolio incorporation comes down to one practical question:

“Will incorporation improve my position - and can it be implemented without an unexpected tax, lending or legal problem?”

A company may offer a useful platform for retaining and reinvesting profits, financing future acquisitions and planning ownership. It also introduces corporation tax, extraction tax, company compliance, finance costs and legal steps. The answer depends on the whole commercial picture, not one headline rate.
The challenge is not to become an incorporation expert. It is to test the reliefs, costs, evidence and implementation route before the transfer date, company and share structure are fixed.

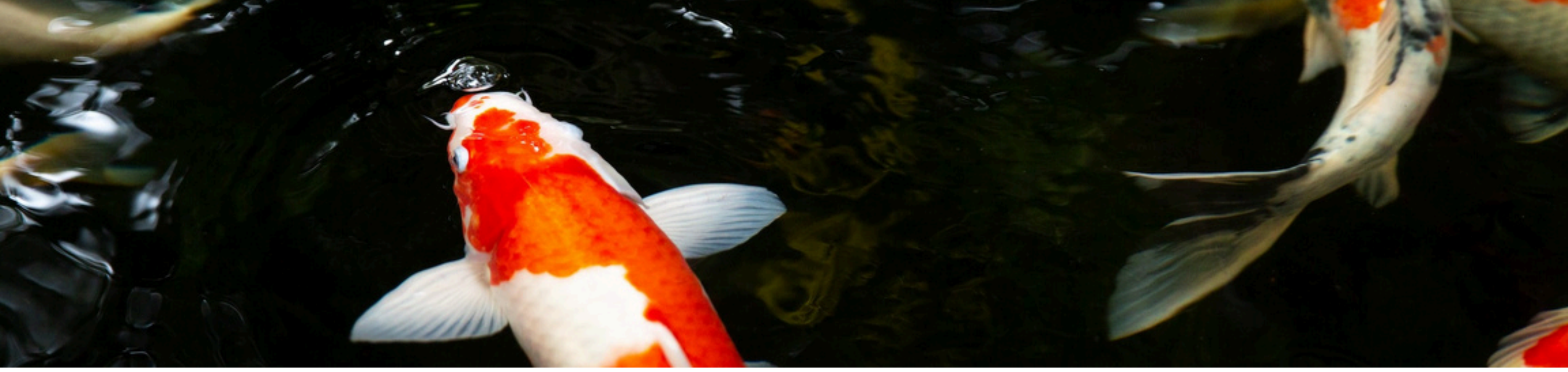
Early specialist input helps you

- Compare personal and company cash flow over a realistic period, including finance and extraction.
- Test whether the activities amount to a business and whether section 162 conditions can be met.
- Model Capital Gains Tax and the separate SDLT, LTT or LBTT position before relying on relief.
- Coordinate lender, conveyancing, accounting and company-law steps rather than treating them in isolation.
- Design the destination company, share rights and any group structure before assets are transferred.
- Record the facts, valuations, responsibilities, returns and evidence needed to support the position.

PURPOSE OF THIS GUIDE

This guide does not suggest that every landlord should incorporate. It shows the facts that should prompt a focused review and the written plan you can expect before a decision is implemented.

Bell Howley Perrotton brings the tax and legal questions together and works alongside your conveyancer, accountant, broker and lenders so that the advice can be used.



Incorporation depends on more than the tax rate

Section 162 Incorporation Relief can defer gains when a business is transferred as a going concern, with the whole of its assets other than cash, wholly or partly in exchange for shares. It is a deferral into the shares, not a tax exemption, and it does not decide the SDLT, LTT or LBTT position.

Three practical points

• Eligibility is factual. A partnership deed, a particular number of properties or a time period does not by itself establish the required business or partnership position.

• Consideration matters. Debt, liabilities, cash, directors' loan accounts and the value of shares can affect how much gain is deferred and what is taxed immediately.

• Implementation matters. The legal and beneficial ownership, lender terms, contracts, accounts, valuations, returns and company records need to describe the same transaction.

WHAT WE MAY NEED FROM YOU

- A property schedule showing legal and beneficial ownership, use, values and acquisition history.
- Partnership agreements, tax returns, accounts and evidence of who undertakes the business activities.
- Mortgage offers, current balances, lender conditions, early repayment charges and refinancing proposals.
- Base costs, improvements, capital accounts, liabilities and any proposed cash or loan consideration.
- Details of existing companies, trusts, family ownership and future acquisition or succession objectives.
- The intended transfer date, legal route, share rights and responsibilities for each filing and claim.

A CLEAR DIVISON OF WORK

We define and coordinate the specialist tax and structuring questions. Your conveyancer deals with title, lender requirements and registration; your accountant deals with ongoing accounts and returns; and your broker or lender deals with finance. The responsibilities should be agreed before implementation.

The conversations that should make you pause

"We signed a partnership agreement, so the reliefs are secured."	A deed records an agreement; it does not replace the underlying facts. The business, partnership, ownership, activities, profit sharing and evidence must be consistent in practice.
"We must wait three years before we can incorporate."	There is no universal statutory waiting rule or safe harbour. The history of the partnership, property contributions, profit shares, withdrawals and Schedule 15 provisions must be reviewed on the actual facts.
"Our portfolio is large, so section 162 applies."	There is no fixed property-count test. The nature and degree of the activities, who performs them and the contemporaneous records all matter.
"We can transfer beneficial ownership now and sort the mortgages and titles later."	The proposed route may have separate tax, lender, property-law and accounting consequences. It must be effective, documented, lender-compatible and consistent with what is reported.
"An LLP or ready-made company is always the right first step."	Neither is automatically right or wrong. Asset ownership, members, share ownership, existing corporate members, future exits and the intended group need to be tested before the structure is chosen.
"Incorporation Relief happens automatically."	For transfers on or after 6 April 2026, each transferor must make a claim through the Self Assessment return for the tax year of transfer and provide the required transaction and computation details.
"A DOTAS decision proves the underlying tax treatment works."	DOTAS asks whether arrangements are notifiable. It is not HMRC clearance and does not determine every user's CGT, SDLT, LTT, LBTT, accounting, lending or legal outcome.

REFERRAL TRIGGER

If the relief, lender, ownership, company or reporting answer could change whether, when or how the portfolio is incorporated, obtain written advice before the transfer documents and company structure are finalised.

When specialist advice adds value

Not every portfolio should be incorporated. The following features are strong indicators that a short scoping conversation would be worthwhile:

Area	Examples that should trigger a pause
Business and ownership	Historic or recent partnership; outsourced management; unequal ownership or profits; jointly held and separately held assets; trusts or overseas interests.
Section 162 and CGT	Uncertain business status; assets left outside; cash or loan consideration; low or negative net assets; large latent gains; missing base-cost or valuation evidence.
SDLT, LTT or LBTT	Schedule 15 partnership treatment for SDLT; changes in profit shares or withdrawals; connected company; mixed locations; property in Wales or Scotland triggering the Welsh Act Schedule 7 or Scottish Act Schedule 17;
Finance and legal route	Lender consent or refinancing; early repayment charges; beneficial and legal title separating; restrictions, indemnities, guarantees or staged completion.
Company and family planning	Existing companies; proposed holding company or group; different activities or risk pools; Family Investment Company; succession, control or future sale objectives.

Three current points in practice

HMRC confirmation from 6 April 2026: Incorporation Relief remains automatic where the section 162 conditions are met, and HMRC HS276 says no claim is required. The transfer, computation, deferred gain and share base cost must still be reported correctly; any election for section 162 not to apply has its own deadline.

Budget 2025 rate changes: Dividend ordinary and upper rates increased to 10.75% and 35.75% from 6 April 2026; the additional rate remains 39.35%. Separate property-income rates of 22%, 42% and 47% are scheduled from 6 April 2027 for England, Wales and Northern Ireland, subject to the devolved framework. The comparison must include extraction, retained profits and future personal rates.

Property 118 DOTAS decision: On 31 July 2026 the First-tier Tribunal allowed the Property 118 and Cotswold Barristers appeals and cancelled the scheme reference numbers. The issue was whether the arrangements were notifiable under DOTAS. The judgment states that those proceedings were separate from users' personal tax positions, so the decision is not a general approval of each user's tax or legal outcome.

THE PRACTICAL QUESTION

Does the proposed structure improve the position over the expected life of the portfolio after finance, company costs, extraction, future sale, succession and implementation risk are taken into account? Incorporation should be the conclusion of the analysis, not the starting assumption.

The advice and plan you can use before transfer

The right output depends on the question. We agree the scope at the outset so that the work addresses the portfolio, reliefs and implementation route actually being considered.

Pre-transfer scoping

An initial review can identify the facts, advisers, documents and valuations required; test whether a full written report is proportionate; and flag any issue that should be resolved before lender applications or legal documents are committed.

Portfolio Incorporation Advice and Implementation Plan

For a defined portfolio and proposed route, our written plan may include:

- An executive recommendation, alternatives and a reasoned view on whether and when to incorporate.
- The current ownership, partnership, activities and evidence relevant to business status.
- A personal-versus-company cash-flow model, including finance, extraction and announced rate changes.
- Section 162 eligibility, gains, consideration, share base cost and the claim and reporting responsibilities.
- Separate SDLT, LTT or LBTT analysis, including partnership provisions and agreed assumptions.
- The lender, legal-title, beneficial-ownership, company-law and accounting route and sequencing.
- The destination company, share rights and any holding-company, group or family-ownership structure.
- An implementation schedule identifying advisers, documents, valuations, filings, deadlines and evidence.

THE OUTCOME

You receive a reasoned written conclusion and coordinated implementation route. It records the facts, assumptions, alternatives, evidence gaps and responsibilities behind the position taken.

GROUP STRUCTURES AND FAMILY INVESTMENT COMPANIES

Where you already own companies, a pre-incorporation reorganisation or holding-company structure may help separate activities and risk, support future acquisitions or disposals and align governance. A Family Investment Company can provide a framework for family ownership, control and succession, but it is not an automatic tax or Inheritance Tax solution. Share rights, funding, extraction, associated-company consequences, Business Relief, CGT, SDLT, LTT or LBTT and finance should be considered before the business is transferred and shares are issued.

Working with Bell Howley Perrotton

Our role is to give you a route that can be implemented. We work within a clearly agreed scope and coordinate the tax and legal conclusions with the other professionals involved in the incorporation.

How instruction works

Step	Stage	What happens
1	Scope the question	Send us a short summary of the portfolio, ownership, partnership history, finance, existing companies and what you want the structure to achieve. We will arrange a FOC online meeting to discuss the background of your business and how we can help.
2	Confirm the engagement	We complete conflicts and onboarding, identify the client and other advisers, agree the scope, fee and anticipated timetable.
3	Gather the evidence	We identify the accounts, returns, activity records, title, finance, valuations, company and family information needed for the agreed analysis.
4	Analyse and design	We test the reliefs, compare routes, identify evidence gaps and design the destination and implementation sequence.
5	Report and coordinate	You receive the written plan and practical next steps. We coordinate with the conveyancer, accountant, broker and lenders within the agreed scope.

Why landlords involve us

- You receive a written, fact-specific conclusion rather than a generic incorporation template or any assumption that SDLT, LTT or LBTT tax rules are the same.
- The CGT, SDLT, LTT or LBTT, legal, finance and company questions are considered together before implementation.
- The relevant advisers work from an agreed structure, sequence and allocation of responsibilities.
- The facts, assumptions, valuations, evidence gaps and limitations behind the answer are recorded.
- The scope, fee and anticipated timetable are confirmed before substantive work begins.
- Advice is given by professionally qualified advisers subject to standards, continuing development, insurance and complaints or disciplinary processes relevant to their role.

CHOOSING AN ADVISER

Ask who is giving the tax opinion, which professional body and standards apply, whether the legal work is carried out through an authorised firm, what professional indemnity insurance and complaints routes apply, and who will prepare and submit the section 162 claim. HMRC registration is a legal requirement for many paid advisers who interact with HMRC; it is not, by itself, proof of specialist qualification or that a proposed structure is correct.

Who we are

Amanda Perrotton - Partner

Amanda is a solicitor with almost 30 years' experience, a full member of STEP (TEP) and a member of the Stamp Taxes Practitioners Group. She regularly advises clients and professional advisers where tax, property, trusts, family wealth and professional risk intersect, and is known for making difficult technical issues practical and understandable.

Simon Howley - Managing Partner and Chartered Tax Adviser

Simon is a Chartered Tax Adviser specialising in property and private-client tax matters. His work includes SDLT, LTT and LBTT, company and partnership structures, incorporations, reliefs, exemptions and HMRC enquiries. His approach is direct, forensic and focused on giving clients and professional advisers a route they can use.

OUR APPROACH

We define the question, test the facts and evidence, explain the conclusion in plain English and coordinate the tax and legal implementation so that the advice can be used.

Speak to us about a portfolio incorporation

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Incorporation Relief remains automatic

If all conditions in Taxation of Chargeable Gains Act 1992 section 162 are met, Incorporation Relief is automatic. HMRC's HS276 (2025 to 2026), updated 6 April 2026, says that no claim is required. You can elect for the relief not to apply within the statutory time limit. Your tax return and computation must still report the transfer correctly and agree with the legal and company records.

The business must be transferred as a going concern with all its assets other than cash, wholly or partly for shares. Relief defers the gain into the shares; it does not erase it. Cash, debt, a director's loan account or other non-share value can leave part of the gain taxable immediately.

Business and partnership status must be proved

Ramsay v HMRC [2013] UKUT 226 (TCC) shows that the nature and degree of activity matter. HMRC CG65715 accepts 20 or more personal hours a week on business-type activity, but cases below that level remain fact-specific. There is no fixed number of properties, universal three-year waiting rule or partnership-deed safe harbour.

SDLT, LTT and LBTT are separate

- **England and Northern Ireland:** SDLT; partnership rules in Finance Act 2003, Schedule 15. Certain company purchases can face the SDLT 17% rate under Schedule 4A.
- **Wales:** LTT; partnership rules in the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, Schedule 7. The SDLT Schedule 15 and 17% single rate do not apply.
- **Scotland:** LBTT; partnership rules in the Land and Buildings Transaction Tax (Scotland) Act 2013, Schedule 17. Company purchases of dwellings may attract the 8% Additional Dwelling Supplement, not the SDLT 17% single rate.

The result can depend on who owned each property, when it became partnership property, profit shares, connected people, mortgages, leases and the exact sequence. Section 162 does not decide or relieve the land transaction tax.

Latest case and wider checks

Property 118 Limited & Cotswold Barristers Limited v HMRC [2026] UKFTT 1111 (TC), decided 31 July 2026, concerned DOTAS notification. It did not approve every user's Capital Gains Tax, partnership, SDLT, LTT, LBTT, mortgage, accounting or legal result.

The comparison should also include corporation tax, interest and losses, extraction, future sale or liquidation, VAT and any option to tax, Annual Tax on Enveloped Dwellings, lender consent, refinancing, guarantees, title and company-law work. Business Relief for Inheritance Tax is not automatic for an investment business.

From 6 April 2026 the dividend ordinary and upper rates are 10.75% and 35.75%, while the additional rate remains 39.35%. Separate property-income rates of 22%, 42% and 47% are scheduled from 6 April 2027 for England, Wales and Northern Ireland, subject to the devolved framework. Model the expected life of the portfolio rather than one year's rates.

Law, published guidance and reported decisions checked to 18 August 2026. Core sources: TCGA 1992 section 162; HMRC HS276 and CG65700 to CG65745; Finance Act 2003 Schedule 15; the 2017 Welsh Act Schedule 7; the 2013 Scottish Act Schedule 17; Revenue Scotland LBTT7001 onwards; and WRA partnership guidance.

Technical sources and important note

- Taxation of Chargeable Gains Act 1992 section 162; HMRC HS276 (2025 to 2026); HMRC CG65700, CG65710, CG65715, CG65720, CG65740 and CG65745.
- Ramsay v HMRC [2013] UKUT 226 (TCC); Property 118 Limited & Cotswold Barristers Limited v HMRC [2026] UKFTT 1111 (TC), TC09971.
- Finance Act 2003 Schedule 15 and section 75A; HMRC SDLTM33110 onwards and SDLTM33310 onwards; The Tower One St George Wharf Ltd v HMRC [2025] EWCA Civ 1588.
- Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 Schedule 7; WRA Partnerships and Land Transaction Tax technical guidance.
- Land and Buildings Transaction Tax (Scotland) Act 2013 Schedule 17; Revenue Scotland LBTT7001–LBTT7008.
- Finance Act 2003 Schedule 4A; LBTT(S)A 2013 Schedule 2A; HMRC corporate-body guidance, WRA higher-rates guidance and Revenue Scotland ADS guidance.
- HMRC Budget 2025 property and dividend rates technical note; HMRC MTAR10800; Finance Act 2013 Part 3 (ATED); HMRC VAT Notice 700/9.
- Inheritance Tax Act 1984 sections 104–114; HMRC IHTM25261 and IHTM25266; CIOT Professional Conduct in Relation to Tax; SRA Code of Conduct.

This guide provides general information only and is not legal or tax advice. It reflects law, published guidance and reported decisions checked on 18 August 2026. Every incorporation depends on its facts, documents, territory, finance and implementation; SDLT rules and cases do not automatically determine LTT or LBTT.