

IRISH / UK PROPERTY BULLETIN



MORGAN MCMANUS SOLICITORS

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01. EDITORIAL

Welcome to the 5th issue of the Morgan McManus Irish/UK Property Bulletin. Those of you unfamiliar with our service can learn more about us by visiting our Website at www.morganmcmamus.com. We have offices in Northern Ireland and the Republic of Ireland and also provide legal services in England/Wales. This publication is being delivered to Accountants and Financial Advisors, Banks, Mortgage Advisors, Property Investment Companies and Private Investors. We hope to give you an insight into the information you will need to ensure that you have adequate legal protection when investing in property, whether that property is in Northern Ireland, the Republic of Ireland or in England/Wales. As we practice in all three jurisdictions we are ideally placed to provide a comprehensive comparative analysis – and that is important, particularly where it is your first venture into international property investment.

We know that you will find the Articles in this issue of interest. Fergal McManus covers the favourable tax treatment which is available

to Irish Resident Investors who purchase and subsequently sell property in the UK. Ultan McManus of 3d Property & Financial Services advises on the advantages and the pitfalls of buying property with friends. We also give an example of a bank in the UK, which actually markets "Share-to-Buy" loans in our "Recommended Websites" section. Incidentally, this type of purchase is recommended for young people who simply cannot afford a loan for a domestic dwelling based on their sole incomes. Do not confuse it with syndicate purchases, which we covered in a previous issue and intend to cover in future issues. Syndicate purchases will cover much larger properties.

As well as providing legal advice to the Private Investor, we also act for Investment Companies and can provide very competitive terms, particularly where we are acting for a number of purchasers in a common property, e.g. a number of apartments in the one block. Further details of our ROI service are available from Fergal McManus at our Clones office (e-mail fmcmanus@morganmcmamus.ie) and

of our Northern Ireland/UK services from Seymour Major of our Enniskillen office (e-mail smajor@morganmcmamus.co.uk). (See telephone contact details at end of this Bulletin).



**BRIAN
MORGAN**
EDITOR

CAPITAL GAINS TAX

02. CAPITAL GAINS TAX ON UK PROPERTY – IRISH TAX RESIDENTS BENEFIT



**FERGAL
MCMANUS**

An increasing number of Republic of Ireland residents are acquiring investment property in the United Kingdom. All prudent investors should ascertain the potential tax implications prior to making any such investment. One of the most significant taxes in this regard is Capital Gains Tax. This tax arises in the future when an investor sells the investment property. Generally speaking, Capital Gains Tax rates are much higher in the UK than in Ireland.

The good news is that under the Irish UK Double Taxation Treaty an Irish Investor selling UK Investment Property is only subject to Capital Gains Tax in Ireland. As such, there will not be a penny tax to be paid to the Inland Revenue in the UK on such a sale. This is set out at Article 14 (1) of the Double Taxation Treaty.

This tax treatment is not generally well known and it is certainly good news to all Irish Resident Investors in UK Property. Effectively an Irish Investor will pay lower Capital Gains Tax on profits made on UK property than if that person resided in the UK itself. In effect the Irish Investor has a tax advantage over his UK counterpart.

It should be noted that this tax treatment is not reciprocal. Tax to the Revenue Commissioners in the Republic of Ireland and thereafter they must make a Tax Return to the Inland Revenue in the UK. The UK Revenue will assess the tax due to it by the UK taxpayer as if the property had been sold in the UK. The UK taxpayer must then pay the UK tax but they are entitled to claim a credit in respect of the tax already paid in Ireland. In the normal course this will mean that most of the tax is paid to the Irish Revenue and a smaller balance tax will be paid to the UK Inland Revenue.

How much longer this favourable tax treatment for Irish Residents selling property in the UK will continue is difficult to say. There is no guarantee that at some future stage the Chancellor of the Exchequer in the United Kingdom might not decide to change the law as it is probably only a matter of time before the Inland Revenue in the UK realise that they are losing out on a significant source of revenue by failing to tax the gains made on sales of UK property by Irish Resident Investors.

BUYING PROPERTY

03. BUYING PROPERTY WITH FRIENDS – THE ADVANTAGES AND PITFALLS



**ULTAN
MCMANUS**

There comes a point in most people's lives when they decide that it's time to get on the first rung of the property ladder. Once you realise that you've had enough of paying someone else's mortgage, it is time to search for a place of your own.

Whatever the reason, buying your first property can be one of the most exhilarating and nerve-wrecking times of your life. However before you begin to fantasize about that dream home you've always wanted, you need to calculate how much you can afford to spend.

If your problem is that you can't afford to buy somewhere to live, sharing the mortgage with a friend may be the right option for you. By pooling your resources, you will have a larger deposit available and by adding together your salaries, it increases the potential of a much larger loan. In a highly priced property market, this buying alternative is becoming more and more popular, and has already proven to be a winning combination for some homebuyers.

How This Works in Practice:

They say a problem shared is a problem halved and the fact that you have joined forces with a friend, rather than a partner, to buy your home shouldn't be a problem so long as you fulfil the normal lending criteria.

Some institutions lend single first-time buyers up to three times their salary; joint first-time borrowers can take three times one salary, plus the second or 2.5 times their joint salary. Where one buyer has previously been a homeowner, a multiple of 2.75 times the joint salary might be available. It is worth checking a number of lending institutions to find the best deal, as different lenders use alternative multipliers when calculating your mortgage application.

More Than just One Friend?

So if teaming up with one friend can have this much impact on your buying power, what can joining forces with two or three friends do for you? Perhaps not as much as you'd think. Most lenders will allow up to four names on a mortgage, but many will restrict the number of salaries they lend on.

Many major lenders will certainly lend to friends and allow up to four names on a mortgage. However, they only take two incomes into account. This approach isn't unusual, with Financial Institutions in both Ireland and the UK limiting the number of salaries to two. For most groups of friends it will make sense to use the two largest salaries.

If you choose one of these lenders there may still be advantages in buying with more than one friend. Between four of you, you may be able to raise a larger deposit, and there will be four salaries going to make the monthly repayments and to finance the running of the property. However, your borrowing will not be

boosted by these extra incomes

Each individual that is named on the mortgage will be responsible for repaying the debt, whether or not their salary has been taken into account. Borrowers are jointly and severally responsible, which means that instead of each being responsible for a quarter of the mortgage, each borrower could find themselves asked to repay the whole amount. If one doesn't pay, the lender will expect the others to make up the difference.

As a result of each borrower being liable for the debt, the lender will want to look into the financial backgrounds of everyone named on the mortgage. The lender may carry out a more detailed check of those whose salaries are being taken into account. However they will also want to ensure each borrower can afford to make repayments and may choose to credit-score everyone.

The Legal Aspects:

The main risk in buying with friends is that one person may wish to move out or sell up. You should discuss this with your friends and make sure you are all committed for the same timescale before taking any steps towards buying a property. Buying and selling a home is expensive, so unless you have a good idea that you will all be living there for at least a couple of years you should think carefully about buying. Circumstances can change, and if one friend suddenly finds they need to move out – if, for example, they are transferred to work elsewhere – the remaining friends may have to decide what to do with the property. It is worth considering this possibility before you take on the mortgage and pre-empting any problems by asking your solicitor to draw up the right paperwork. Legal agreements between friends will often provide that the remaining friend or friends can buy out the departing friends share in the property at market value.

BUYING PROPERTY

03. BUYING PROPERTY WITH FRIENDS – THE ADVANTAGES AND PITFALLS (CONT'D)

It is essential that the solicitor is fully aware of all facts of the case and knows exactly how much each party has put towards the property. It can then be made clear in the deeds how the property is owned. It is important to state who has put what money in and what will happen if the property is sold later on. The paperwork should outline who will receive what on the sale of the property in either monetary terms or in percentage terms.

Example:

If someone decides to put €20,000 down as a deposit on a €200,000 home and it increases in value, they may not want €20,000 back; they may want 10% of its value. On the other hand, should the house decrease in value, the borrower will be better off if they ask for the original stake back. By discussing the potential outcomes with your solicitor, he/she may advise that you agree all details with the joint-borrower and set these down in a document enforceable in a court of law.

Lenders don't insist on this kind of agreement, but most will assume that you have some kind of legal agreement in place especially if the parties concerned are investing different amounts into the property.

The solicitor should also arrange for you to be registered as tenants in common, rather than as joint tenants. This means that if one borrower dies, their share of the property is left to their estate, rather than automatically falling into the ownership of the other borrowers. Married couples or partners, who buy together will usually be joint tenants, so if one partner dies the other will automatically become the sole owner of the property. Being a tenant in common does not make any difference to your liability for the mortgage, so if one of your housemates goes AWOL you will still be left with their debt. In the event of the death of your housemate, their portion of the mortgage will be discharged from a life assurance policy, which would have been obtained when you took out the mortgage.

Stamp Duty

After buying a property with a friend or relative, you are unlikely to think about stamp duty again until one or all parties wants to move on.

Yet, if one party is selling his share of the property to another co-owner, the buyer must normally pay stamp duty on the share being bought. If all parties are selling the house, only the purchaser will pay the stamp duty.

When buying a house with a friend or relative, ensure you avail of the relevant tax reliefs available. You get tax relief on the interest paid on a loan used for the purchase, repair or improvement of a sole or main residence.

Change in Stamp Duty Rates for First-time Buyers of Second-hand Residential Property in Ireland:

The stamp duty rates for first-time buyers who are owner-occupiers of second-hand residential property are being changed. The previous and new stamp duty rate structures are as shown below:

Thresholds	Previous First-Time Buyer Rate	New First-Time Buyer Rate
Up to €127,000	Exempt	Exempt
€127,001 to €190,500	Exempt	Exempt
€190,501 to €254,000	3%	Exempt
€254,001 to €317,500	3.75%	Exempt
€317,501 to €381,000	4.5%	3%
€381,001 to €635,000	7.5%	6%
Over €635,000	9%	9%

The new rate structure will apply to legal instruments relating to these properties executed on or after 2 December 2004.

More complicated stamp duty rules apply to first-time buyers who are owner-occupiers of newly erected property and specific advice should be taken.

THE PROS AND CONS OF BUYING WITH A FRIEND:

Advantages of buying together:

- Can afford to get onto the property ladder.
- Sharing cost of any deposit, purchasing fees, ongoing mortgage repayments, household bills.
- It can enable you to leapfrog the first rung of the property ladder, getting more value for money.
- Invest in your own property, not a landlord's.
- Move out of home.
- Escape the rental trap
- Can decorate and furnish the property to your tastes rather than a landlord's.

Disadvantages of buying together:

- You have to share your living space.
- Need to draw up a legal co-ownership agreement.
- Need to make sure you don't fall out (or you'll have to call on those agreements).
- Might need to draw up a will, or take out additional life insurance.
- Initial legal costs.

Overall if you have any doubt about a friend's ability to repay the mortgage it's probably not a good idea to entangle your finances with theirs.

You will need to discuss money and be clear from the start who will pay for what, so if you prefer to keep finances out of your friendships, a joint mortgage is unlikely to work. Buying a property with a friend won't work for everyone and it is not something to rush into.

But for some people, buying with a friend or friends will be a good option and it will certainly increase your buying power. In these cases a problem shared is a problem solved.

WWW.

04. RECOMMENDED WEBSITES

In this section, Morgan McManus features websites which will assist the private investor in seeking properties and loans.

www.inlandrevenue.gov.uk

Both for Northern Ireland and UK Tax Residents wishing to ascertain their tax liability.

www.rics.org

Should you wish to get a property surveyed in the UK by a local Chartered Surveyor.

www.sharetobuy.com

The Britannia Building Society provides loans specifically to a number of people who are pooling together to purchase a property. There are many banks who do this but this website will give you a good introduction to the requirements of the bank.

www.landmarkinfo.co.uk

Enables you to check for new developments taking place near a property, which can affect its value. The report from Landmark Information Group gives details of all planning applications and decisions since 1997 within a radius of 250 metres and costs £30.

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**IF YOU ARE INVESTING IN PROPERTY IN NORTHERN IRELAND,
THE REPUBLIC OF IRELAND OR ENGLAND/WALES AND
WANT TO BE KEPT INFORMED OF LEGAL DEVELOPMENTS,
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END ISSUE



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ENNISKILLEN

12 PAGET LANE,
ENNISKILLEN,
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TELEPHONE 028 6632 0102
FACSIMILE 028 6632 2232

CLONES

LAW CHAMBERS,
THE DIAMOND,
CLONES,
COUNTY MONAGHAN
TELEPHONE 047 51011
FROM NORTHERN IRELAND - 00353 47 51011
FACSIMILE 047 51679
FROM NORTHERN IRELAND - 00353 47 51679

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