



A house in your portfolio

After the collapse of the stock markets, and with the low interest on bonds and savings, is it worthwhile investing in some bricks and mortar for a change? Maybe you have considered the possibility; houses are expensive but not as expensive as in other major cities. Prices do not drop 50 % as the stock markets did and they tend to go up regularly. So why not invest your savings in a house, do it up, rent it out to a nice tenant, and sell it when you retire. It could work, but what are the tax consequences?

We assume that you have already bought your family home and have claimed the tax incentives for the mortgage on your first residence. When you buy a house or an apartment as an investment, you can forget about these. There is no tax credit for the capital you have paid off or for the premium on the insurance guaranteeing the payment of the loan, and no extra interest deduction if you are building or renovating a house.

What do you have to keep in mind ?

In the first place, when you buy, you will have to pay the purchase tax : 12.5 % for the purchase (10 % in Flanders). Add to that the mortgage tax and the notary's fees, and the cost goes up to about 15 or 16 % (13 to 14 % in Flanders). If the cadastral revenue is under 745 €, there is a reduced rate of the purchase tax (6 % and 5% in Flanders). However, you must not own any property yet and you must go and live in the property for at least three years.

The contractor will charge you 21 % VAT on the renovation and refurbishment works. If he is registered, and the house is over fifteen years old and will be used principally as a private residence, the rate is only 6%.

That may be one reason for looking to invest in residential rather than office property. Another reason is that the income tax is much higher as well.

The income tax, as well as the real estate tax, are based on the 'revenu cadastral' / 'kadastraal inkomen'. This is the hypothetical rental value set for the property in the seventies as it was then. The idea was to review this every ten years, but it was easier to link the cadastral revenue to the consumer price index. You can find both figures on the 'aanslagbiljet inzake onroerende voorheffing' – 'avertissement extrait de role précompte immobilier'.

When you renovate or transform your house, you have to notify the taxman who can then reassess the cadastral value of your property. Many owners forget this. This is why every time a house with a cadastral revenue under 745 € is sold, the taxman will check whether the cadastral revenue is still correct.

You will have to pay the real estate tax ('onroerende voorheffing' – 'role précompte immobilier') once a year, but you cannot charge it on to the tenant living in the house. The real estate tax is a tax which is charged automatically by the Flemish, the Walloon or the Brussels Region.



You will also have to declare the income in your tax return, and there the situation depends on the tenant.

If the tenant is an individual or a family you will have pay tax on 140 % of the indexed cadastral revenue.

If you are not renting out your investment, but keep the apartment at the coast for your own use, you will pay the same level of tax.

If your tenant is a company or an individual (say a lawyer or a physician) who is going to practise in the property, the tax regime is quite different. You have to declare the rent you actually receive but you are entitled to a deduction of 40 % of the cadastral revenue. However, this deduction is limited to two thirds of the (indexed) cadastral revenue. This is a bit complex to calculate, suffice it to say that you only pay tax on 60 % of the rent if the rent is not more than 5.8 times the cadastral revenue.

When you complete your tax return, you can claim a deduction for the interest you pay to the bank but this deduction is limited to the amount of your taxable income.

A family seems the better tenant taxwise. But you have to be careful. If the tenant takes a deduction against his earnings, because he is only renting the flat to be close to work or because he uses a room as an office, the tax authorities consider that he is using it for his work, and you risk getting a tax claim based on the rent. You can try to exclude this in the contract, but short of asking the tenant for a copy of his tax return, you can never be sure, and may have to take your tenant to court.

When you let out property, you will need to draft your lease contract well. The Office des Propriétaires has drafted a good model with full explanations. You can buy it in most paper shops (see www.op.be/fr/bail).

Property in Belgium is usually let unfurnished. The normal lease contract is for 9 years, which the tenant can terminate after three and six years. As a landlord you can only terminate the lease after 3 or 6 years if you are going to live in the property or if extensive repair works is required. You need to give 6 months' notice – your tenant only three.

The tenant may ask for a so-called 'clause diplomatique' to be included. This allows him tenant - if he has to leave Belgium within the first three years - to terminate the lease agreement at any time upon three months' notice but against payment of an indemnity equal to respectively three, two or one months' rent depending on whether the lease has been terminated in the first, second or third year. Usually, he will try to make his employer pay for this.

Short-term lease contracts for one year maximum are allowed. But once they go over three years, they become a contract for nine years.

As a landlord you are not free to raise the rent, but you can link the rent to the consumer price index. If you provide utilities such as gas, electricity, heating, you can ask the tenant to pay a monthly provision for 'charges'. But at the end of each year you will have to give the tenant a summary of the expenses once a year and reimburse or claim the difference.



The tenant must maintain the property in good condition and carry out all repair works, except for the major repairs (structure of the house, installations, ...). The tenant is liable for all damages to the property during the period of the lease contract, apart from normal wear and tear. The situation of the house or apartment is determined in a survey prepared between parties or by an independent property surveyor.

To secure his obligations, the tenant will have to provide a guarantee before entering the premises. This guarantee is normally a bank guarantee or a deposit for three months' rent blocked on a bank account in both names. As a landlord, you cannot ask the guarantee to be paid on your own account.

The lease agreement is generally drawn up in three original copies, one of which must be registered with the Registration Office of the Ministry of Finance, within four months. A registration tax is due. This tax is calculated at 0.2% of the rent plus charges to be paid over the entire period of the contract.

When you sell the property within two years, you can claim back 60 % of the purchase tax you paid.

Generally speaking Belgium does not have a capital gains tax, but if you start buying and selling real property, you may become liable to a tax of 33 % on speculative profits. And there is of capital gains tax to hit people who do up houses in the black to sell them on with a large profit. If you sell within five years, you will pay 16.5 % on the profit you make above the purchase price plus 25 percent and plus 5 percent for every year since the purchase.

Now where did I leave that copy of the Vlan ?

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