



Offshore investment into UK
commercial property
November 2018

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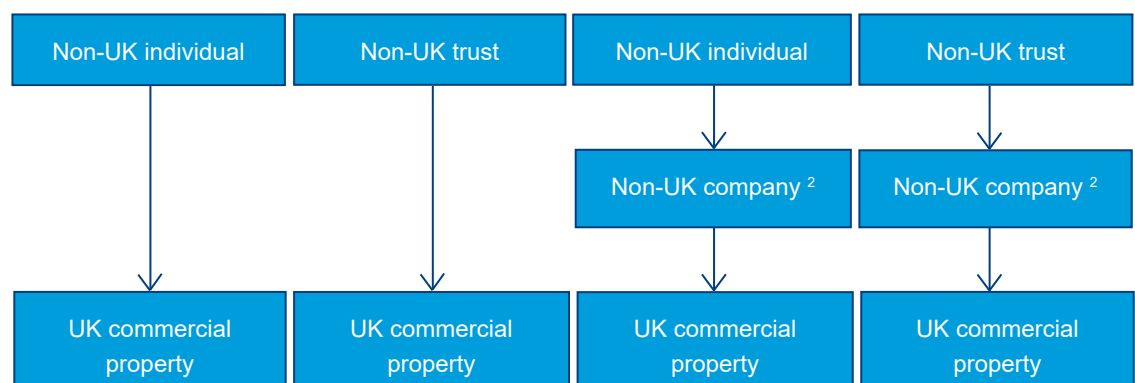
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We have set out below an overview of four main ways in which UK commercial¹ property can be held by non-UK residents.

The most tax efficient structure will depend upon the particular circumstances, but in most cases holding UK commercial property via a non-UK company or a trust and non-UK company structure can be the most tax efficient option from a UK tax perspective.

The attraction for non-UK resident investors of UK commercial property compared to UK residential property is that commercial property structures are not subject to ATED and can be outside of the UK Inheritance tax net if structured correctly.

Property structuring options:



Tax Comparison ³

	Non-UK Resident Individual	Non-UK Discretionary Trust	Non-UK Company ⁴	Non-UK Discretionary Trust and Company ⁴
Tax on rental	Up to 45%	45%	20% ⁵	20% ⁵
Tax on capital gains ⁶	Not applicable currently. Up to 20% from April 2019.	Not applicable currently. 20% from April 2019.	Not applicable currently. 19% from April 2019. 17% from April 2020.	Not applicable currently. 19% from April 2019. 17% from April 2020.
("SDLT") - Stamp Duty Land Tax	Between 0% - 5%	Between 0% - 5%	Between 0% - 5%	Between 0% - 5%
("ATED") - Annual Tax on Enveloped Dwellings	Not applicable	Not applicable	Not applicable	Not applicable
("IHT") - Inheritance Tax	Subject to UK IHT	Subject to UK IHT	Not applicable	Not applicable
Disclosure of Ultimate Beneficial Owner ("UBO") on Central Registry	Yes - UK Land Registry	Yes - generally on UK Trust register	No, but the UK Government propose a central public registry for the UBO of UK property	No, but in some cases may be required under proposed central public registry for UBO's

¹ Offices, shops, warehouses, factories, restaurants, etc. Residential property, even if run as a business, is not regarded as commercial property for this purpose.

² The non-UK company may either be an offshore company (such as an IOM company) or onshore (such as a Cypriot company).

³ On purchasing the property.

⁴ Assuming a trade is not being operated by the investor.

⁵ Currently subject to tax at the income tax basic rate of 20%. However, from April 2020 will be subject to Corporation Tax (currently 19% falling to 17% from April 2020).

⁶ Currently disposal of a commercial property by a non-UK resident is not subject to the UK Capital Gains Tax Regime. However, from April 2019 a disposal of the commercial property itself, or the disposal of the shares in a property rich company, will be subject to either Corporation Tax or Capital Gains Tax on the increase in market value after April 2019 only.

Advantages of purchasing UK commercial property through a company are:

- Income tax restricted to 20% (will fall in line with corporation tax rates once brought within the corporation tax regime, from April 2020).
- There would only be UK IHT where the property is held directly. Where this is held by a non-UK company, there would be no IHT as the asset which is held would be the shares in a non-UK company. The changes to the UK IHT rules which apply from April 2017, to bring UK property held by a non-UK company within the UK IHT net, are only in respect of UK residential property.
- On a future sale, where the shares in the company are sold to the purchaser rather than a sale of the underlying property, there will be no SDLT to pay by the purchaser. In this case it may be possible that the purchaser and vendor can both share in the saving.

There are also several advantages of holding UK commercial property over UK residential property, including:

- Commercial property attracts tax-deductible capital allowances for certain capital costs, whereas residential property does not.
- The SDLT rates are lower.
- For individual landlords, the restricted relief on loan interest (phased in from April 2017) affects the letting of residential properties but does not currently affect the lettings of commercial properties.
- If the property is opted to tax for VAT purposes, input VAT may be recoverable.

Foreign Taxation

Where the beneficial owner is subject to taxation in their home jurisdiction, consideration should be given to ensuring that, where possible, they can claim double tax relief in their home jurisdiction for the UK tax suffered.

Summary

As can be seen from the above comparison of tax rates there are savings to be made by purchasing commercial property through a company or trust and company structure.

Our sister company, SMP Partners, can provide full corporate and trust services in order to implement and administer property structures. Complementary to these services we can also provide full tax consultancy, tax compliance, VAT, accounting and bookkeeping services to assist with all of your or your client's property needs.

SMP Accounting & Tax can also assist with the tax compliance matters such as:

- Non-Resident Landlord Returns/Corporation Tax Returns
- Non-Resident Capital Gains Tax/Corporation Tax Returns on disposals
- Capital Allowance Claims
- Stamp Duty Land Tax Returns
- Personal UK Tax Returns
- Inheritance Tax Returns (on death and also 10 year/exit charges for Trusts)

If you would like to discuss any of these points further please contact one of our tax advisors listed on the following page, or your usual SMP contact.

Why SMP?

Whether you're purchasing, selling, letting, or looking for the best way to hold your UK property, both now and for future generations, the SMP Partners group of companies can provide bespoke tax, structuring, and compliance services tailored to your needs.

SMP Accounting & Tax specialises in providing bespoke property structuring advice and compliance services for High Net Worth Individuals and their advisers. SMP's tax specialists have a wealth of experience advising UK residents (both UK and non-UK domiciled) and international clients on their property and personal tax matters.

SMP Trustees and SMP Partners provide specialist trust and company services for property structures and have extensive experience looking after family property, residential and commercial property portfolios, and buy-to-let property.

For further information on offshore investment into UK commercial property, please contact one of the following Tax specialists below, or contact your usual SMP adviser.

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