



Offshore investment into UK
residential 'buy-to-let' property

SMP Accounting & Tax

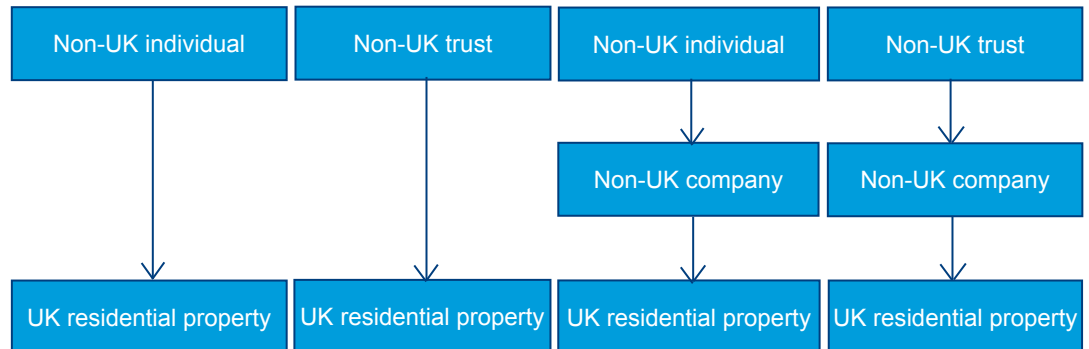
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We have set out below an overview of the four main ways in which 'buy-to-let' UK residential property can be held by non-UK residents.

The most tax efficient structure will depend upon the particular circumstances, but in many cases holding UK 'buy-to-let' residential property via a non-UK company or a trust and non-UK company structure will still be the most tax efficient option.

Property structuring options:



Tax Comparison:

	Non-UK Resident Individual	Non-UK Trust	Non-UK Company	Non-UK Trust and Company
Income Tax	Up to 45%	45%	20%	20%
Non-resident Capital Gains Tax ("CGT")	Up to 28%	28%	20% (19% from April 2017)	20% (19% from April 2017)
("SDLT") - Stamp Duty Land Tax ¹	Between 3% - 15%	Between 3% - 15%	Between 3% - 15%	Between 3% - 15%
("ATED") - Annual Tax on Enveloped Dwellings	Not applicable	Not applicable	Exempt if property let to 3 rd party	Exempt if property let to 3 rd party
("IHT") - Inheritance Tax	Subject to UK IHT	Subject to UK IHT	Subject to UK IHT ²	Subject to UK IHT ²
Disclosure of Ultimate Beneficial Owner ("UBO") on Central Registry	Yes - UK Land Registry	No, but the UK Government propose a central public registry for the UBO of UK property	No, but the UK Government propose a central public registry for the UBO of UK property	No, but the UK Government propose a central public registry for the UBO of UK property

Additional advantages of purchasing UK residential property through a company are:

From April 2017, tax relief for loan interest payable by individual landlords will be restricted on a gradual, phased-in basis, with the effect that by 2020 loan interest will not be an allowable expense but will instead attract tax relief at the basic rate of income tax (currently 20%). There are currently no changes for corporate landlords who can still get full relief. This could lead to substantial tax savings for a mortgaged property when held through a company.

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 would also be no CGT where the non-resident vendor sells the company rather than the underlying property, however please note that the accrued capital gain in the company will be passed onto the purchaser. ³

¹ On purchasing the property and assuming that the property is purchased for the purpose of letting to an unconnected 3rd party.

² As from April 2017 under the proposed changes to the UK IHT rules.

³ Assuming that it is treated as a gain for CGT and that it would not be caught by the new Profits from Trading in and Developing UK Land rules.

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 buy-to-let property through a company or trust and company structure. When a 'buy-to-let' residential property is purchased through a company the UK Income Tax and CGT will be capped at 20%. Where the property is let to unconnected 3rd parties the flat rate 15% SDLT will not apply and also ATED and ATED CGT will not apply. The IHT exposure will also be mitigated where there are 3rd party borrowings that can be set against the value of the property. In addition, in many cases it will also be possible to take out life insurance to cover any IHT exposure that would arise on an unexpected early death.

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:

- Annual ATED returns
- ATED/CGT returns on disposals
- Non-resident landlord returns
- 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 below, or your usual SMP contact.

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