



UK Property
The Non-Resident Landlords Scheme

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Overview

The Non-Resident Landlords Scheme is a scheme for dealing with the UK taxation of UK rental income of individuals, companies and trusts that are not resident in the UK.

Where a non-resident landlord is not registered and approved by HM Revenue & Customs (“HMRC”) under the scheme, the landlord will suffer UK withholding tax at a rate of 20% on any rents receivable in respect of any UK property.

Additionally, irrespective of whether the non-resident landlord is registered under the scheme or not, UK tax returns are technically still required to be submitted.

Landlords Not Registered

The 20% rate of withholding tax must be deducted from the rent by the letting agent (if there is one) or by the tenant.

If no tax return is made, in practice the 20% withholding tax deduction can be treated as the final income tax liability. This often means that more tax is payable than is due because the withholding tax is generally applied to gross rents (there are some limited exceptions where payments of allowable expenditure are made either directly by the tenant or by the letting agent).

Any return subsequently submitted will enable a refund of tax if applicable subject to relevant time limits for a reclaim to be made.

Registered Landlords

Landlords can apply to HMRC for approval to receive rents without the deduction of tax by the letting agent or tenant.

Approval will only be granted where the landlord:

- has ensured his UK tax affairs are up to date; or
- has never had any UK tax obligation; or
- does not expect to be liable to UK tax for the year in which the application is made.

A registered landlord is taxed on the net income (after available deductions) at a rate which is determined by the taxpayers status and level of other income.

Status	Income Tax Rate
Company	20% flat rate
Trust	Generally taxed at 45%
Individual	20%, 40% or 45% depending on the total level of taxable UK income

A return is required to be submitted annually by 31 January each year and will cover the year to 5 April preceding the deadline. The tax liability is payable in three stages. Two instalments (based on the prior years liability) are payable in equal amounts, firstly on 31 January in the year to which the return relates and secondly on 31 July following the end of the tax year. Any residual final liability is payable on 31 January following the end of the tax year, i.e. the same day as the filing deadline for the return.

Penalties apply for late filing and late payment and interest is charged on any outstanding tax



Deadlines for Year Ended 5 April 2016

For the year ended 5 April 2016 the return is due by 31 January 2017. Instalment payments are due by 31 January 2016 and 31 July 2016 with any final balancing payment due on 31 January 2017.

If clients have entities with UK property generating rents they should ensure that appropriate returns are filed and tax paid by 31 January 2017.

Restricting finance cost relief for individual landlords

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 will be no changes for corporate landlords who will still get full relief.

Changes to the wear and tear rules for UK residential property landlords

With effect from April 2016, the wear and tear allowance will be replaced by a “replacement furniture relief”, meaning that only the actual costs incurred for replacing furnishings will be allowed as deductions against UK rental income.

Annual Tax on Enveloped Dwelling (“ATED”) and company ownership of UK residential property

ATED (minimum tax payable £3,500, maximum tax payable £218,200 for 2016/17) is chargeable on UK residential properties worth in excess of £500,000 as at 1 April 2012 or at purchase date if later and owned beneficially by a company. Various reliefs can apply to remove the ATED charge, such as operating a property rental business or a property development business, however an ATED relief declaration return will still require submission under the current obligations.

A further valuation of all relevant properties should be carried out using a valuation date of 1 April 2017 in order to correctly band each property for the ATED charge for the five years from 1 April 2018 to 31 March 2023.

Non-resident capital gains tax on UK residential properties

From 6 April 2015, disposals of UK residential properties of any value owned by non-resident companies that are not diversely held, or owned by non-resident trusts or non-resident individuals are subject to non-resident capital gains tax. There is the possibility to rebase the property’s value as at 5 April 2015, if this results in a more beneficial tax treatment than using the actual purchase cost. The disposal of a UK residential property must be reported to HMRC by the non-resident within 30 days or penalties will apply.

In case of ownership by a company, these new rules may interact with the existing ATED-related capital gains tax regime that has been in place since April 2013.

Change to UK inheritance tax rules where UK residential property is owned by a foreign corporate entity

It is proposed that, from April 2017, UK residential property owned by a foreign corporate vehicle that is not a diversely-held company will be within the scope of UK inheritance tax. This means that the UK inheritance tax position for these structures will, in effect, be the same as if the UK residential property is owned directly by the overlying trust or by the individual shareholder, as applicable. Commercial properties will not be caught by these new proposed rules.



Summary

It is important that a non-resident landlord owning UK property meets its fiscal obligations in the UK, otherwise the cost to the taxpayer in terms of tax, penalties and interest can be considerable.

SMP Accounting & Tax Ltd has one of the largest dedicated tax teams on the Isle of Man. The senior members of our tax staff are experienced former employees of the Big 4 and mid-tier accountancy firms. Our tax staff have many years of experience of UK and offshore tax matters and can provide high level tax advice to clients with complex tax affairs.

If your clients, either directly or via a trust or corporate vehicle, own UK property and are registered, or you think should be registered under the Non-Resident Landlords Scheme, or may have ATED requirements, or are disposing of UK residential property, please feel free to contact us to discuss the UK tax obligations. Initial discussions are free of charge and we are happy to agree fixed fees in advance of incurring any chargeable time for preparing and submitting the necessary returns to HMRC.

If you have any queries regarding the Non-Resident Landlords Scheme or the UK taxation of UK properties please do not hesitate to contact:

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