Investing in UK residential property as an overseas landlord

There have been significant changes in how non-resident and overseas landlords are taxed on the properties they own in the UK in recent years, this also now includes the scope for Capital Gains Tax on the sale of UK assets.

Non-resident and overseas landlords are broadly classed as those who spend more than six months in any tax year outside the UK, even if they are a UK citizen. Companies who rent out UK properties with a main office or business premises outside the UK or which are incorporated outside the UK are also classed as non-resident landlords.

Whilst much of the tax an overseas landlord would be liable for is comparable to that paid by UK landlords, there are several differences to be aware of.

This guide outlines the main taxes to consider when investing in residential property in UK (there are some differences in Scotland and Wales, although they are very similar).

Stamp Duty Land Tax

Stamp Duty Land Tax (SDLT) is payable on the purchase of property in England and Northern Ireland (in Wales, Land Transaction Tax applies and in Scotland, Land and Buildings Transaction Tax applies, both of which have differing rates).

An individual pays this in increasing portions of the property price for their first property owned (if you own any property in the world above £40,000, this counts as your first property). For subsequent purchases above £40,000 a 3% surcharge applies. Generally, companies must pay the higher rates for *any* residential property they purchase.

Since 1 April 2021 purchasers of residential property in England and Northern Ireland who are not resident in the United Kingdom pay SDLT at an additional 2% that applies to purchases made by UK residents.

(Please see the table overleaf)

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Residential SDLT rates for overseas purchasers from 01.10.2021

(Note that the rates were lower before this date, due to a temporary SDLT holiday

Property or lease premium or transfer value	SDLT rate	SDLT for additional properties (above £40,000)
Up to £125,000	2%	5%
The portion from £125,001 to £250,000	4%	7%
The portion from £250,001 to £925,000	7%	10%
The portion from £925,001 to £1.5 Million	12%	15%
The portion above £1.5 million	14%	17%

Income Tax

Income Tax - Non-Residential Landlord Scheme

As a non-resident, if the rent you charge is over £100 a week, your tenant or letting agent is required to withhold 20% from the rent before they pay it to you. This is then paid to HMRC directly from your tenant or letting agent quarterly, as an advance payment towards your tax liable. You will still have to complete an annual self-assessment and pay any additional tax owed directly yourself. If you do not have a letting agent, this can be confusing and burdensome for a tenant.

You can apply to receive rent without any tax deducted, registering for the Non-Resident Landlord Scheme. If approved, HMRC will authorise your tenant or your letting agent to pay the rent gross to yourself and pass the tax reporting burden on to you. In order to be approved for this scheme, all UK taxes must be up to date and you will need to produce a UK tax return.

Please note that Income tax rates currently vary in Scotland.

Holding property personally: If you hold property personally, you will be taxed on the profit at your personal tax rate, dependent on your annual UK income, which will be between 20% and 45%.

Deductions can be made for certain revenue expenses, including letting agents' fees. Interest relief has been capped as a 20% tax credit since April 2020.

Personal Allowances and Double Taxation: You will be entitled to a Personal Allowance of tax-free UK income each year, if you are a citizen of a European Economic Area (EEA) country, including British passport-holders or if you have worked for the UK government at any time during that tax year.

If you are liable to pay tax on your investment in the country you live in, you might also get a personal allowance or a tax refund it if it's included in a double-taxation agreement between the UK and your country of residence.

Investing through a non-UK resident limited company

If you invest through a company, rather than directly, there are several differences in how you will be liable for tax:

Stamp Duty Land Tax - Companies generally, must pay the higher rates for any residential property they purchase.

Additional relief for finance costs – You can claim full relief for interest on mortgages, compared to a 20% tax credit when held personally.

Corporation Tax - As a limited company you pay Corporation Tax at 19% on profits rather than Income Tax.

Companies also need to sign up to the Non-Resident Landlord Scheme, should they wish to receive their rent gross, without tax deducted by their tenant or letting agent.

Non-resident Capital Gains Tax

Since 6 April 2015, Non-resident Capital Gains Tax (NRCGT) applies to the disposals of UK land and property by individuals who are non-resident in the UK (prior to this date, the charge only applied to the disposals of UK residential property).

Since 6 April 2019, NRCGT applies to any UK land and property, including that held by companies.

You will be taxed on any increase in the value of the property from the above dates when you come to sell the it. If you hold the property personally, you will be liable for Capital Gains Tax when you dispose of a commercial property (if it is held in a limited company you would instead pay Corporation Tax on annual profits, which is lower). If you are taxed at the basic rate you would pay 18% or 28% for higher rate taxpayers, when you dispose of the property.

Annual Tax on Enveloped Dwellings

Annual Tax on Enveloped Dwellings (ATED) is an annual tax payable generally by companies that own UK residential property valued greater than £500,000. However, if the property is let to a third party on a commercial basis and isn't, at any time, occupied or available for occupation by anyone connected with the owner(s), relief can be claimed. Relief can also be claimed if the property is owned by a property trader as the stock of the business for the sole purpose of resale.

Inheritance Tax

If you own a property directly, it will be subject to Inheritance Tax in the UK on your death. Inheritance tax is charged at 40% after a £325,000 allowance.

Generally, UK personal allowances are only available to non-UK residents under UK domestic law or under the terms of one of the UK's tax treaties. They mainly cover EEA nationals, residents of the Isle of Man and Channel Islands and present and former Crown employees.

If you are domiciled in another country, the rate of Inheritance Tax paid, will depend upon any double taxation treaty your country of residence has with the UK.

If you are not domiciled in the UK, only your UK assets are considered with regards to the £325,000 tax-free allowance (as long as your other assets are defined as excluded property).

You will also require a UK will in order for your UK properties to be dealt with effectively in the event of your death.

Commercial Property

The tax treatment of commercial property varies from how residential property is treated.

Both Stamp Duty Land Tax and Capital Gains Tax are charged at different rates for commercial property. VAT may also be charged on commercial or mixed-use property . This applies to new buildings and those where the seller has opted to tax. Where optional, advice should be sought on whether to elect to charge VAT, as some tenants will not be able to recover VAT paid on rent.

When purchasing a commercial property, consideration should also be given as to the capital allowances position.

Should you require Tax advice on any aspect of commercial property please contact us.

Summary

For overseas buyers, purchasing UK residential property (and indeed commercial property) as an investment is a popular choice and the UK Tax system can be relatively straight forward.

The tightening of the tax-penalty regime, however, means that if you get something wrong, you could find yourself with a sizeable penalty to pay. Furthermore, higher penalties are charged for Income Tax, Capital Gains Tax and Inheritance Tax when an offshore matter is involved.

We recommend that anyone considering purchasing a property in the UK as an overseas landlord obtains professional advice on taxation, as the structuring of a purchase can have significant impact on your tax liability, which could dramatically affect the profitability of your investment.

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Why Alexander & Co

At Alexander & Co, we have a specialist property tax team that can assist you in weighing up all your options and working out the best solution for you.

Our property experts have a wealth of knowledge in this field and have worked with companies, entrepreneurs, individuals, trusts and organisations in the commercial and residential sectors for many years. If you are looking for a chartered accountant with the right property know-how, then Alexander & Co are here to help.

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