

UK Property Investment

Tax issues for foreign investors



Domicile & residence	For anyone looking for property, whether for personal use or long-term investment, the UK property market offers some attractive purchases. However, for prospective purchasers who are neither UK domiciled nor resident, there a number considerations to take in to account, especially UK tax laws.
Legal ownership	These may have a significant impact on the decision on whether to invest in a property in their own name, or else to purchase through a company. Property may also be bought through a Trust established outside the UK and, although this tends to be more expensive, it offers some useful tax advantages.
Property investment & tax	Domicile & Residence If the individual is classed as non-resident, and domiciled outside the UK for tax purposes, the tax treatment can be very beneficial. However, determining this status can, in practice, be very complicated, and for any purchase to proceed a prospective non UK resident landlord needs to clearly understand their residency and domiciliary status.
Stamp Duty Land Tax	Legal Ownership Each deal may be structured differently, but generally, the Investor gets a separate legal title registered for each separate room at HM Land Registry. The rental income you get depends (subject to any income guarantee) on rent for that particular room.
Tax payable on rental income & the Non-resident landlord scheme	Property investment & tax For investors resident outside the UK the main UK tax considerations are: <ul style="list-style-type: none"> • Stamp Duty Land Tax (SDLT) on the purchase price • Tax payable on rental Income and the Non Resident landlord Scheme • VAT on acquisition and ongoing compliance • Capital gains tax (CGT) on sale of a property, and • Inheritance tax (IHT)
NRLS	Stamp Duty Land Tax (SDLT) (SDLT) is only payable where the premium on the lease exceeds £150,000. Therefore in most cases this tax will not be payable. However, if you are acquiring more than one lease, or you are connected (family members, business partners etc) to anyone acquiring another lease, the leases may be considered a single transaction. If this is the case the £150,000 threshold will be exceeded and SDLT will be payable on the total combined lease premiums. SDLT is due for payment 30 days after the transaction takes place. It is not recoverable. Current rates for commercial property are <ul style="list-style-type: none"> • Up to £150,000 0% • £150,001 to £250,000 1% • £250,001 to £500,000 3%
Not NRLS	
Allowable expenses	
VAT on acquisition & ongoing compliance	
Capital Gains Tax	
Inheritance Tax	
The Shipleys Team	

UK Property Investment & Tax

- More than £500,000 4%
- Over £1 million 5%

Tax payable on rental income & the Non-resident landlord scheme

- a) If you hold the property personally, you would be taxed via Income tax on profits (Rental income less expenses) at 20% up to approximately £35,000 and 40% above £35,000.
- b) If you hold the property in a UK company you would be taxed via Corporation tax on profits (Rental income less expenses) at 20%. The current rates of Corporation tax is 20% up to £300k profits to 26% over £300k.
- c) If you hold the property in an offshore company you would be taxed via Income tax on profits (Rental income less expenses) at 20%.
- d) The Interest on any borrowings to purchase the property can be offset against the income as an expense.

Most landlords apply to become part of the Non Resident Landlord scheme. Basically The benefits of NRLS are cashflow.

NRLS

If you are on NRLS this enables the landlord to collect rents, less Interest and expenses, Gross. You would need to complete a UK tax return and any tax payable on your rental profits would be payable when the return is submitted.

Not NRLS

If you are not part of the NRLS, you will have to pay 20% of rental income over to HMRC on a quarterly basis, (this would normally be deducted at source by the agent) you will need to fill in a UK Tax return to claim a repayment if appropriate.

Allowable expenses

The expenses you can deduct from letting income include:

- letting agent's fees
- legal fees for lets of a year or less, or for renewing a lease for less than 50 years
- accountant's fees
- buildings and contents insurance
- interest on property loans
- maintenance and repairs to the property (but not improvements)
- utility bills such as gas, water and electricity
- rent, ground rent, service charges
- Council Tax
- services you pay for, such as cleaning or gardening
- other direct costs of letting the property, such as phone calls, stationery and advertising

You can only claim expenses that are solely for running your property letting business. If the expense is only partly for running your business (or if you use the property yourself) then you may only be able to claim part of it.

VAT on acquisition & ongoing compliance

Due to the initial VAT on some investments you may need to register for VAT.

Where you have registered for VAT, you will receive your net rental income plus VAT, the VAT element will need to be paid to the UK tax authorities and you will be entitled to recover VAT paid on any costs directly associated with the business (such as the ground rent). Please note, that where you are registered for VAT, VAT is not an expense, it is simply a tax that you collect on behalf of the UK tax authorities. We are happy to assist you with the completion of your VAT returns if required.

UK Property Investment & Tax

Where you are not registered for VAT, you will not charge VAT on your rental income, but you will have to pay VAT on ground rent and some other expenses. The VAT that you have to pay is not recoverable.

With current tax regulations, provided that you and the purchaser are both registered for UK VAT, the sale of your interest in the hotel is likely to be the sale of a business. If this is the case, there will be no VAT chargeable on the transaction.

Capital Gains Tax (CGT)

Individuals who are not resident or ordinarily resident in the UK can be exempt from CGT.

For a non-resident domiciled individual who may anticipate becoming ordinarily resident in the UK, or building up a property portfolio over time, it may be appropriate to purchase property through a Special Purpose Vehicle (SPV) located outside the UK. On a future sale, the shares in the SPV will change hands, so that the property is not sold as such. The sale of shares in the SPV are not subject to CGT, unless the share-holder has by the point of sale been resident in the UK for over 7 years, or has brought the proceeds in to the UK. Additional rules apply after 7 years.

To cover the extra risk of the SPV shareholder becoming UK-resident, and perhaps wanting to use the property themselves and to potentially avoid Inheritance Tax, the shares can be held by the trustees of a non-UK Trust, often in jurisdictions such as Jersey or Guernsey, Mauritius or Singapore. Professional advice both in the UK and in the investor's own country is recommended.

Inheritance Tax (IHT)

If an individual investor buys a property in the UK in their own name, it will, in the event of their death, be subject to IHT regardless of their domicile or residence. Exemptions may apply, for example if the property is passed to a surviving spouse by Will or under the inheritance laws of the investor's domicile.

A property held in a SPV will be outside the scope of IHT for a non-UK domiciled individual, as the shares should qualify as "excluded property".

The risk of IHT consequences on an early death can be covered by insurance, but it is generally more satisfactory to purchase investment property through an SPV and Trust structure despite the extra costs. For a personal property investment, a new Will or an amendment to an existing Will covering UK property is essential to avoid international probate problems and delays in obtaining control of the property by the heirs.

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Specific advice should be obtained before taking action, or refraining from taking action, in relation to the above.