Advice for people living outside the UK: Property in corporate ownership

If you buy a UK property using a non-UK company you should take advice on UK tax issues. The following is for guidance only.

In recent years the UK government has introduced a number of taxes to discourage corporate ownership of UK residential property and as a result corporate ownership is now rare and detailed advice should be taken.

Inheritance tax

If a non-UK domiciled individual owns shares in a non-UK company that owns UK residential property, inheritance tax will be payable on their death at 40% on any value in those shares derived from the UK residential property.

Exemptions (e.g., the nil rate band allowance of £325,000_, reliefs (e.g. if the shares are inherited by a spouse on death) and deductions (e.g. outstanding borrowing to buy the UK residential property) may apply. However, advice should be taken before acquisition in case action needs to be taken to ensure they apply.

If a trust owns shares in a non-UK company, which in turn owns UK residential property, inheritance tax will normally be payable at least every ten years at a maximum rate of 6% and possibly also at 40% on the death of the settlor of the trust.

If an entity (or an individual) lends money or guarantees a loan to another entity (or individual) to buy a UK property, inheritance tax will be payable on the value of the loan.

UK tax on rental income

If you rent out the property, the income, subject to various deductions, will be chargeable to UK income tax, currently 20%.

Allowable deductions include property insurance, repairs and maintenance, as well as agent's fees, service charges and ground rents.

The default position is that your agent or tenant should deduct basic rate tax at 20% from the rent before paying the net amount over to you.

This automatic deduction does not take account of all allowable expenses and can be avoided if you register as a non-resident landlord. You will also need to file annual UK tax returns and claim all allowable deductions.

From 6 April 2020 rental income will be subject to UK corporation tax, potentially at lower rates of tax but with different rules applying to allowable deductions.

Additional taxes

1. Non-natural persons

A non-natural person is essentially a company, partnership or other structure involving a corporate vehicle.

2. 'High value' property

The additional taxes only affect 'high value' property which, for these purposes, is defined as an interest valued at £500,000 or more.

3. Annual Tax on Enveloped Dwellings

The Annual Tax on Enveloped Dwellings (ATED) is chargeable on high value property, subject to a number of limited exemptions and reliefs.

- Exemption from ATED is available for dwellings owned by charities and certain diplomatic or public bodies.
- Reliefs from ATED are available for:
- Property rental businesses
- Trades involving the exploitation of a single interest in a dwelling (for example, guest houses)
- Property developers
- Property traders
- Occupation by certain qualifying employees and partners
- Farmhouses, where occupied by a qualifying farm worker

If a property is exempt, an ATED return does not need to be filed. If a property qualifies for one of the reliefs, an ATED return must still be completed and the claim to relief made in return.

The tax chargeable if a residential property falls within ATED is as follows:

Value of property	Tax chargeable 01.04.18-31.03.19	Tax chargeable 01.04.19-31.03.20
≥ £0.5m < £1m	£3,600	£3,650
≥ £1m < £2m	£7,250	£7,400
≥ £2m < £5m	£24,250	£24,800
≥ £5m < £10m	£56,550	£57,900
≥£10m < £20m	£113,400	£116,100
≥ £20m	£226,950	£232,350

Capital gains tax (CGT)

1. 'ATED-related CGT'

If a non-natural person that is subject to the ATED charge disposes of high value property, 'ATED-related CGT' is chargeable at 28% on the profit (gain).

The ATED-related CGT charge arises on gains accruing after April 2013, so properties are revalued for the purposes of CGT to reflect their market value at that date.

If any of the reliefs apply for ATED, they will also apply to take the gain out of the charge to ATED-related CGT.

If the ATED-related CGT charge does not apply, then the gain may still fall within the Non-Resident Capital Gains Tax regime.

2. Non-Resident Capital Gains Tax (NRCGT)

Capital Gains Tax is payable on the sale of any UK residential property owned by non-residents, not just properties falling within the ATED regime.

If a property already falls within the ATED-related capital gains charge, the ATED charge takes priority over Non-Resident CGT charge.

If you acquired your property before April 2015, its value for assessing any NRCGT is its value at April 2015, unless you elect for an earlier value. If it was acquired after April 2015, the gain is based on the profit between acquisition cost and disposal proceeds.

Any disposal must be reported and tax paid within 30 days.

3. Capital Gains Tax from 6 April 2019

From April 2019 the NRCGT charge is being extended to include all UK real estate (not just residential property) as well as assets deriving at least 75% of their value from UK land.

Non-resident companies will be subject to corporation tax on capital gains.

Contact us

For further information, please contact a member of our specialist tax team.

Paul Fairbairn
Partner
T +44 (0)1892 506 350
E paul.fairbairn@crippspg.co.uk

Vikki Logan
Tax Manager
T +44 (0)1892 506 027
E vikki.logan@crippspg.co.uk

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Our private client department is one of the largest in the UK with more than 100 people supporting clients through every stage of their life from finding their first property to succession planning, powers of attorney and wills

We have a specialist team dedicated to residential investment into the UK through property and have been providing legal services to these international clients for more than 30 years.

The team is ranked as a national leader by a number of directories including Citywealth, eprivateclient, Legal 500 and the Chambers HNW Guide.

Cripps LLP

London
Tunbridge Wells
Kings Hill

T +44 (0)1892 515 121
F +44 (0)1892 544 878
E contact@crippspg.co.uk

www.crippspg.co.uk