

Rental income from property situated in the UK always falls within the scope of UK tax, regardless of the owner's residency status.

HMRC have had difficulty in the past in persuading taxpayers who live abroad to pay their UK tax, therefore the Non-resident landlord (NRL) scheme was set up to ensure HMRC received basic rate tax in respect of the UK rental income of those taxpayers whose 'usual place of abode' is outside the UK.

### Usual place of abode

It is the usual place of abode and not non-residence that determines whether the NRL scheme applies. HMRC usually regard a period of absence from the UK of six months or more as an indication that the taxpayer has a usual place of abode outside the UK. It is therefore possible for a taxpayer to be resident in the UK under the statutory residence test yet fall within the NRL scheme.

If the landlord is a company or a trustee then the usual rules regarding determining the usual place of abode apply. Please contact one of our specialists for further information.

### Jointly owned property

If a property is jointly owned and one or more owners has a usual place of abode outside the UK, then the share of rental income attributable to those owners will fall within the scope of the NRL scheme.

### Who collects the tax?

If a landlord falls within the NRL scheme and the tenant pays more than £100 per week in rent, then the tenant should register with HMRC and deduct basic rate tax (20%) from the rent. If the rent is under £100 per week, then tenants do not have to operate the scheme unless told to do so by HMRC.

If the letting is managed by an agent, then the agent will deduct tax on the tenant's behalf. Letting agents must operate the NRL scheme regardless of how much rent changes hands.

However, if the non-resident landlord prefers, an application can be made to HMRC to receive the rental income gross.

### How do I apply to receive UK rental income without deduction of tax?

The relevant non-resident landlord form should be completed and submitted to HMRC, either online or by post. Non-resident landlords can apply to receive their rent without the deduction of tax by completing:

- form NRL1 - for individuals
- form NRL2 - for companies
- form NRL3 - for trustees

Whitings can complete and submit these forms on your behalf; please contact us if you require advice or assistance.

HMRC will accept an application if the landlord agrees to comply with all UK tax obligations going forward. Before authorising the application, HMRC will look into the landlord's historical record for filing returns and paying tax on time; previous failure to comply could result in the application being denied.

### What happens if the gross payment application is denied?

If HMRC do not accept the application, 20% of the net profit must be withheld each calendar quarter and sent to HMRC within 30 days, along with a quarterly return.

*Net profit definition: gross rents received by the agent less expenses paid in the quarter by, or under direction of, the letting agent, which the agent is reasonably satisfied are allowable expenses of the property business for tax purposes.*

Letting agents cannot deduct expenses paid personally by the landlord. In addition, the agent cannot take into consideration the Personal Allowance, even if this is the only source of UK income for the landlord. For the purposes of the NRL scheme, the year runs from 1 April to 31 March. At the end of each year the tenant or agent withholding the tax must complete an annual return and submit this to HMRC on or before 5 July following the end of the year.

The tenant/agent will also provide the landlord with a certificate detailing the tax withheld (again, by 5 July); this certificate should then be used to complete the UK Self-Assessment tax return.

The tax paid will be deducted from the overall tax liability for the year, to calculate the balancing liability/refund due for payment by 31 January following the end of the tax year in question.

### What happens if HMRC approve the application to receive rent gross?

If HMRC approve the application, they will write to:

- The landlord to advise them that the application has been successful.
- AND
- The tenant/agent to authorise them to pay the rent gross.

Any tax deductions made in that quarter should be refunded by the agent if they receive notification that an application to receive rent gross has been accepted.

### Selling the property

You will need to consider the Capital Gains Tax (CGT) position on the sale of the property and may need to complete a non-resident CGT return. Please refer to our brief guide 'Capital Gains tax on UK Residential Property owned by Non-Residents'.

### Find out more

In addition to the above, our specialist property investors group can also assist you with other property related matters, including:

- Buy to let - tax implications
- The furnished holiday letting regime
- Non Resident CGT
- Private Residence Relief calculations
- Whether to hold your properties personally, or through a company

For further information, advice and guidance please contact one of our specialists in the property investors group:

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This is a general illustrative guide only and individual professional advice should be obtained on specific issues. Information is believed correct at time of publication but may alter.

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