

Who Are NLP?

Nyman Libson Paul are an experienced and imaginative firm of accountants, tax and business experts who understand every detail of your personal circumstances.

For over 80 years we have advised on Britain's greatest and most iconic film, theatre, TV and music projects.

Our heritage, industry leading expertise and discretion have led to us becoming trusted advisors not only to the entertainment industry but to high net worth individuals and successful entrepreneurs and SMEs.

Our clients receive the care, speed and quality of advice they need to flourish in an increasingly complex world over a range of services, from the traditional to more cutting edge.

Now we are utilising our years of experience to provide a link between our clients, contacts and projects in the UK and those in China.

Whether an entrepreneur, individual or investor we can help you bridge the gap between the UK and China.

Income Tax on Rental Income

What is taxed?

- As an individual property investor you are taxed in the UK on the combined rental profits of your UK properties.
- Rental profits are calculated as rental income *receivable* less expenses *accrued* in the tax year (which runs from 6 April one year to 5 April the next).

What expenses can you claim?

- Deductible expenses may include the following :

- Accountancy expenses	- Advertising costs
- Inventory costs	- Cleaning
- Rent collection costs	- Council tax
- Gardening	- Insurance
- Mortgage interest	- Legal & professional fees
- Letting agents' fees	- Service charges
- Maintenance contracts	- Services gas/electricity/water
- Rates	- Repairs & decoration
- It is not possible to claim expenses of a capital nature, such as the cost of land and buildings and the cost of improvements. Instead, these are regarded as an additional cost to be taken into account when calculating any gain on the sale of the property.
- No tax relief is available for the depreciation or amortisation of the property itself. However, for commercial properties only, capital allowances (which is a form of depreciation allowed by the taxman) can be claimed for certain costs which can prove to be very valuable.
- For residential properties, although no depreciation or capital allowances can be claimed, where the letting includes the provision of furniture, only 90% of the rentals are taxable.

How do I report?

- A non-resident landlord must complete an annual Tax Return declaring the income which has to be submitted to the Inland Revenue.
- This is due by 31 January after the end of the tax year.

How much tax is payable?

- You will be charged to tax according to the level of the profits. For the 2015/16 tax year, the first £31,785 is taxed at 20% and then 40% up to £150,000 and then 45% thereafter. For Chinese-resident investors, you will also be able to claim a tax-free personal allowance which is currently £10,600.

When do I pay the tax?

- Tax is normally payable in advance of filing the Tax Return. Payment is made in two instalments on 31 January in the year and also 31 July following the end of the year and if necessary a final balancing payment on the following 31 January.

Do I need to apply for Tax Return treatment?

- This treatment is only available to non-residents who apply for it. If it is not applied for then the managing agent (or the tenant) must deduct and pay to HMRC tax (at 20%) from rents received net of any expenses that he pays on behalf of the landlord.

Capital gains tax (CGT) for non-residents owning UK residential property

What are the old rules?

- Up to 5 April 2015, non-UK residents were not liable to CGT on the sale of any assets unless they were used as part of a trading business in the UK.

What are the new rules?

- That position changed with effect from 6 April 2015, which now charges CGT on all directly-held UK residential property. So it only applies to directly-held property and not therefore to gains on the sale of shares in a company or units in a fund which owns UK residential property.

To whom does it apply?

- The CGT charge applies to all non-resident individuals, as well as trustees and other persons holding UK residential property, which even includes companies owned by 5 or fewer persons.
- There are very few exclusions from the charge, so tax will apply even if the property is used in a property-letting business or in the course of a property development activity.
- It will also apply to properties in the process of being converted into a dwelling as well as to residential property bought off plan.

How do you calculate the gain?

- The gain is calculated as the difference between the sale proceeds and the original cost if the property was purchased on or after 6 April 2015.
- If the property was bought before 6 April 2015, then only the gain which accrues after that date is taxable. The normal rule is that the gain will be calculated as if its base cost is its value at 6 April 2015. However, you can instead elect to use a time apportionment basis and just tax the proportion of the gain relating to the period after 6 April 2015.
- For companies only, the cost can be inflated for indexation allowance to take account of the movement in the retail price index since 6 April 2015 or if earlier when the property was purchased.

What is the rate of tax?

- Individuals are subject to tax at either 18% or 28% depending on their level of UK income. You can first deduct from the gain the annual exemption which is currently £11,100. Losses can be offset against gains from UK residential properties in the same or future periods.
- Trusts will be subject to tax at 28%.
- For non-resident companies, the tax rate will be 20%, which is the same as for UK-resident companies.

When is the tax payable?

- Disposals must be reported within 30 days of completion by which date the tax is also due unless you are already filing a Tax Return. In that case, the tax will be due on the normal payment date, usually 31 January after the end of the tax year.

What if I live in the property?

- You are able to claim some relief if the property has been your 'Principal Private Residence' for all or part of the period of ownership.
- However the property will only qualify for relief for a tax year if:
 - You were resident in the UK; or
 - You spent at least 90 midnights in the property in the year
- It is therefore unlikely that a non-resident will be able to claim the relief.

Corporate ownership of expensive dwellings

Why hold a UK dwelling in a company?

- As explained previously, an individual owning an investment property pays tax on the rental profits at rates up to 45%. However a company only has a single rate of 20%.
- Inheritance tax (IHT) planning:
 - IHT is charged on the worldwide assets of a UK domiciled individual but only the UK-sited assets of a non-UK domicile.
 - Therefore in the past one was able to effectively change the situs of a UK property by owning it via a non-UK registered company. So you own non-UK assets (the shares in the company) rather than the UK property itself.
 - Although this still works from an IHT viewpoint, HMRC have made this far less attractive.

How have the rules changed?

- HMRC have introduced special rules to create a disincentive to owning expensive dwellings by companies.
- A penal rate of Stamp Duty Land Tax.
- A special tax charged annually.
- A penal rate of capital gains tax.

What is the penal rate of Stamp Duty Land Tax (SDLT)?

- The top rate of SDLT for an individual is 12% which only applies to the purchase price above £1.5m. Below that the rate ranges from 0% to 10%.
- But where a company buys a dwelling costing more than £500,000, the rate is 15% on the entire amount.
- For example, a property bought for say £2m would cost an individual SDLT of £153,750, whereas a company would pay £300,000, almost double.
- There are some exceptions though such that the lower rates of SDLT will apply in the following circumstances:
 - A property rental business.
 - Property developers.

- Property dealers.
- Note that to qualify one condition is that no-one connected with the company lives in the property.

What is the Annual Tax on Enveloped Dwellings (ATED)?

- Since 1 April 2013, an annual charge has applied to each expensive dwelling owned by a company.
- The charge depends on the value of the property as at 1 April 2012 or if later the date the property was purchased.
- From 1 April 2015, the charge applies to properties valued from £1m and starts at £7,000 per year and rises to a maximum of £218,200 for properties worth in excess of £20m.
- From 1 April 2016, the charge applies to properties valued at £500,000 and starts at £3,500 per year.
- Reliefs from this charge are mostly identical to those applying to SDLT, although they are not automatic so must be claimed on the annual return.

What is the rate of capital gains tax (CGT) for company-held residential property?

- From 6 April 2015, where a company sells a property for more than £1m which has been liable to the ATED charge, any gain is subject to UK capital gains tax at 28%.
- From 6 April 2016, this higher rate of CGT will apply to any properties sold by a company for more than £500,000.
- The CGT charge applies only to the increase in the property's capital value between 6 April 2013 (or if later, the date when the property first comes within the ATED regime) and the date of disposal.
- The 28% CGT rate applies to all companies, both non-resident and UK resident.
- Any losses incurred can only be set off against subsequent gains on the sale of expensive dwellings.

Commercial Property

How does the treatment of commercial property differ to residential property?

- The recent aggressive tax changes already mentioned including the 15% stamp duty land tax rate, the annual charge and CGT on non-residents only apply to residential property.
- So there are no penal charges for non-residents buying commercial property.

Is the use of an offshore company appropriate?

- Simply, yes as we don't need to worry about the new taxes.
- Using a company will protect the property from inheritance tax and avoid potentially paying income tax at up to 45%. Remember the single rate of corporation tax for companies is only 20%.
- But this may not be suitable for everyone and taking professional advice is recommended.

Will I be charged VAT on the purchase of the commercial property?

- The general position is that VAT is not charged on property transactions.
- There are exceptions such as for the disposal of new-build commercial properties.
- It is also possible for a VAT-registered person to make an election to treat the property as liable to VAT. This is called exercising an option to tax.
- If you are buying a commercial property which is subject to VAT you have a decision to make. Although the seller has opted to tax the building you do not have to do the same. However, if you choose not to elect, then you will be unable to reclaim the 20% VAT charged by the seller.

How can I recover any VAT charged?

- By registering for VAT and opting to tax the property you will be able recover the VAT on all expenditure on the property which will include any amounts charged on the original purchase of the property as well as on improvement costs and refurbishment.

- Normally you would need to submit a VAT Return every 3 months to HMRC but you can ask to do so monthly where you are regularly receiving repayments.

What if I am continuing the same business?

- If the property is being purchased as part of a transfer of business (so for example you are continuing to run a pub from the building or simply buying the property with a continuing lease) , so long as both parties are registered for VAT and have opted to tax, then the sale is exempt and there is no need to charge VAT.
- This is beneficial because it saves having to pay an extra 20% on the purchase price then having to reclaim it later from HMRC.
- Also, as stamp duty land tax is charged on the total purchase price including VAT, if no VAT is charged then the stamp duty will be lower.

What are the consequences of registering for VAT?

- Once you have registered for VAT and opted to tax you will have to charge VAT on the rents for your tenants. If your tenant is not VAT registered (such as a bank or a charity) the VAT will be an extra cost for them because they will be unable to get it back.
- Also, when you come to sell the building, VAT must be charged on the sale price. If you are selling to someone who is not VAT registered it will make the sale unattractive meaning the price you can achieve could be significantly reduced.