

## Tax implications for international purchasers of UK residential property.

**Historically, the way for non-UK resident non-UK domiciled individuals (NRNDs) to acquire personal use UK residential property was through a non-UK company as this provided a 'blocker' from UK IHT, and CGT. Since 2013 this method has become significantly more expensive with high rates of SDLT and reduced tax efficiency, whilst even the privacy benefits of using a company to hold property no longer apply. Here are the most relevant taxes NRNDs must consider.**

### **SDLT (Stamp Duty Land Tax).**

Where one of the purchasers of residential property in England and Northern Ireland is classed as non-UK resident during six of the previous 12 months prior to purchase they now pay an additional 2% surcharge on their SDLT bill. They may be able to claim a refund on the 2% surcharge if they are present in the UK for at least six of the following 12 months.

Purchasers also usually pay a further 3% surcharge if they already own an interest in another residential property (anywhere in the world), and the purchase is not to replace their main residence. Again, there is a potential refund of the 3% surcharge if the purchaser sells their original main residence

within three years of completing on the replacement residence. A company will always be subject to the 3% additional SDLT rate.

Additionally, a 15% flat rate of SDLT applies where the property price is more than £500,000 and the purchaser is a company. There are, however, business reliefs that may apply where the property is held for the purposes of trading or letting. This 15% flat rate is therefore aimed at owner occupiers who hold their homes via a company rather than a genuine property business or rental businesses. The 2% non-resident surcharge applies in addition to the 15% flat rate, if applicable.

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### *SDLT base and non-resident surcharges 2022/2023*

Payable within 14 days of completion of the purchase.

<b>Property/lease premium value</b>	<b>Standard SDLT rate</b>	<b>Non-resident SDLT surcharge</b>
Up to £250,000	0%	2%
+ £250,001 to £925,000	5%	7%
+ £925,001 to £1.5m	10%	12%
+ The remainder over £1.5m	12%	14%

**NB the 3% second property surcharge, where applicable, applies on top of these.**

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### ATED (Annual Tax on Enveloped Dwellings).

If the property is purchased through or owned through a company, these annual taxes will be payable on properties that are in personal use or not let to unconnected third parties, in addition to any management or administration expenses of the company itself.

This tax and other measures are specifically designed to discourage the acquisition and holding of residential property through companies.

Property value <i>(as at 21 October 2022)</i>	Annual charge
£500,001 to £1m	£3,800
£1,000,001 to £2m	£7,700
£2,000,001 to £5m	£26,050
£5,000,001 to £10m	£60,900
£10,000,001 to £20m	£122,250
Over £20m	£244,750

### Income tax – on renting out.

If the property is let out, tax on that income is 45% for individuals and trusts on overall taxable income above £150,000. Companies will pay 19% corporation tax on rental income, rising to 25% in April 2023.

### CGT (Capital Gains Tax).

Any non-UK resident or company, partnership or trustee who sells or gifts a UK residential property is liable to pay CGT on any uplift in value since 2015, irrespective of where they are resident. There are circumstances in which whole or partial CGT relief is available to non-residents, if for example, the owner has spent at least 90 days in the UK in a 'qualifying house'. Conversely this may tip them over into being a UK resident for the purposes of other taxes.

### CGT for non-UK residents

Band	Residential property <i>(not a qualifying main residence)</i>
Basic rate (income) taxpayers	18%
Higher or additional rate income taxpayers	28%

Non-UK resident companies are subject to 19% corporation tax (25% from April 2023) on any uplift in value since 2015 on the disposal of UK residential property.

### IHT (Inheritance Tax).

IHT is generally charged according to the domicile of the individual and the location of the asset rather than the individual's residence status (although long-term UK residence can make one 'deemed domiciled' for all tax purposes, including IHT). NRNDs can therefore still be exposed to 40% IHT on assets situated in the UK.

An individual may also be subject to IHT or estate tax in their home country, and should consider whether there are any applicable double tax treaties between the UK and their home country that may allow a credit for the IHT against the equivalent estate tax liability in the home jurisdiction – or if not whether any unilateral relief is available. The UK currently has IHT treaties with France, India, Ireland, Italy, the Netherlands, Pakistan, South Africa, Sweden, Switzerland and the USA.

### Council Tax.

Council Tax varies dependent on the value of the property, and the local authority that sets it. A lack of full-time occupation does not necessarily negate liability to Council Tax.

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### Importance of having a UK Will.

A UK Will is helpful both from a tax and administrative perspective for NRNDs who own UK property. The Will can be drafted so that it only covers assets situated in the UK, leaving the rest of their worldwide estate to be governed by their Will or other arrangements in their home country.

For example, assets left to a spouse on death generally attract 100% relief from IHT. If the surviving spouse gifts the property on to their children and survives the gift by seven years, the property will be outside of their estate for IHT purposes.

A UK Will also makes the administrative process much easier on death, speeding up the probate process and the timescales for when the property can pass to the beneficiaries.

### Middleton advice.

There are multiple legal, tax, asset protection and privacy issues to consider when purchasing a UK residential property. Personal ownership is the preferred option, but there are still situations where corporate or trust ownership remains viable.

### Thanks:

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