

OFFSHORE COMPANIES FOR UK RESIDENTIAL BUY-TO-LET INVESTMENTS

The UK residential buy-to-let market has, for several decades, attracted investors from all over the world. Very strong demand from tenants working within London's buoyant economy underpins the rental market, but the market is by no means limited to London. The sizeable buy-to-let markets in Manchester, Leeds, Birmingham and other provincial cities, also attract investors from overseas.

The UK tax regime for non-residents making buy-to-let investments is extremely favourable. If the property (or indeed a portfolio of properties) is acquired by an offshore company, then the UK property asset is converted into a foreign-situs asset (the shares in the offshore company) for Inheritance Tax purposes. Capital gains realised by the offshore company from the sale of UK property are (currently) exempt from Capital Gains Tax. UK rental income is taxable, but only on a net basis, which means that loan interest incurred in relation to the property is allowable as a deduction, along with other standard deductions. An offshore company pays tax at the basic rate of Income Tax (20%) on the net rental income.

By contrast, if the UK property was held personally, then the owner would be exposed to UK Inheritance Tax. The related mortgage debt would be deductible before Inheritance Tax would apply, and the owner would be entitled to use his nil-rate band (currently £325,000, or £650,000 for a couple), and so in lower value cases Inheritance Tax may not be too much of a concern. Capital gains would still (currently) be exempt from Capital Gains Tax with direct ownership. The Income Tax position though could be considerably worse for the direct owner in relation to the net rental income, depending on his total level of UK-source income, as the tax rate would be his personal marginal rate (i.e. up to 45%) as opposed to being capped at the 20% rate for an offshore company. (Please note that if the client is resident in the UK, even if non-UK domiciled, then the net rental income would still be taxable at his marginal rate despite the use of an offshore company).

Not surprisingly, overseas investors regularly use debt to finance their property investments. Not only does this enable them to gear up and build a portfolio of rental properties, but it also enables them to use the resulting loan interest to offset the rental income for tax purposes. It is not essential that the loans are taken from banks or other commercial lenders. Interest on loans which are made on arms-length commercial terms from, for example, related offshore trusts is also deductible. HMRC will be unlikely to allow loan interest charged at an exceptionally high rate, or with a far higher loan-to-value than banks are typically lending at the time when the loan is taken out, but generally there should be no issue with a loan-to-value in the region of 65% to 75%.

2013 saw a number of tax law changes introduced in relation to high value residential property. The new Annual Tax on Enveloped Dwellings (ATED) rules, which are designed to discourage ownership by offshore companies, only apply to residential properties valued in excess of £2 million, while properties rented out to unconnected parties are exempt. Extreme care must be taken when a property ceases to be rented out, or if the beneficial owner of the offshore company wishes to start personally using the property.

It was also announced during 2013 that foreign owners of "second homes" in the UK would be liable to pay Capital Gains Tax from 2015. The full details have not yet been announced, but it is currently anticipated that rental properties owned by non-residents, whether held personally or through offshore companies, will be caught.

OUR SERVICE FOR RESIDENTIAL BUY-TO-LET INVESTORS

PraxisIFM has designed a service specifically for overseas investors wanting to use an offshore company to hold buy-to-let investments. It is based around using a British Virgin Islands (BVI) company, as the BVI is the jurisdiction of choice of many overseas investors, but we are equally happy to use companies in Guernsey, Jersey and other mainstream offshore jurisdictions.

The service is comprehensive. It covers the incorporation, provision of all directors and officers, full administration, bookkeeping/accounting and, if not provided by the client's own UK tax advisors, we can provide full Non-Resident Landlord tax compliance services.

We are also able to assist with arranging loan finance from both onshore and offshore banks.

The cost of establishing and maintaining an offshore company needs to be factored into the buyer's financial projections, and so we have devised the attached Fee Schedule which provides a high degree of clarity and certainty. It is a menu-based Fee Schedule, and additional charges would only be incurred if exceptional activity arises, and which is not covered within the Fee Schedule.

The service is offered out of our Guernsey and Swiss offices, with exactly the same Fee Schedule applicable to both.

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STERLING (£) FEE SCHEDULE – BVI COMPANY

INITIAL AND ANNUAL CHARGES	GBP £	
Registered Agent and BVI Government Fees	350 pa	
Incorporation & Inclusive of BVI Incorporation Fees	1,500	Inclusive of due diligence and compliance checks
Corporate Director and Nominee Shareholder Fees	1,900 pa	
Accounting fees (basic)	650 pa	Covers bookkeeping and short form accounts
Bank account opening (through preferred bank)	650	Chargeable per bank account opened. Additional fees may be charged in complex and lengthy cases
OTHER FEES	GBP £	
Property Purchase/Sale Fees (Exclusive of legal fees)	1,950 min.	Additional fees will be charged on a time cost basis for more complex transactions which may involve financing.
Tenancy Agreement (through preferred agent)	350	Including review, approval and corporate duties
Standard liaison with letting agent	250 pa	
Non-Resident Landlord Application	250-350	
Non-Resident Landlord Tax Return	500 pa	Including dealing with any tax payments
Limited Power of Attorney	500	Plus disbursements such as notary costs etc.
Board resolution	150	Plus disbursements such as notary costs etc.
Meeting Fees	160/hr	
Mortgage/Finance Fees	by negotiation	
All other administration work will be charged on a time-spent basis, unless otherwise agreed in writing.		
POST-INCORPORATION WORK	GBP £	
Changing company officer/director	400	Plus disbursements such as notary costs etc.
Changes to shares issued	400	Legal fees if a solicitor is required will be additional
Change to Registered Office/Registered Agent*	400	Plus disbursements such as notary costs etc.
Changing the company name*	500	Plus disbursements such as notary costs etc.
TRANSFER / STRIKE OFF / FORMAL LIQUIDATION	GBP £	
Strike-off of a Company	1,000	To cover work required to liaise with the authorities and undertake the strike off process
Formal liquidation	on request	The cost is dependent on the assets/liabilities of the company. To appoint the voluntary liquidator and undertake the liquidation process in conjunction with them. Any incidental legal fees disbursements fees owed to the liquidator will be charged separately.
Transfer of entities *	2,000	Fees charged per company. Fees already paid will not be refunded.

* Plus fees charged by BVI registered agent – Change of registered office/agent \$350
Change of company name \$325 including new Memorandum and Articles