

GIBRALTAR PROPERTY TAX GUIDE FOR LANDLORDS



The demand for Gibraltar rental property continues to increase and the UK's decision to leave the EU in June 2016 and subsequent uncertainty does not, currently, appear to be affecting this. This high demand and limited supply leads to attractive rental yields, which may be one of the many reasons why owners decide to rent out Gibraltar property.

Added to this, in July 2016, the Government announced a budget measure incentivising new Gibraltar property investment and rental. This measure applies to any property constructed in the period from 1 July 2016 to 1 January 2019 and rented for residential purposes. It provides owners with a tax credit equal to the tax payable on the rental profits earned for the first twenty four months, if that period occurs in the first five years after the completion of construction of the property. The tax credit can be offset against the tax payable to extinguish any liability to tax. An encouraging economic measure in uncertain times.

REGISTRATION AS A LANDLORD

All individual owners receiving Gibraltar rental income must register at the Income Tax Office (ITO) by submitting a completed Rental Income Registration Form known as an S4. The ITO also requires a copy of a valid ID or passport and proof of ownership of the rented property. If the property is owned jointly, both owners need to register and report their share of the rental profits on their annual Tax Return.

CHARGEABILITY TO TAX

So what is the tax position for rental profits earned on a property not qualifying for the above budget measure and on above property once its "tax-free" two year period has ended?

Under Gibraltar tax law, rental profits derived from property in Gibraltar, whether owned by a Gibraltar resident or non-resident are chargeable to Income Tax. Therefore there are Gibraltar tax reporting obligations which owners should be aware of.

Typically where an owner holds property as an investment, for the medium to long term, whilst the rental profits are liable to Gibraltar Income Tax, there should be no Gibraltar tax due on any gain made on eventual sale, in the absence of Gibraltar Capital Gains Tax.

However, if the owner is resident outside of Gibraltar, the tax position on the rental profits and any gain on sale should also be considered in their country of residency. Often the rental profits and gain will be taxable there with, potentially, a foreign tax credit available to claim for any Gibraltar tax paid.

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HOW ARE RENTAL PROFITS CALCULATED?

Rental profits are calculated as the rents received less expenses that can be set against those rents for tax purposes. Where more than one property is rented, all rental income and expenditure is added together to treat them as one when working out the profit or loss.

Deductions for expenses are only allowed if they are wholly and exclusively expended for the purpose of the property rental and are revenue rather than capital expenses. Capital expenditure generally relates to buying, improving or selling the property and is not normally allowable, although expenditure incurred on painting, decorating, repairing or enhancing the appearance of property can be an allowable expense, if certified by the Town Planner.

Common types of revenue expenses paid by the owner that can generally be deducted are:

- ✓ rates and service charges
- ✓ general maintenance and repairs to the property
- ✓ insurance - owners' policies for buildings and contents
- ✓ interest on a mortgage to buy the property
- ✓ letting agent and management fees

CAPITAL ALLOWANCES

Equipment, fittings and furniture used inside a residential property do qualify for capital allowances in Gibraltar. This can provide a significant deduction against income. The assets which may be eligible for capital allowances include all the furniture used in the property as well as rugs and white goods. Generally, this means that 100% of the cost of such purchases can be deducted in the year of purchase, up to £30,000 per year, and for any excess a 20% annual writing down allowance.

TAX RETURN AND PAYMENT

The responsibility is on taxpayers to submit annual Tax Returns of their assessable income.

For owners, they are required to include details of their rental profit / loss on their annual Tax Return and provide an Income and Expenditure Account.

Apart from in the first year of rental of the property, a payment on account system operates for owners, whereby 50% of the tax is due by 31 January and the other 50% by 30 June, based on the rental profits reported for the previous tax year.

The Gibraltar tax year runs from 1 July to 30 June. For income in the year to 30 June 2018, the Tax Return is due to be filed, with any remaining tax due, by 30 November 2018.

INCOME LOSSES AND PROFITS

After deducting allowable expenses, if a rental profit arises, this is generally taxed (after any available personal allowances / deductions) at the owner's marginal Income Tax rate (i.e. up to 28% under Gross Income Based System or up to 39% under Allowance Based System – 2018 / 19 rates).

If the allowable expenses are more than the rental income, a rental loss arises and this can be carried forward to set against any future rental profits, saving tax in future years.

CORPORATE OWNERS

If the property is owned by a company, the rental profits will be taxable at the company tax rate of 10%.

Payments on account may still apply but with different payment dates (28 February and 30 September).

Tax return filing for companies is nine months from financial year end (with any remaining tax due). The tax position on extraction of profits from the company (e.g. dividend) should also be considered.

REGISTER OF RESIDENTIAL TENANCIES

It's important to bear in mind the Government's recent announcement that it is considering setting up a Register of Residential Tenancies, in order to crack down on owners who illegally rent out their properties. This initiative provides further need for Property Investors to review their tax position now to ensure that all is declared appropriately and up to date.

With increasing tax transparency and enforcement powers internationally, the need for comprehensive tax advice will inevitably grow exponentially.

STM FISCALIS MANAGING TAX COMPLIANCE FOR PROPERTY INVESTORS AT HOME OR ABROAD



Owners of investment property are legally required to ensure compliance with their tax obligations. This can be more challenging when the property is located in a different country to the owner's country of residence. STM Fiscalis, qualified and experienced in Gibraltar and UK tax, can guide and assist by providing the following services:

GIBRALTAR PROPERTY

- If rented out, registration with the Gibraltar Income Tax Office and preparation and filing of annual Gibraltar Tax Returns reporting the rental profits. This may include a calculation of any available capital allowances and consideration of any available tax credit for new property rentals.

UK PROPERTY

- If rented out, registration with HMRC and preparation and online filing of annual UK Income Tax Returns.
- For any property disposals, advising on the UK Non-Resident Capital Gains Tax position and filing of Returns, within the 30 day deadline.
- For any UK residential property owned by a company, the filing of UK Annual Tax on Enveloped Dwellings Returns, where applicable.
- Advising on the UK Inheritance Tax position.

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