

## Excerpt from Income Tax 2019/20 – Chapter 8 - Property income

### NON-RESIDENT LANDLORDS SCHEME

#### Overview

##### 8.37

The Non-resident Landlords Scheme (NRLS) is a scheme for taxing the UK rental income of non-resident landlords.

The rules governing the scheme are contained in the *Taxation of Income from Land (Non-residents) Regulations 1995 (SI 1995/2902)*.

The HMRC website contains much useful information on the scheme at <https://www.gov.uk/tax-uk-income-live-abroad/rent>.

The scheme requires UK letting agents, referred to as ‘non-resident landlord representatives’, to deduct basic rate tax from any rent they collect for non-resident landlords. If non-resident landlords do not have UK letting agents acting for them, and the rent is more than £100 a week, their tenants must deduct the tax. When working out the amount to tax, the letting agent/tenant can take off deductible expenses.

Letting agents and/or tenants do not have to deduct tax if approval is obtained from HMRC. But, even though the rent may be paid with no tax deducted, it remains liable to UK tax. So, non-resident landlords must include it in any tax return that HMRC send to them.

A ‘non-resident landlord representative’ is defined as (*ITA 2007, s 971(3)*):

- (a) a person by whom any sums are payable to the non-resident which are to be treated as receipts of a UK property business (within the meaning of *Chapter 2 of Part 3 of ITTOIA 2005* or *Chapter 2 of Part 4 of CTA 2009*), carried on by the non-resident, or
- (b) a person who acts on behalf of the non-resident in connection with the management or administration of any such business.’

## Applications for payments with no tax deducted

### 8.38

Non-resident landlords who are eligible can apply at any time for approval to receive their UK rental income with no tax deducted. This includes applying before they have left the UK or before the letting has started.

When approval has been given, HMRC send a notice of approval to receive rent with no tax deducted to the non-resident landlord, and a separate notice to the letting agents or tenants named on the application form authorising them to pay rent to the non-resident landlord without deducting tax.

Authority to pay rent to a non-resident landlord with no tax deducted is generally backdated to the beginning of the quarter in which HMRC receive the non-resident landlord's application.

As the tax year for the NRLS starts on 1 April, the quarters are the three-month periods that end on 30 June, 30 September, 31 December and 31 March. So, if a non-resident landlord applies to HMRC on, say, 20 September, the authority they send to his letting agent/tenant will usually take effect from 1 July.

HMRC may refuse approval if they are not satisfied that the information in the application is correct, or the non-resident landlord will comply with their UK tax obligations.

HMRC may withdraw approval if:

- they are no longer satisfied that the information in the application is correct;
- they are no longer satisfied that the non-resident landlord will comply with their UK tax obligations; or
- the non-resident landlord fails to supply information requested by HMRC.

Where HMRC refuse, or withdraw, approval to receive rent with no tax deducted, the non-resident landlord can appeal to them within 90 days.

Where HMRC and the non-resident landlord cannot reach agreement, the appeal will be referred to the tax tribunal.

HMRC will tell an agent/tenant not to deduct tax if the non-resident landlord has successfully applied for approval to receive rents with no tax deducted. But rent paid with no tax deducted remains liable to UK tax. So, non-resident landlords must include it in any tax return that HMRC send to them.

All non-resident landlords who receive rents with no tax deducted will have a tax district.

Some individuals who are not resident in the UK for tax purposes are not sent an annual tax return automatically, even though they have UK rental income. This is because many non-residents will have sufficient UK personal allowances to cover any liability.

## Conditions for approval

### 8.39

Non-resident landlords can apply to receive their rent with no tax deducted, on the basis that either:

- their UK tax affairs are up to date;
- they have not had any UK tax obligations before they applied;
- they do not expect to be liable to UK income tax for the year in which they apply; or
- they are not liable to pay UK tax because they are Sovereign Immunes (these are generally foreign Heads of State, governments or government departments).

‘Usual place of abode’

### 8.40

Although HMRC refer to ‘non-resident’ landlords, it is usual place of abode and not non-residence that determines whether a landlord is within the scheme or not.

In the case of individuals, HMRC normally regard an absence from the UK of six months or more as meaning that a person has a usual place of abode outside the UK. It is therefore possible for a person to be resident in the UK yet, for the purposes of the scheme, have a usual place of abode outside the UK.

## Letting agents

### 8.41

A letting agent is a person who:

- has a ‘usual place of abode’ (see [8.40](#)) in the UK;
- acts for a non-resident landlord in the running of their UK rental business;
- has the power to receive income of the non-resident landlord’s rental business, or has control over the direction of that income; and
- is not an ‘excluded person’.

An excluded person is someone whose activity on behalf of a non-resident landlord is confined to providing legal advice/services. However, solicitors who draw up a lease and collect the rent for the first period are not excluded persons.

### Focus

HMRC produce comprehensive online guidance for the NRLS. *Non-resident Landlords – Guidance Notes for Letting Agents and Tenants* can be found on the gov.uk website at

[www.gov.uk/government/publications/non-resident-landlord-guidance-notes-for-letting-agents-and-tenants](http://www.gov.uk/government/publications/non-resident-landlord-guidance-notes-for-letting-agents-and-tenants)

[tenants-non-resident-landlords-scheme-guidance-notes.](#)

## Letting agents' obligations

### 8.42

Letting agents that have to operate the NRLS must:

- register with HMRC's (see the gov.uk website at [www.gov.uk/guidance/paying-tax-on-rent-to-landlords-abroad](http://www.gov.uk/guidance/paying-tax-on-rent-to-landlords-abroad) for further information on registration);
- account quarterly for the tax due under the scheme by 5 July following the year ended 31 March;
- complete an annual information return; and
- where they have deducted tax, give the non-resident landlord a tax deduction certificate NRL6.

## Tenants

### 8.43

Tenants of non-resident landlords have to operate the scheme if:

- the rent that they pay is over £100 a week; and
- either:
  - they pay the rent direct to a non-resident landlord;
  - they pay the rent to a person outside the UK; or
- they pay the rent to a person who is not a letting agent in the UK.

HMRC's PTI may sometimes instruct tenants to operate the scheme even where the rent paid is less than £100 a week.

## Tenants' obligations

### 8.44

Tenants who have to operate the NRLS have to:

- account quarterly for any tax due under the scheme by 5 July following each year ended 31 March;
- give the non-resident landlord a tax deduction certificate NRL6; and
- complete an annual information return.

## **HM Armed Forces personnel and other Crown Servants**

### **8.45**

The NRLS applies to members of HM Armed Forces and other Crown Servants – for example, diplomats – if they have a ‘usual place of abode’ outside the UK. They are treated no differently from any other non-resident landlords, even though their employment duties overseas are treated as performed in the UK for the purpose of charging their salaries to tax. So if their absence from the UK is for more than six months, they are within the scheme.

## **Administration of the scheme**

### **8.46**

The NRLS is administered by HMRC. Completed NRL applications should be sent to:

Charities, Savings and International 1

HM Revenue and Customs

BX9 1AU

For further information, contact the Non-Resident Landlord Scheme Helpline on 03000 516 644.

Expenses

### **8.47**

Letting agents or tenants must generally tax the rental income they pay to non-resident landlords unless HMRC have told them not to. In calculating the amount to tax, they take into account any ‘deductible expenses’ they pay in a quarter. These are expenses that they can reasonably be satisfied will be allowable expenses for the non-resident landlords when the profits of their rental businesses are computed.

## **Allowable expenses of a rental business**

### **8.48**

Broadly, in calculating the profits of a rental business, expenses are allowable where:

- they are incurred wholly and exclusively for the purposes of the rental business; and
- they are not of a ‘capital’ nature.

Expenses paid by letting agents and tenants which will normally be allowable expenses are:

- accountancy expenses for the rental business;
- advertising costs of attracting new tenants;
- cleaning;
- costs of rent collection;
- council tax while the property is vacant but available for letting;
- gardening;
- ground rent;
- insurance on buildings and contents;
- interest paid on loans to buy land or property;
- interest paid on loans to build or improve premises;
- legal and professional fees;
- maintenance charges made by freeholders, or superior leaseholders, of leasehold property;
- maintenance contracts (eg gas servicing);
- provision of services (eg gas, electricity, hot water);
- rates;
- repairs which are not significant improvements to the property, including:
  - mending broken windows, doors, furniture, cookers, lifts, etc,
  - painting and decorating,
  - replacing roof slates, flashing and gutters; and
- water rates.

Letting agents and tenants can deduct only those expenses which they pay or which are paid on their direction. This means they cannot deduct:

- expenses which the landlord pays, even if they have details of the expenses;
- expenses which have accrued in a quarter but which have not been paid in the quarter;
- capital allowances; and
- any personal allowances due to the landlord.

## Calculating the tax due

### 8.49

In order to calculate the tax due, the letting agents/tenants should:

- add together the rent they actually receive in the quarter plus:
  - any rent that they had the power to receive, and
  - any rent paid away at their direction to another person,
- less:
  - any deductible expenses that they paid in the quarter; and
  - any deductible expenses that were paid away in the quarter at their direction by another person.

It is the date on which the letting agents/tenants actually receive/pay the rents (or pay the deductible expenses) that determines when they calculate tax. The periods for which the rents (or expenses) are due are not relevant.

**Example 8.14—Non-resident landlord (I)**

Anytown Lettings Ltd is due to collect rental income of £5,000 a quarter for Mr Anderson, who is a non-resident landlord. In one quarter, it collects only £2,500. It pays out £200 for gardening and cleaning.

The calculation is:

	£
Rental income received	2,500
Less deductible expenses paid	200
	2,300
Basic rate tax (at 20%) on £2,300 =	£460

**Example 8.15—Non-resident landlord (II)**

Anytown Lettings Ltd is due to collect rental income of £3,000 a quarter for Mr Brown, a non-resident landlord. But Anytown Lettings Ltd authorises the tenant to pay £1,000 to a third party in settlement of a loan (this is not a deductible expense).

The calculation is:

	£
Rental income received	2,000
Plus rental income paid away at Anytown Lettings Ltd's direction	1,000
	3,000
Basic rate tax (at 20%) on £3,000 =	£600

**Example 8.16—Non-resident landlord (III)**

If, in [Example 8.15](#), Anytown Lettings Ltd had authorised the tenant to pay £1,000 to a builder to repair a leaking roof, instead of the payment to a third party to repay a loan, the £1,000 would be a deductible expense. The calculation would then be:

	£
Rental income received	2,000
Plus rental income paid away at Anytown Lettings Ltd's direction	1,000
Less deductible expenses	(1,000)
	2,000
Basic rate tax (at 20%) on £2,000 =	£400

## Tenant-finders

### 8.50

Some people enter into arrangements with non-resident landlords whereby they find a tenant for the landlord's property. The tenant-finder then collects rent for a period from which he or she recovers the fee. The tenant subsequently pays rental income directly to the landlord. In such circumstances the tenant-finder does not have to operate the NRLS in respect of the landlord, provided:

- the period for which rent is collected is no more than three months; and
- the tax which would be payable would be no more than £100. **Example 8.17—Tenant-finders (I)**

Mr Jones finds a tenant for a non-resident landlord in respect of a property rented at £500 per month. Mr Jones collects two months' rent in order to recover his fee of £700. The tenant pays the rent direct to the landlord from the third month.

If Mr Jones were required to operate the scheme, his tax calculation would be:

	£
Rental income received	1,000
Less deductible expenses	700
	300
Basic rate tax on £300 =	£60

As the tax is less than £100, Mr Jones does not have to operate the scheme.

### **Example 8.18—Tenant-finders (II)**

Mrs McGregor finds a tenant for a non-resident landlord in respect of a property rented at £2,000 a year. Mrs McGregor collects six months' rent in advance, from which she recovers her fee of £500. She also pays insurance and repairs of £400.

Mrs McGregor's tax calculation is:

	£
Rental income received	1,000
Less deductible expenses	900
	100
Basic rate tax (at 20%) on £100 =	£20

The tax is only £20 but, because Mrs McGregor collects more than three months' rent, she must operate

the scheme. She should deduct the tax of £20 and pay it with her quarterly return.

Where tenant-finders collect a period's rent and do not have to operate the scheme, the non-resident landlord will receive rental income with no tax deducted for that period. Subsequently, tenants will pay rent direct to the landlord and may have to operate the scheme. In these circumstances, it would be helpful if tenant-finders notify the tenant of his or her obligations under the NRLS.

## Record-keeping requirements and penalties

### 8.51

Letting agents and tenants must keep adequate records to satisfy HMRC auditors that they have complied with their obligations under the scheme. In particular, for each non-resident landlord, letting agents and tenants should keep separately:

- a record of rental income received by the letting agent or paid by the tenant (showing the date and amount of each receipt or payment);
- copies of any correspondence with the landlord regarding their usual place of abode;
- unless the letting agent is authorised to pay rental income with no tax deducted, a record of expenses paid (showing the date and amount of each payment and a brief description of the expense); and
- invoices and receipts (or copies) to provide evidence of expenses paid.

Letting agents and tenants should retain records for six years after the end of the year to 31 March to which they relate.

Penalties may be charged under [TMA 1970, s 98](#) for failure to make a return or for making an incorrect return.

## For more information about Income Tax 2019/20:

**Visit:** [www.bloomsburyprofessional.com/incometax2019-20](http://www.bloomsburyprofessional.com/incometax2019-20)

**Call:** 01444 416119

**Email:** [bptax@bloomsbury.com](mailto:bptax@bloomsbury.com)

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<https://www.bloomsburyprofessionalonline.com/view/core-tax-annual-income-tax/CTAIT-0021730.xml>