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STEPHENSON HARWOOD

THE STEPHENSON HARWOOD GUIDE TO UK PROPERTY INVESTMENT

An introduction for overseas investors

INTRODUCTION

Property market peaks and troughs are not new. They seem to occur every ten years or so and the skill is to correctly call the high and low of each cycle. The appeal of UK property as an investment asset remains unchanged – London's role as one of the world's leading financial centres, a stable political system and a longstanding system of land law with features well suited to investors.

The UK also benefits from a mature property market with an abundance of published investment data and readily available specialist advice on the various sectors. The purpose of this guide is to give some background information on UK real estate investment from a legal and tax perspective. The first point to make, before looking at the law and the investment process, is that the fundamental principle behind real estate investments are the same in the UK as they are the world over. You will be considering: what you want to achieve from the investment in terms of income and capital growth; the fact that real estate is less liquid than many other asset types but, unlike some, will never lose all of its value; the impact of exchange rates; the potential effect on income of letting voids; and the financial strength of the tenants.

In this guide we briefly cover some of the main issues that are relevant when you buy a property as an investment. Specific legal and tax advice should always be sought before buying any property.

AN OVERVIEW OF LAND LAW

Kinds of ownership

There are two main types of property ownership in England and Wales, freehold and leasehold. (Different land law systems apply in Scotland and Northern Ireland.)

Freehold

A freehold interest in land gives you absolute ownership of the land and lasts forever. Ownership of the land includes any buildings on the land.

With a freehold estate, it is not necessary to obtain the consent of a superior estate holder for works or for the grant of leases. Consents may still be needed from other parties such as funders and, in the case of works, various state authorities. Out of the freehold interest the owner can grant investment leases for a lump sum payment (sometimes referred to as a "premium") or occupational leases charging rent in order to secure a regular income stream.

Leasehold

A lease is a contract between a landlord and a tenant for a limited period, known as the term of the lease. In return for payment of rent a tenant is granted exclusive use and occupation of the property.

In a lease, the tenant accepts certain obligations to the landlord, such as paying the rent, and certain limitations on its use of the property. In turn, the landlord accepts certain obligations to the tenant, for example to manage and maintain the building.

A leasehold interest is granted out of a freehold or superior leasehold estate. This creates

tiers of ownership of the real estate.

There are two main types of leases:

1. Investment lease – a lease with a long term (usually 99 years or more) in return for a capital premium. A nominal rent may be payable throughout the term.

2. Occupational lease – granted for a shorter term (usually up to 25 years) where the tenant pays a full market rent over the term of the lease, usually with no premium. Depending on whether the building is let to one head tenant or several tenants the landlord will retain a varying amount of control and responsibility for maintenance and repair.

If you buy a leasehold property for a lump sum payment as an investment, it will be an investment lease. If the property which you buy is let out to tenants paying rent on an ongoing basis, the lettings will be occupational leases. Variations do occur but, to keep this note brief, we will focus on these two lease types.

It would be normal for a lease to include restrictions on:

+ Alienation – in other words, any change in ownership or occupation of the real estate. This would mean that should you wish to assign, underlet, charge or share occupation of the property, you would need to obtain the landlord's consent. In turn, your tenants would be required to obtain your consent to such a change.
+ Alterations – landlord's consent is usually required if a tenant wishes to carry out works to the property or conducting media (e.g. pipes and cables) with the exception of internal non-structural works which tend to be permitted without consent.
+ User – a lease will generally permit a specific use or a type of use for which the building enjoys planning consent (e.g. office, retail or industrial). The lease may however restrict a change to another use without landlord's consent.

Registered and unregistered land

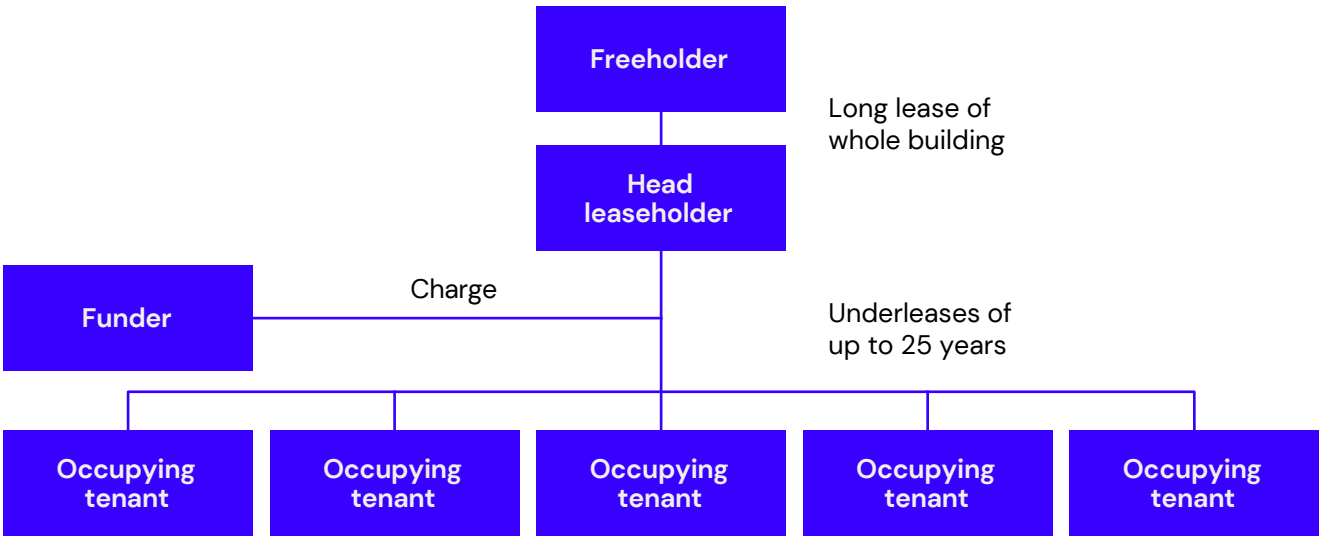
When registered, each parcel of land is given a Land Registry title number and access to the register is publicly available. The information which is on the register is guaranteed by the Land Registry.

Each Land Registry title contains details of the name and address of the owner of the land, the type of estate (whether freehold or leasehold), and a description of the land which is shown drawn on a plan. The register also shows any restrictions on dealings with the land and third party rights ("easements") over the land (such as rights of way), as well as financial and other charges which have been registered.

There are different classes of title that the Land Registry recognises. The best and most common class of title is 'title absolute'. Any other class of title may indicate a defect in the title which will warrant further investigation.

There are still areas of land that remain unregistered, mainly in rural areas, but they are increasingly rare because virtually all dealings now trigger a requirement to register.

Typical ownership structure for an office block



INVESTMENT CONSIDERATIONS

There are a number of factors that investors should bear in mind when considering freehold and leasehold investments. These are summarised below.

Freehold

Freehold is the ideal route for long-term investment in UK real estate.

Freehold gives the greatest degree of control over the property with no need to obtain permission from any superior owners if you wish to redevelop the land. Although you may have no plans to redevelop, a future buyer will see this as an advantage when you come to sell.

If you want to consider increasing the value of your investment by redevelopment, freehold ownership gives more flexibility than leasehold to make use of the development structures which may be available.

If you decide to sell, you will not need the consent of any superior owner.

Leasehold

Because leases are granted for a specified number of years, there eventually comes a time where the value of the investment starts to decrease because the lease term has reduced in length. As a general rule, the impact is unlikely to be noticed until the lease has less than 100 years to run, but the precise period and the valuation effect varies according to the type of property and its location.

As there is a superior interest, there may be restrictions on the ability to develop the land. It is likely that the consent of the landlord will be required when you come to sell. Generally, consent to a sale can only be withheld if the landlord can show good reason, but the need for consent can delay the sale process.

As well as the payment of rent, a lease may provide for the payment of other sums, usually on a quarterly basis. For example, there may be a service charge and insurance payments. If there are occupational tenants, these costs are usually passed on to enable the investor to recover its expenditure. Any shortfalls for empty units are borne by the investor. VAT may also be chargeable, on which see below in section 6.

Generally, an investment lease will only require a nominal rent to be paid. If there are provisions for any material rent or for future rent reviews, these need to be carefully considered to assess the impact on value.

None of these factors should put you off considering leasehold property as an investment asset. Except in rare cases, if the property offers a sufficiently attractive return, whether through income or capital growth, this will outweigh any disadvantages of the property being held on a leasehold basis.

Types of tenancy

With commercial property, whether freehold or long leasehold, the likelihood is that you will be

buying a property which is already occupied by one or more tenants and the rental income will be a key part of your investment return.

There are detailed statutory rules governing different types of tenancy and your lawyers and surveyors will advise you on those on a property-by-property basis.

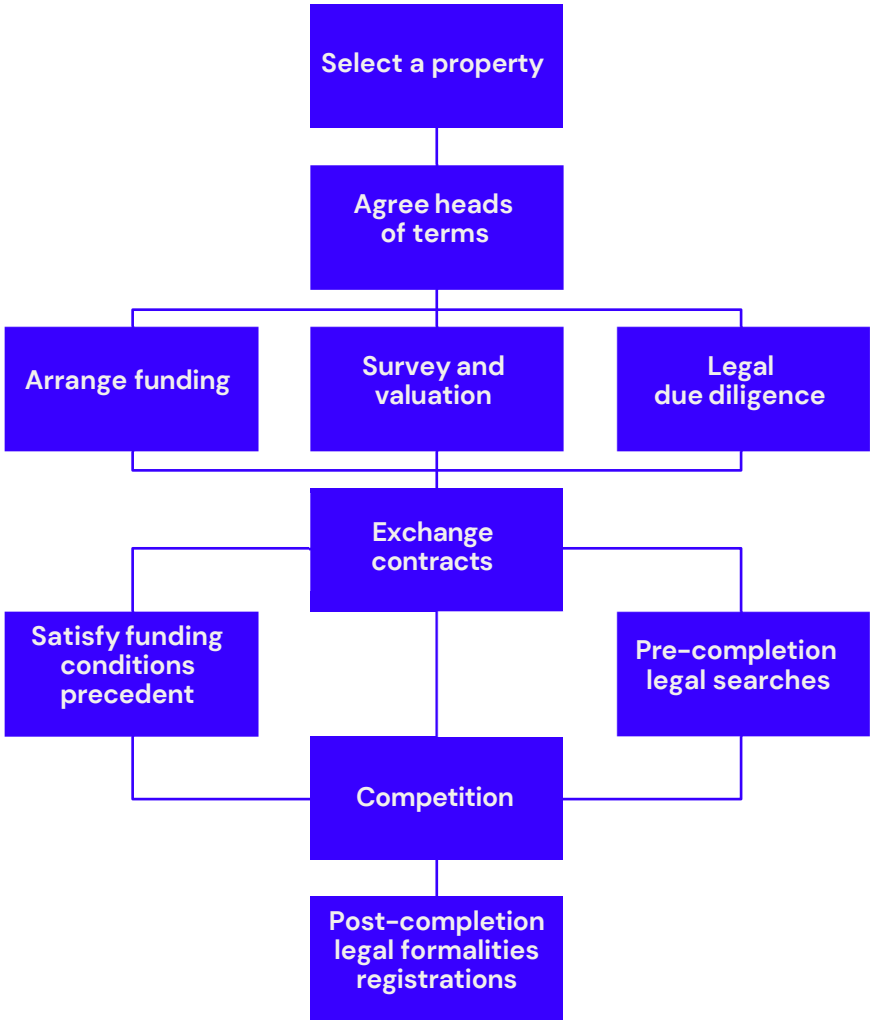
A particular attraction of the UK market is that lease lengths are often longer than in other jurisdictions and rent reviews are normally 'upwards only', so the rent can only increase. Upwards only rent reviews have continued despite market fluctuations in the respective bargaining strengths of the landlords and tenants.

THE INVESTMENT PROCESS

Neither the seller nor the buyer are obliged to proceed with a sale until a written contract has been formally prepared (usually by lawyers) and signed by both parties. The seller's lawyers give the seller's part of the contract to the buyer's lawyers in return for the buyer's part. This is known as 'exchange of contracts' (or simply 'exchange'). At that stage, a deposit is normally paid by the buyer, typically of 10% of the purchase price.

The transaction is 'completed' when the buyer pays the balance of the price to the seller. At that stage the seller formally transfers ownership to the buyer. This is known as 'completion', or 'closing'.

The legal process can therefore be divided into three main stages: pre-exchange; between exchange and completion; and post-completion.



PRE-EXCHANGE

Agreeing price and terms of the sale

Once a suitable investment property has been identified, discussions will take place between the parties and their agents to agree the terms of the sale and the price. The parties' lawyers may also be asked to comment on the proposed terms.

The contract package

Where a commercial property is being sold, the seller and its lawyers will normally prepare a full "sales pack" of relevant legal information in advance, including copies of ownership documents and information from relevant authorities. Once terms have been agreed the pack will be supplied to the buyer's lawyers with a draft contract containing the full detailed terms of sale.

The buyer's lawyer will then review the sales pack and make any amendments to the contract which may be needed to protect the buyer. The buyer will also carry out further investigations of the property based on the documents provided by the seller's lawyer.

The buyer's investigations

Generally, the buyer's lawyer takes responsibility for investigating the legal information relating to the property and will prepare a report to its client based on its findings. This is important as it is the buyer's responsibility to find out all relevant legal information before exchange.

The investigation process involves:

+ the buyer physically inspecting the property.
+ the buyer's lawyer reviewing the title information provided (including the Land Registry documents) to check that the seller owns the property and to consider any third party rights affecting the land.
+ the buyer's lawyer carrying out standard 'searches' and enquiries (taking into account the type of property). Searches are formal questions raised with appropriate authorities and will include a search of the local authority (highlighting issues in relation to planning permissions and highways) and searches to check whether the property is in an area considered to be contaminated land or at risk of flooding. The searches will reveal a large amount of legal information about the property, which the buyer's lawyer may need to investigate further.
+ the seller's lawyers providing responses to a standard list of enquiries relating to the property for the buyer's lawyer to review and on which the lawyers can ask further questions if necessary.
+ the buyer appointing a surveyor to check the condition of the property and a valuer to confirm the property is being acquired at the correct price. If funding is needed, a bank will usually also want to appoint its own valuer.

In larger commercial transactions, it may be agreed that the seller's lawyer will carry out the investigation of the property and prepare a report (called a 'Certificate of Title') for the buyer's lawyers to review. The parties will not enter into the contract until all investigations are complete to the satisfaction of the buyer. Occasionally issues will be revealed which have an impact on value and therefore lead to a renegotiation of the price.

Funding

If the buyer has arranged a loan to assist with its purchase, the buyer's lawyer will need to check the financing agreement. The bank will want to use the property as security for the loan, so it will want the buyer's lawyer to confirm that the correct due diligence has been carried out and that there are no issues that would affect its value. Once all of these investigations have been completed, exchange can take place.

Between exchange and completion

Whilst it is possible for exchange and completion to take place on the same day, typically there is an interval of between two to four weeks. In investment transactions this period is often used by the buyer to finalise loan documents and to satisfy funding requirements. It is essential however that the buyer and its lawyers are certain before exchange that these formalities can be dealt with in the time available. This is because a failure by the buyer to complete on the agreed date will enable the seller to withdraw from the transaction and keep the deposit (though the contract will usually provide that this can only be done after the seller has given a final warning notice).

An interval between exchange and completion also enables the buyer to put arrangements in place for the management of the property after it has become the owner.

Completion

At completion legal ownership is transferred to the buyer. Whilst the contract sets out the terms of the sale, the 'transfer' is the document which legally transfers the title of the property from the seller to the buyer. The form of this will usually be agreed between the parties at the pre-exchange stage and will be annexed to the contract. The seller and the buyer will need to sign the transfer prior to completion, and it will be dated at completion.

On completion the buyer's lawyer will arrange for the balance of the price to be sent to the seller's lawyer.

Post completion

The buyer will need to ensure through its lawyers that any Stamp Duty Land Tax (SDLT) payable on the transfer is paid to HM Revenue & Customs (HMRC). Once SDLT has been paid, the transfer to the buyer can be registered at the Land Registry. If a bank has taken security over the property, this will also be registered at the Land Registry against the property. The Land Registry will confirm completion of the registration by sending updated copies of the register to the buyer's lawyer.

ONGOING MANAGEMENT OF THE INVESTMENT

Ongoing management

Investors need to make advance arrangements for the management of the property, to allow for a smooth handover at completion. Management will be required primarily to collect the rents but also to deal with repair and maintenance of the property. With commercial multi-let properties buyers are likely to be obliged to actively manage the maintenance programme for the building and therefore it will almost always be advisable to appoint a firm of surveyors to act as managing agents. For less complex properties a letting agent or your UK representative may be able to manage the property for you.

Management decisions

From time to time your tenants will want do things which, under the terms of their leases, cannot be carried out without your prior consent. Where your consent is needed (see below), you may not withhold consent unreasonably and must give or refuse consent within a reasonable time period. Your managing agents will be able to advise you on the appropriate response.

Security of tenure

The Landlord and Tenant Act 1954 gives tenants a right to renew their leases at the end of the lease term, where they occupy premises for business purposes. This right is referred to as 'security of tenure'.

There are certain statutory grounds upon which landlords can prevent a tenant from renewing its lease, but these are limited. If the tenant is prevented form renewing by the landlord and the tenant has not been at fault, it is likely that the landlord will be obliged to pay compensation.

It is possible for the landlord and tenant to agree that renewal rights will not apply, but a particular notice procedure must be followed before the relevant lease is granted. The process of agreeing that a tenant won't have a right to renew is known as "contracting out" and it is common for leases of 5 years or less.

When is landlord's consent required?

Typical situations where consent is required include alterations and the disposal of an interest in a leasehold property (known as alienation).

Where your consent as landlord is needed for tenant's alterations, you will want your surveyors to advise you as to whether the proposed works could adversely impact on the value of your interest.

If a tenant no longer wants to occupy property itself, it has three main choices. First, it can hand the property back to the landlord – but only if the landlord agrees. Secondly, it can assign its lease to someone else who is willing to take on the lease obligations. Thirdly, it may underlet the property to someone else.

The circumstances in which the tenant may assign or sublet will normally be strictly controlled by detailed provisions in the lease, as you will want to control who is in occupation of the premises.

Should your tenant wish to assign or sublet, the identity of the incoming tenant is significant, as its ability to pay the rent can materially affect the value of your property. Accordingly, you may impose conditions on the proposed assignment, but you need to agree those with the tenant when you negotiate the lease.

Subletting the premises is usually subject to similar restrictions to those on assignment. Subletting will not affect your tenant's obligations to you, as it continues to be your immediate tenant. Generally, therefore a proposed subletting is of less concern to a landlord than an assignment. That said, there are management reasons for wanting to control subletting and commercial leases generally contain detailed requirements as to what is permitted.

Landlord's remedies

If the tenant breaches its covenants in the lease there are a number

of remedies available to you as a landlord. The most powerful of these is a procedure known as 'forfeiture', by which you can bring the lease to an end. Forfeiture is an attractive remedy if you can easily find a new tenant who will pay a higher rent than the existing tenant. However, if the market is weak, other remedies may be preferable, such as court proceedings for damages or a court order forcing the tenant to comply with its obligations. Expert legal advice should be obtained on the best course of action in particular circumstances.

Service charge and insurance rent

In most tenanted buildings, you will be obliged to provide certain services to the tenants, such as repairing, decorating and cleaning any common parts and providing security. These costs can be passed on to the tenants by means of the service charge. The total expenditure by you is divided between the tenants in proportions as set out in their leases (commonly linked to the floor area or the ratable value of each separate unit). Tenants only have to pay for matters which have been specified in their leases: consequently, it is usual for leases to cover in detail what the landlord intends to charge the tenant for.

As with maintenance and upkeep costs, the insurance premiums for the building will be paid initially by you but can be recovered from the tenant. You will typically ensure the fabric of the building and the tenant will be responsible for insuring their own contents.

Rent review

Rent review provisions are incorporated into leases in order to take account of inflation and changing market conditions over the lease term. Provisions are usually made to vary the rent (upwards only) at regular intervals, usually every five years and usually to the open market rent at the time.

However, there are other ways in which the rent can be varied, such as fixed increases agreed up front or increases linked to an index recording the changes in the value of goods, such as the Consumer Prices Index. The tenant may also agree to pay a turnover rent, which is linked to the turnover of their business (usually impractical for an office lease but frequently used in leases of retail units).

The review process is conducted by negotiations between the parties, often with provision for determination by a rent review surveyor if the parties cannot reach agreement.

Repair

To protect the value of your interest, it is essential that there is a repairing obligation in respect of every part of the building. The lease should specify who is responsible for what. In a building let to more than one tenant, the landlord will usually retain responsibility for repairing the structure and the common parts, recovering the cost through the service charge. The tenant will then be required to maintain only the interior of its unit.

At the end of the letting, the tenant must usually return the premises to you in good repair and condition or (if negotiated by the tenant when the lease is granted) in the same condition as at the start of the term by reference to a schedule of condition.

Key points when selecting an investment

If you are looking for a secure income stream, you need full legal and financial due diligence on the target property, the tenants and their leases. Critical points will include:

+ Is the building fully let?
+ If it is, when do the tenancies come to an end?
+ Are all rent reviews in the tenancies “upwards only”?
+ Most important of all, what is the financial strength of the tenants?

TAX CONSIDERATIONS

The UK can provide tax efficient investment opportunities. The extent to which this is the case will depend on the type of property (commercial/non-residential or residential) and how the ownership of the property is structured, e.g., through a company, directly or via another vehicle.

The comments that follow assume that you are not a UK resident or long-term resident in the UK and are buying your property as an investment (and not with the intention of developing or on-selling in the short to medium term). If you intend to live in your property when you are in the UK there may be further tax issues that are not covered.

TAX ON BUYING THE PROPERTY

Stamp duty and Stamp Duty Land Tax (SDLT)

The table below gives a general guide as to the amount of SDLT you can expect to pay when you acquire UK property. It does not include available reliefs. The rules on SDLT are highly complex and you should take local advice even for simple transactions. It should be noted that the rates and rules below are those applicable in England and Northern Ireland. The rules, and rates, in Scotland and Wales are different.

The percentage rate at which SDLT is charged depends on the purchase price, which is generally the total value of all cash, goods and services given, including value added tax (VAT). On the grant of a lease, rents are separately charged at up to 2% (assuming the non-resident rates do not apply) of the present value of the rents over the life of the lease.

If you buy a company that owns a property you will not pay SDLT but may have to pay local duty depending on where the company is incorporated (such as stamp duty if the company is incorporated in the UK). Buying the company will save SDLT but you will inherit any historic liabilities (including tax liabilities) of the company by virtue of owning the company. The historic tax liabilities could include SDLT if the sale triggers withdrawal of previously claimed SDLT relief. Unrealised capital gains in the company and inheritance tax liabilities would also be a consideration.

The additional rates (see column titled “Additional” in the below table), being 5% higher than the standard rates, broadly apply for acquisitions of residential property where the buyer will own more than one residential property (anywhere in the world) as a result of the acquisition (where they are not replacing their main dwelling) or if the buyer is not an individual.

The non-resident rates (see column titled “non-resident” in the below table), being 2% higher than the standard rates, broadly apply where the buyer is a non- UK resident or is a UK resident entity that is controlled by non-residents.

Where the non-resident rates and the additional rates apply the rates will be 7% higher than the standard rates.

Acquisitions of residential property by non-individuals worth over £500,000 for non-business purposes are broadly subject to SDLT at a flat rate of 17% or 19% (19% if the buyer is a non-resident or controlled by non-residents).

BUYING FREEHOLD OR TAKING ASSIGNMENT OF LEASEHOLD

Residential property

Purchase Price (£)	Rate (applies to each band)			
	Standard	Additional	Non-resident	Non-resident and Additional
(0-39,999)	(Nil)	(Nil)	(Nil)	(Nil)
0-125,000	Nil	5%	2%	7%
125,001-250,000	2%	7%	4%	9%
250,001-925,000	5%	10%	7%	12%
925,001-1,500,000	10%	15%	12%	17%
1,500,000+	12%	17%	14%	19%
(500,000+)	(17%)	(17%)	(19%)	(19%)

Non-residential/ mixed property

Purchase Price (£)	Rate (applies to each band)
0-150,000	Nil
150,001-250,000	2%
250,001+	5%

TAKING A NEW LEASE

Non-residential/ mixed property

Net Present Value (£)	Rate (applies to each band)
0-150,000	Nil
150,001-5,000,000	1%
5,000,001+	2%

Residential property

Net Present Value (£)	Rate (applies to each band)	
	Standard	Non-resident
0-125,000	Nil	2%
125,001+	1%	3%

Value Added Tax

With a few exceptions (mainly for new developments) UK property is exempt from VAT (or charged at a rate of zero per cent), unless the owner has 'opted' to charge VAT.

Almost all transactions that attract VAT are charged at 20% of the purchase price or rent.

'OPTING' PROPERTY TO VAT

What is 'opting'?

You can generally 'opt' to charge VAT (known as "opting to tax" or "electing to waive the exemption") on rent, sales proceeds, and other returns from commercial property. Generally, you cannot 'opt' residential property.

'Opting' is personal to you. Just because the person you are buying from, or your landlord, has opted a property does not mean that you must do so but there may be advantages to doing so in certain situations.

Advantages

If you 'opt' your property and charge VAT, you can generally claim back from HMRC any VAT you incur on buying, operating and maintaining the property in the course of your business. This means that the VAT charged to you by third parties should not generally be a cost to your business. In the same way, as long as your tenants are charging their customers VAT, they should be able to claim back any VAT that they pay to you on their rent.

When acquiring commercial property that is subject to occupational lease(s) it may be a condition that you 'opt' to enable the seller to treat the sale as a transfer of a going concern and therefore not charge you VAT on your purchase of the property.

Disadvantages

If you 'opt' your property, you must register for VAT and charge VAT on rents and on sale of the property. If your tenants or buyer cannot claim back VAT, this will increase the cost to them so this needs to be carefully considered. Once you have 'opted' your property, you cannot change your mind except in very limited circumstances.

For the purposes of calculating SDLT, the consideration will include any amounts paid in respect of VAT.

TAX WHILE YOU OWN THE PROPERTY

Tax on income

You will pay UK tax (UK income tax or corporation tax) on your income profits. If you submit a tax return you should be allowed to claim deductions for expenses incurred 'wholly and exclusively' for the purposes of your business (such as costs of borrowing, management costs etc.). Various important restrictions may apply to the deduction of expenses, particularly costs of borrowing.

The current main rate of corporation tax is 25%, with lower rates, between 19% and 25%, applicable to companies with profits of under £250,000.

Following changes announced in the 2026 Autumn Budget, the income tax rates for property income received by individuals will increase from 6 April 2027 to 24% for basic rate taxpayers, 44% for higher rate taxpayers and 49% for additional rate taxpayers and certain trusts.

You cannot claim a deduction for capital expenditure on the property but you may be entitled to capital allowances. Capital allowances are generally available at an annual rate of 14% (reducing to 12% from April 2027) or 6% of the relevant expenditure, calculated on a reducing balance basis. For capital expenditure incurred on or after 1 April 2023, capital allowances at 100% (i.e. full expensing) or 50% are available. First year allowances may be available for expenditure incurred after 1 January 2026 at a rate of 40% (increasing to 50% for expenditure incurred on or after 1 January 2027).

Capital allowances are not generally available on residential property, but landlords of residential properties are entitled to relief on the capital cost of replacement furnishings, furniture household appliances and kitchenware, and fixtures in common areas (if, for example, the landlord owns an entire apartment building).

Non-Resident Landlord Scheme

If you are a landlord based outside the UK, tenants (or your UK agent) must deduct income tax from rent payments unless the landlord has approval to receive rent without deduction under the 'Non-Resident Landlord Scheme'. You should be given, and maintain, approval if your UK tax affairs are, and remain, up to date or this is the first time that you have been subject to UK tax. If you have approval, you must complete a UK tax return each year.

VAT

If you have 'opted' the property, then you will need to charge VAT on any rent you charge to tenants and account to HMRC for such VAT. This would be charged at a rate of 20% of the rent so that if the rent was £100, the VAT would be £20 and the total amount to be paid by the tenant would be £120.

Local taxes

Most property in the UK is subject to local tax payable to the municipal area in which the property is located (Council Tax for residential property and Business Rates for commercial property). Your tenants should pay any local taxes, but you will have to pay if the property is empty (subject to the availability of exemptions or reliefs).

A High Value Council Tax Surcharge is due to come into force from April 2028. This will apply to residential properties worth over £2 million and will be paid by the owner of the property rather than the tenant. The rates are expected to range from £2,500 to £7,500 per year.

Annual Tax on Enveloped Dwellings

If you own high value residential property worth £500,000 or more indirectly through "an entity" (for example a company) the Annual Tax on Enveloped Dwellings ("ATED") may apply.

The ATED rates are set out in the table below for the year from 1 April 2026 to 31 March 2027 and for the year from 1 April 2027 to 31 March 2028.

The rate is subject to increase each year at least in line with inflation. Properties must be re-valued every five years to determine the relevant charging band. Reliefs from the ATED apply to property held for certain commercial purposes (for example property investment and development) though relief may not apply if the owner makes personal use of the property.

1 April 2026 to 31 March 2027

PROPERTY VALUE (£)	ATED CHARGE (£)
Under 500,000	Nil
500,000 to 1 million	4,600
1–2 million	9,450
2–5 million	32,200
5–10 million	75,450
10–20 million	151,450
20 million+	303,450

1 April 2027 to 31 March 2028

PROPERTY VALUE (£)	ATED CHARGE (£)
Under 500,000	Nil
500,000 to 1 million	4,750
1–2 million	9,750
2–5 million	33,300
5–10 million	78,050
10–20 million	156,750
20 million+	314,050

TAX ON SELLING THE PROPERTY

Tax on capital gains

UK tax is chargeable on gains made on all disposals by non-UK residents of UK land and property.

Non-UK residents are also chargeable to UK tax on gains realised indirectly on disposals of "property rich" entities (e.g. shares in a company holding UK land) where such non-resident has at any time in the two years preceding the disposal held an interest of at least 25% in the relevant property rich entity or the "property rich" entity is a "collective investment vehicle" (or derives significant value from a "collective investment vehicle"). Broadly, an entity will be "property rich" if 75% or more of its assets consist of UK property.

The current rates of UK tax payable by non-residents on gains are the same as the general capital gains tax and corporation tax rates i.e. 25% for companies; 18% or 24% for individuals; and 24% for trustees. The same rates apply to disposals of residential property.

If you originally acquired your property by purchasing a company that owned it, you should note that the company may have exposure to UK tax on disposal of the property.

Detailed anti-avoidance rules apply in respect of certain disposals of UK property. Where they apply any gain realised is subject to income tax or corporation tax on income rather than capital gains tax or corporation tax on chargeable gains. These rules should be carefully considered on any disposal by a non-resident where the property has been developed or has not clearly been held solely for a long-term investment purpose.

These rules can also apply to disposals of shares or interests in entities, such as companies or trusts, holding UK property.

Stamp duty and SDLT

You will not generally pay stamp duty or SDLT when you sell your property. This obligation will fall on the buyer.

VAT

If you have 'opted' your property, you must charge VAT on a sale unless you sell it as a business as a going concern with occupational tenancies in place.

INHERITANCE TAX

On your death, your estate will be required to pay UK inheritance tax ("IHT") on the value of your UK property if the total value exceeds the nil-rate threshold (currently £325,000) and no other reliefs or exemptions apply. Indirectly held UK residential property (i.e. where it is owned by a non-UK company) is also subject to IHT, as are assets representing UK residential property (such as the creditor rights in a loan used directly or indirectly for the acquisition of a UK residential property interest by an individual, a partnership or the trustees of a trust. With effect from 6 April 2026, indirectly held UK agricultural property and certain loans to fund the purchase of such property have been brought within the scope of IHT.

In calculating the value of the UK property for IHT purposes, the amount of any mortgage on the property may, in certain circumstances, be taken into account to reduce the value.

For both direct and indirect ownership of UK property, you also need to consider IHT if you make a gift of it or hold in a trust. Exemptions from IHT may be available, depending on your individual circumstances.

COMMON TERMS

A

Alienation

Disposal of an interest in leasehold property

Assignment (assign)

The transfer of a lease

C

Charge (mortgage)

The creation of a security interest over land in favour of a lender

Completion (closing or financial close)

When the seller formally transfers legal ownership to the buyer and the main part of the price is paid

Covenant

An agreement to do something, or to refrain from doing something, which is meant to be binding on the party giving the covenant

D

Dilapidations

Work required to be undertaken by a tenant at the end of its lease to put the property into good condition

E

Easement

A right benefiting a piece of land, such as a right of way, that is enjoyed over land owned by someone else

Exchange

The exchange of agreed, signed contracts – the transaction between the seller and the buyer is then legally binding

F

Forfeiture

A landlord's remedy in the event of the tenant's default – the landlord re-enters the premises and brings the lease to an end

Freehold

Considered to be absolute ownership of the land that lasts forever

L

Land Registry

The Government office that is responsible for maintaining the Land Register, which details all information relating to a particular piece of land, essential in passing title in that land

Landlord

The person granting a lease or tenancy, to whom the rent or premium will be paid by the tenant

Lease

A right to exclusive possession of land and/or buildings for a limited period

Leasehold

A right to use and possess the land for a specified period of time (the term of the lease)

Long lease (investment lease)

A lease with a long term (usually 99 years or more)

O

Occupational lease

A lease with a shorter term (usually 25 years or less)

P

Planning consent/ planning permission

Consent (usually from the local government body for the relevant district) to carry out works or to change the use of a property

R

Rent review

A process which occurs at regular intervals during a lease intended to ensure that the rent payable reflects the true value of the property from time to time

S

Searches

Formal questions raised with local and other government bodies and utility companies about the property, usually as part of investigations before a purchase, lease or charge

Security of tenure

A statutory right for a tenant to remain in occupation following the expiry of a lease and, except in certain specified cases, to require the landlord to grant the tenant a new lease of the same premises

Service charge

An amount payable by a tenant in respect of repairs, maintenance and other services provided by the landlord in a multi-let building

T

Tenancy

Usually has the same meaning as 'lease' – see above

Tenant

The person to whom a lease or tenancy is granted, and who pays the rent or premium to the landlord

Term

The period for which a lease or tenancy is granted

U

Underletting

The grant of a lease out of a leasehold property

WHY CHOOSE STEPHENSON HARWOOD?

At Stephenson Harwood, we provide a high level of legal insight, commercial sense and quality. We are highly respected within our profession.

Our real estate and tax teams have a reputation for offering pragmatic and commercially – focused advice on all manner of commercial and residential transactions. Our clients include major property companies, institutional investors, hotel groups, public sector organisations and corporate occupiers, some of whom have been clients of the firm for decades. Our commitment is to build these kind of strong business relationships, so that we can act as a trusted adviser to our clients on property matters and help them achieve their goals.

Through our extensive international network of offices and affiliates we advise our clients on real estate investments both throughout the UK and across a wide range of jurisdictions. We advise on investment acquisitions and disposals, development projects, sale and leasebacks and other real estate structures as well as the more routine landlord and tenant matters such as relocation and lettings.

For more information on our real estate experience and team, please visit our website stephensonharwood.com or speak to one of our team.

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