AUDIT • TAX • ADVISORY

Guide to Investing in the UK

2023

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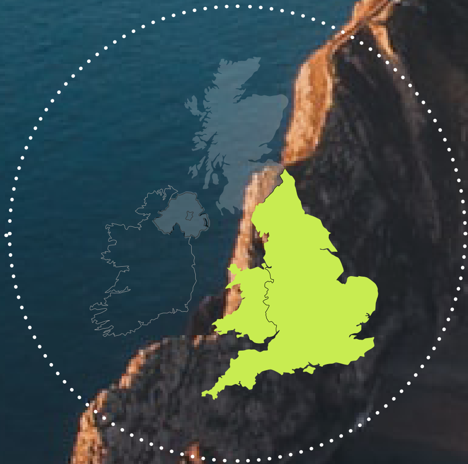
1176
Staff

107
Partners

18
Offices nationwide

£118
Million turnover

MHA



Baker Tilly International

38,600
Staff

$4.36bn
2021 worldwide revenue (US$)

706
Offices

148
Territories

Property Investment in the UK

This guide touches on some key areas that need to be considered when embarking on a project to own property in the UK.

Whilst the UK consists of England, Scotland, Wales and Northern Ireland, each territory (particularly Scotland) has devolved powers regarding legal charges over land and taxation. This guide has been prepared for investment in England but will highlight areas where some rules may differ. If you require more information about investment outside of England, please contact your local MHA office for further information.

Although the UK property sector has had its challenges recently with interest rate increases, inflated material costs and skills shortages, UK real estate remains a solid long-term investment.

Real Estate Interest

There are two ways which you can purchase an interest in land in the UK, either by purchasing a freehold or by purchasing a leasehold. Making sure you know what you have purchased will be a conversation you need to have with your professional adviser. Different rights over land can apply in Scotland.

What is Freehold?

The most common form of absolute ownership is by purchasing the freehold of the property. Whilst this is usually possible when purchasing houses in the UK, if you are making an investment in an apartment building, it is common that the freehold is owned by a third party and you will only be purchasing a leasehold interest. When purchasing a freehold interest, what you are purchasing includes in many instances, the rights and boundaries that are contained in a title deed which is filed with the UK Land Registry. This will also contain ownership details about the purchaser which is held onpublic record in the UK.

What is Leasehold?

A leasehold interest is where you purchase the property for a specified period, after which it reverts back to the freeholder. The length of time will be detailed in the lease document and can be as long as 999 years or as short as a few months. When purchasing an apartment, common leaseholds last for between 99 and 150 years from when the freeholder first leased out the property and you will usually only take on the remaining balance. Extending the leasehold often costs money depending on the length of the remaining lease.

1

Freehold

Advantages:

- As buyer you will be the real owner.
- The rights, title, interest and ownership will transfer to you.
- You can choose what to do with the property, including renting it out.

Disadvantages:

- You are fully responsible for all repairs, maintenance and upkeep.

2

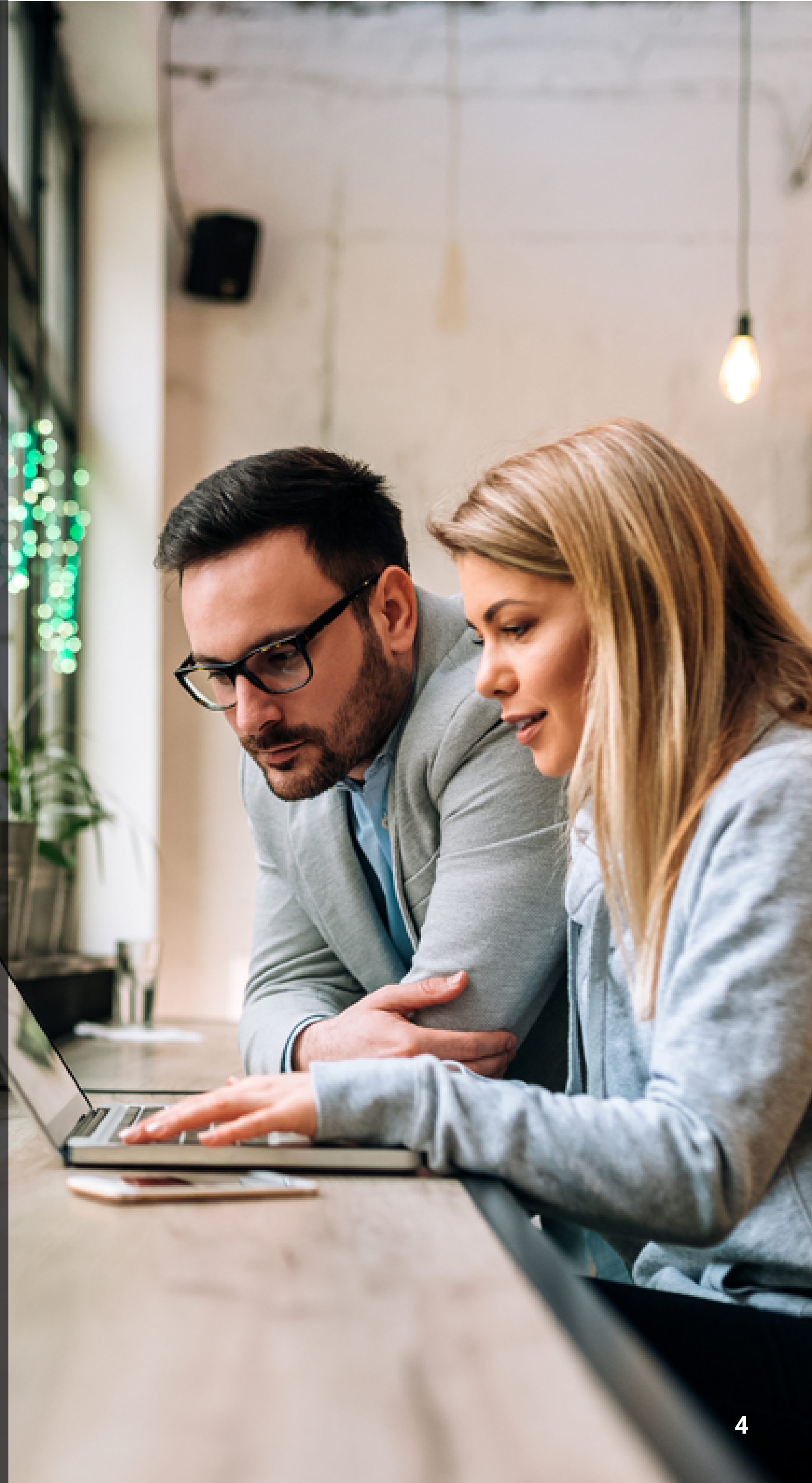
Leasehold

Advantages:

- You do not have to arrange things like buildings insurance, building repairs and maintenance for the communal areas.

Disadvantages:

- Absolute ownership rests with the lessor.
- Annual ground rent and maintenance charges are normally due (NB: TThe Leasehold Reform (Ground Rent) Act 2022 was enacted on 30 June 2022. This Act abolished ground rents on all new leases in England and WalesNB).
- In order to rent out your leasehold property, permission may be required from the lessor.



Process of Purchasing a Property

When purchasing a property in the UK, you will need to use a solicitor or conveyancer to finalise the purchase.

In addition to the legal costs, there are also other costs that need to be considered:

- Any valuation or (building) survey fees (this will be a requirement if you are getting any banking finance);
- Costs of searches and enquiries (these are checks to ensure that the property is not burdened by any obligations or limitations);
- Land registration fees;
- Stamp Duty and VAT (discussed in more detail later in the guide).

The offer process is often dealt with through an intermediary, such as an estate agent. Once an offer is agreed, valuations and searches are usually undertaken and if necessary, an agreement in principle can be agreed with a bank as to the availability of funds.

Once these steps have been completed, the buyer and sellers solicitors (or conveyancers) will exchange contracts and a deposit will be paid. There will also be an agreed date as to when completion will occur. At the completion date, the balance will be paid and the legal title of the property will be transferred and registered at the UK Land Registry.

Until you have exchanged contracts, you are not securein becoming the owners of the property. We can recommend trusted solicitors who can help you complete all the legal obligations associated with making your property investment.

Banking

If bank finance is required, this can often be the biggest delay to your investment, so testing the waters may be sensible to see how much finance will be available given your circumstances and the amount of any initial investment you are making.

Our dedicated in-house Banking and Finance team can unlock funds and give expert advice and the right lending solutions available to you.

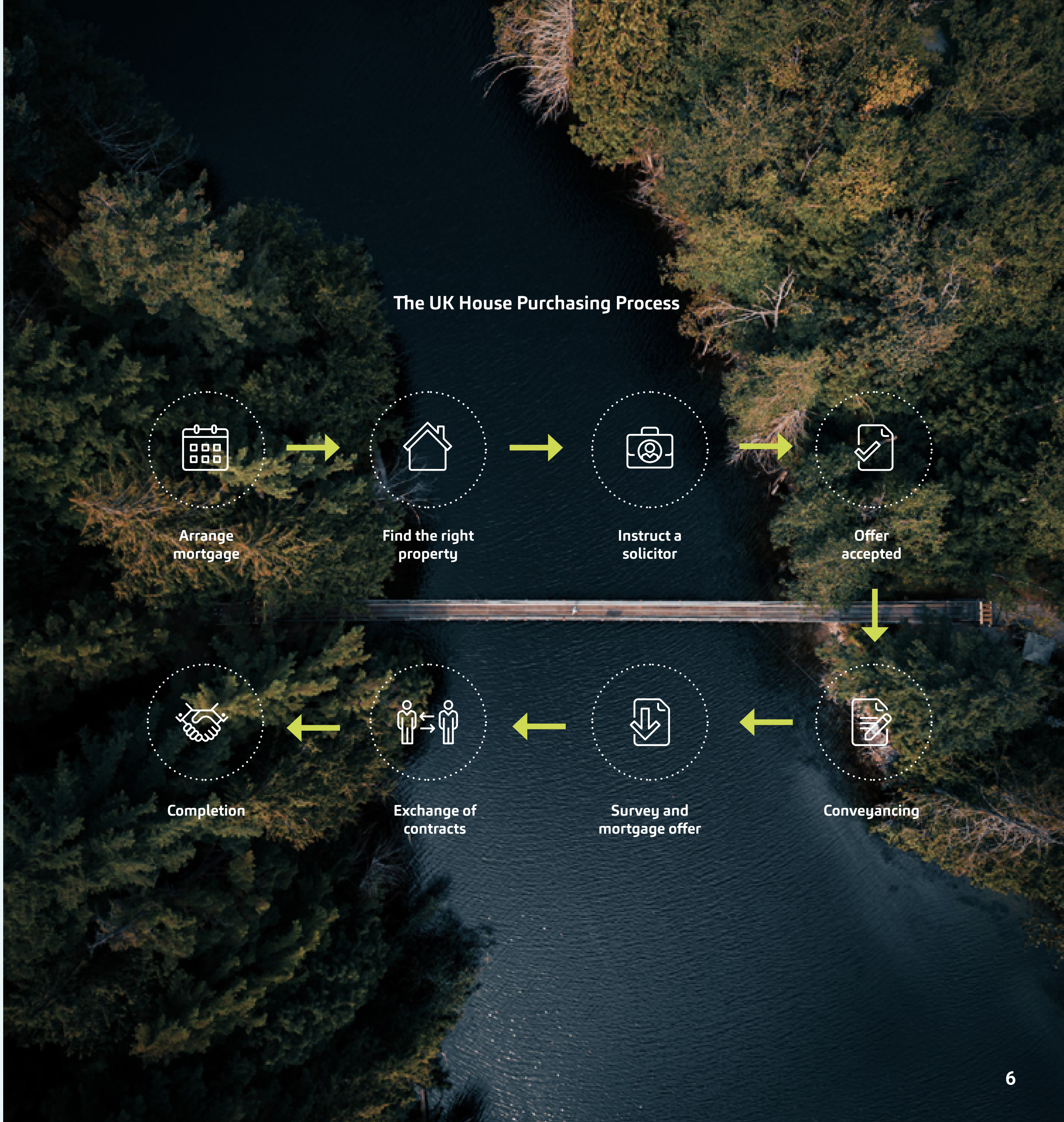
Structure

One of the main attractions to operating in the UK is the ease of choosing a structure that is right for the investor and the ability to quickly set it up.

The choice of structure is very much dependent on the individual's needs and will often be part of the overall investment plan.

Property in the UK can be owned; personally, in partnership, in a limited company in the UK, as well as in a company outside of the UK, in a UK trust or in an offshore trust.

We go through various tax points on the following pages which relate to the UK structure options.



Tax

Tax on Property Income

A foreign property owner, whether an individual, trust or company has to pay UK tax on rental income earned from properties in the UK.

The rate of income tax that Individuals will pay will depend upon the level of rental profits earned in any particular tax year. The rates of income tax will vary from 20% to 45%.

Income Tax Rates

Income after allowances	Rate of Income Tax
Up to £37,700	20%
From £37,701 to £125,140	40%
From £125,141	45%

Trusts pay income tax at the full rate of 45% which is the general rate applicable in the UK to trusts.

The basic rate of tax (20%) will usually be deducted by the letting agent at source and paid quarterly to HMRC. Landlords will then have to file a tax return to finalise their tax positions at year end.

A foreign landlord subject to income tax can also apply to HMRC to have the full amount paid to them. HMRC will allow this if the taxpayer is up to date with their affairs and they don't have any worries about the collection of tax.

Foreign companies will have the rental profits subjected to UK corporation tax. They will need to register with HMRC for corporation tax and file annual corporation tax returns. The standard rate of corporation tax in the UK is 25%.

Foreign companies will be treated in the same way as UK resident companies and therefore will be subject to the same rules concerning transfer pricing, corporate interest restriction, loss restriction and hybrid entities. These rules might affect the tax deductibility of finance costs of borrowing required to invest in UK Property.

Relief for cost of borrowing

When calculating the property rental profits that are subject to tax, relief is available for annual costs associated with operating the business, such as letting agents' fees or annual maintenance and repairs costs.

Individuals who own will not be able to obtain full mortgage interest relief when calculating their taxable profits. Instead a 20% tax credit will be available to set against income tax payable on your property rental business. Therefore, If the taxpayer only pays tax at 20%, they will get full relief, but if they pay tax at 40% or 45%, then the maximum relief they can get for the interest will be limited to 20%.   As a result, those who hold a heavily geared portfolio could be subject to a post- tax loss. Currently, companies owning residential properties are entitled to the full amount of mortgage interest relief however, they could be subject to a restriction under the corporate interest restriction or hybrid entities rules.

Annual Tax on Enveloped Dwellings

If you own a UK residential property in a company (regardless of whether that company is, or is not UK resident) with a value in excess of £500,000, the company will have to comply with the Annual Tax on Enveloped Dwellings (ATED) rules. If the purchase is purely for investment purposes, then reliefs should apply from any tax charges, but there are still annual returns to deal with and penalties for late returns. If the investor or a close family member wishes to live in the property, a structure outside of a limited company should be sought as there are annual tax charges as illustrated opposite, as well as 15% Stamp Duty Land Tax (SDLT) to pay on purchase irrespective of purchase price.

Properties held by companies are valued every 5 years for ATED purposes. The last valuation date 1 April 2022. However, if a company acquired a property after 1 April 2022 you need to use the value at the acquisition date.

Property Value at 1 April 2022 (or acquisition date if later)	Annual Chargeable Amounts (2022-24 Chargeable Period)
£500,001 to £1m	£4,150
£1,000,001 to £2m	£8,450
£2,000,001 to £5m	£28,605
£5,000,001 to £10m	£67,050
£10,000,001 to £20m	£134,550
£20,000,0001 and over	£269,450

Tax

Stamp Duty Land Tax

Stamp Duty Land Tax (SDLT) is a tax on land transactions in the England and Northern Ireland. Wales and Scotland have their own regimes which operate in a very similar way. The SDLT return is completed by the solicitor and payment is usually made at the same time.

The rate of SDLT you pay will depend on whether the property purchased is Residential Property, Commercial Property or Mixed Use.

Note that there is an additional 3% SDLT chargeable if you own more than one residential property, or where the purchase is being made by a company. A further 2% charge applies on top of all of the other residential rates (including the 3% higher rate surcharge) if Residential Property is being purchased by non-UK residents.

Reliefs are available where multiple dwellings are purchased at the same time or whether the purchaser is a first-time buyer. The rules are complex and advice should be sought:

SDLT on new leasehold sales and transfers

When you buy a new residential leasehold property SDLT is paid on the purchase price of the lease (the 'lease premium') using the rates quoted on the previous page. If the total rent over the life of the lease (the 'net present value') is more than the SDLT threshold (currently £250,000), you will pay SDLT at 1% on the portion over £250,000.

This does not apply to existing ('assigned') leases.

In Scotland, SDLT does not apply, but there is a similar tax called Land and Buildings Transaction Tax (LBTT). Wales also has its own regime for stamp taxes on land and property transactions, called Land Transaction Tax (LTT). The rules regarding LBTT & LTT broadly follow those for SDLT, but the rates of tax and bandings are different.

Stamp Duty Land Tax for residential property

Property Value	SDLT Rate (Residential Property)
Up to £250,000	Zero
The next £675,000 (the portion from £250,001 to £925,000)	5%
The next £575,000 (the portion from £925,001 to £1.5m)	10%
The remaining amount (the portion above £1.5m)	12%

Stamp Duty Land Tax for commercial, or mixed use property

Property Value	SDLT Rate (Commercial or mixed use)
Up to £150,000	Zero
The next £100,000 (the portion from £150,001 to £250,000)	2%
The remaining amount (the portion above £250,000)	5%

VAT

If the purchase relates to commercial properties, such as an office block or retail units, care needs to be taken to establish the VAT position of the property.

Depending on how the seller has dealt with the property, the price may include VAT. VAT advice should always be sought when purchasing commercial property.

There is no VAT applied to the sale of the residential property, whether it is new or being passed to a subsequent owner.

Tax

Council Tax

Council tax is payable to the local authority throughout the period of ownership. The level of tax is dependent on the local authority and the value of the property.

You can check the relevant Council Tax band online at: www.gov.uk/council-tax-bands

Capital Gains Tax

Capital Gains Tax (CGT) on UK residential property has applied to non-UK residents disposing of UK residential property since 2015 and on commercial property since April 2019.

The tax levied on gains arising on disposals of residential property after 5 April 2015 is charged at 18% for basic rate taxpayers and 28% for higher and additional rate taxpayers. The applicable rate is determined by the individuals UK income level for the relevant tax year. From April 2019, non-resident companies are required to pay Corporation Tax as opposed to CGT.

Non-residents who own shares in a foreign property owing company might be subject to CGT on an 'indirect property disposal' should they sell their shares.

Inheritance Tax

There have been sweeping changes regarding the way UK residential property is taxed if owned by a non-domiciled individual. Whether owned personally or through an offshore structure, this will now be relevant property for UK inheritance tax purposes and tax rates can be as high as 40%. A review of your circumstances should be undertaken if you own property either personally or in trust, which historically would have been outside the UK Inheritance Tax (IHT) rules.

Commercial Property and Relief for Capital Expenditure

If you own commercial properties, you can claim capital allowances on fixtures and fittings within the property. On purchase of the property in the UK, the buyer and seller must enter into a 'Section 198' election to agree the value of any fixtures and fittings for capital allowances contained within the building. Specialist advice should be obtained prior to entering into any agreements to make sure you benefit from the value of any assets.

Previously allowances were only for fixtures and fittings that satisfied the conditions to qualify as plant and machinery or integral features. However, where expenditure has been incurred on a commercial building from 29 October 2018 that expenditure will qualify for Structures and Buildings Allowance (SBA). The current rate of SBA is 3% which allows he cost of a building to be written off over 33 and 1/3 years.

Any subsequent additions to the premises may also be allowable for capital allowances and we can advise on these aspects as appropriate.

Freeports

UK Freeports are geographically-defined areas which derive additional customs and tax reliefs for investors. They were announced soon after the UK's withdrawal from the EU to stimulate trade and investment. 8 English freeports have been announced, 2 in Wales and 2 in Scotland.

This who invest in a free port might benefit from the following reliefs as a result:

- 100% first year allowances on qualifying expenditure on plant and machinery assets incurred before 30 September 2026.
- Enhanced SBA at an annual rate 10% resulting on full relief on newly occupied business premises or on expenditure incurred on expanding existing premises being available after 10 years in respect of expenditure incurred before 30 September 2026.
- Potential 100% relief from SDLT.
- Full relief from Business Rates
- Simplified Customs arrangements

Real Estate Investments Trusts (REITS) and Real Estate Funds

The decision might be made to make an investment through a diversely held investment vehicle such as a REIT or a Real Estate Fund.

A REIT is a property investment company which has a property rental business constituting at least 75% of its business activity.   There are other conditions which need to be satisfied one of which is that at least 90% of its property profits need to be distributed to its investors as dividends.

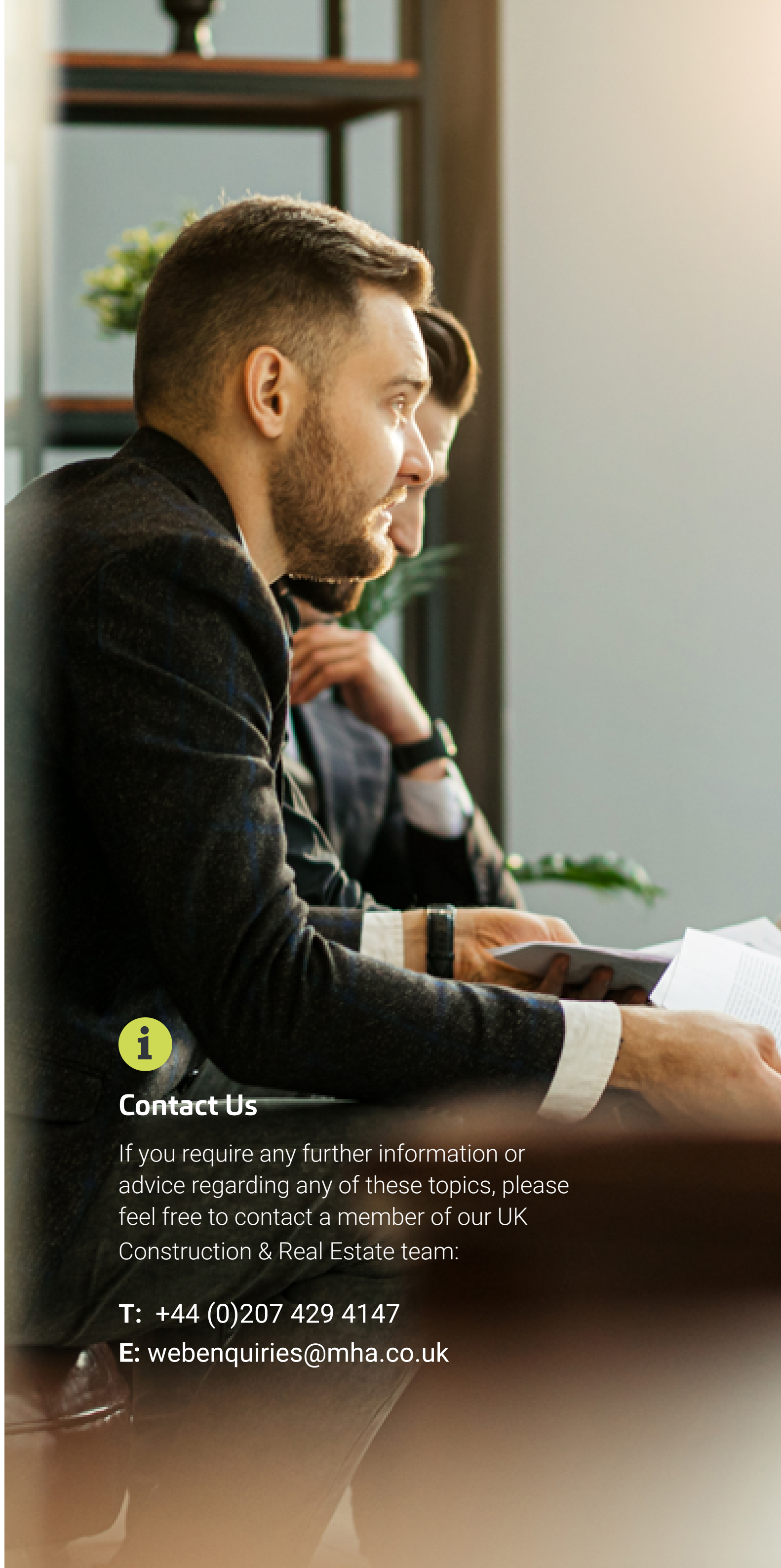
The rental income derived from the properties is exempt from UK corporation tax as are capital gains on the disposal of rental properties.

The capital gains exemption also extends to the disposal of an interest that the REIT has in property rich companies. A property rich company is broadly defined as being one where at least 75% of its value is derived 75% of their value from UK land.

The dividends paid by a UK REIT from profits and gains of the property rental business are treated for UK tax purposes as income of a UK property business in the hands of the shareholders and are subject to income tax or corporation tax. Such dividends are referred to as Property Income Distributions (PID).

Non-UK resident shareholders who are resident in a country which has a tax treaty with the UK are still treated as receiving property income under UK law. However, the distributions are treated as being dividends for the purposes of the application of double tax treaties. Therefore, any treaty reliefs will be ascertained by reference to the dividend article of the relevant treaty.

REITS are traded in the same way as any other share on the stock market. The ain benefit of a REIT lies with its favourable tax position. Anyone holdings shares in a REIT will effectively avoid double taxation.



Contact Us

If you require any further information or advice regarding any of these topics, please feel free to contact a member of our UK Construction & Real Estate team:

T: +44 (0)207 429 4147
E: webenquiries@mha.co.uk

mha.co.uk

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