

Collection of Tax on Rental Income of Non-Resident Landlords

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Amendment 28 to the Income Tax (Jersey) Law 1961 ("the Income Tax Law") (effective from 1 January 2009) imposed various duties on agents acting for landlords of Jersey properties who are not resident in the Island and on the tenants who occupy those properties.

Essentially, agents and tenants must withhold Jersey income tax at the standard rate of 20% from rentals paid and pay the tax to the Comptroller of Taxes. This does not apply if the non-resident landlord holds a certificate from the Comptroller of Taxes.

What do I need to know as a non-resident landlord?

These provisions do not impose any duties on non-resident landlords, so there is no requirement to do anything. However, a non-resident landlord may apply to the Comptroller for a good compliance certificate in respect of properties in Jersey, for rent to be paid without deduction of tax.

Applications for a certificate may be made at any time.

When will the Comptroller grant a certificate?

The Comptroller may grant a certificate if it is satisfied:

- That the rent in respect of the property is exempt from tax under the exemptions in Article 115 of the Income Tax Law (although please note that the exemption in favour of UK and Guernsey superannuation funds has now been removed from paragraphs (g) and (ga) of Article 115); or
- That the non-resident landlord has consistently complied with the requirements of the Income Tax Law in full and without delay.

Can the certificate be revoked?

The Comptroller may cancel a certificate at any time, either when he is no longer satisfied as to the above conditions or if the conditions attached to the certificate have not been complied with by the non-resident landlord.

What if the tenant or agent fails to remit the tax to the Comptroller?

If the non-resident landlord proves to the satisfaction of the Comptroller that a deduction has been made from rent then that deduction will be treated as a payment of tax by the landlord notwithstanding that the tenant or agent has failed to remit the monies to the Comptroller.

Under the new provisions the tenant or agent will be found guilty of an offence where this happens.

What do I need to know as an agent?

Any person who is an agent for a non-resident landlord must register with the Comptroller within 30 days of becoming an agent for a non-resident landlord.

What information does the Comptroller require for registration?

Agents will need to provide the Comptroller with their name and address and, in respect of each non-resident landlord for whom it is the agent:

- The non-resident landlord's name and address;
- The address of the property;
- The name and address of the tenant of the property;
- The amount of rent and other receipts payable in respect of the property; and
- Whether or not the non-resident landlord has produced a certificate in respect of the property.

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When must a tax deduction be made?

A tax deduction at the standard rate of 20% must be made from the net rent unless:

- The non-resident landlord has produced a certificate in respect of the property; and
- The agent is satisfied that the certificate is in force at the time that the rent is received.

The agent must maintain a record of any deductions made for tax purposes.

The agent must, within the period of 30 days after the end of each quarter, remit to the Comptroller an amount equal to the aggregate of all monies deducted and retained by the agent for tax purposes in that quarter.

What is the 'net rent'?

This is the rent received after deduction of any fee charged by the agent in respect of his services as agent of the property as well as any expenses legitimately incurred by the agent, on behalf of the non-resident landlord, in the management of the property.

Are there any other provisions that agents should be aware of?

There is a requirement on agents to make both quarterly and annual returns within 30 days of the end of each quarter and no later than 31st March respectively.

Are there penalties for failure to comply with these provisions?

Yes. These provisions create a number of offences for failure to comply, so compliance is essential.

What do I need to know as a tenant?

If rent is not received by an agent then the tenant has essentially the same obligations (and is subject to the same sanctions for failure to comply) as the agent would have, had an agent been appointed.

However, this only applies if the level of rental is more than £25,000 per annum.

If you have any queries or concerns or would like to take advice in relation to any of the above information, please contact the Property Team at Mourant Ozannes.

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