

Non Resident Landlord Schemes - Withholding Tax on Rent

Tenants of Jersey property or Jersey agents who collect rent on behalf of a non resident landlord are prima facia obliged to withhold Jersey tax at 20% from rents paid to non resident landlords.

Amendment No. 28 to the Income Tax Law puts an obligation on the tenant/agent to make quarterly returns and also pay the withheld tax, introducing a form of non-resident landlord scheme broadly similar to that in place in the U.K.

Non resident landlords can apply to the Comptroller of Taxes for a certificate which means that they receive rental payments gross. To successfully apply for the certificate the non resident landlord will have to demonstrate that he "has consistently complied with the requirements of the Law in full and without delay". From discussions we have had with the Jersey Income Tax Department in line with the principles that are applied in the U.K. where this is assumed in respect of a new non-resident landlord that does not have a proven "track record", the Comptroller of Income Tax in Jersey will apply similar principles and will permit tax to be paid gross during such time as the non resident landlord complies with the provisions of the Jersey Tax Law. If he fails to do so then the Comptroller will revoke the certificate and require tax to be withheld by the tenant or agent and paid to the Comptroller.

Any person who becomes an agent for a non resident landlord must register with the Comptroller of Tax and within 30 days of that date.

The agent needs to provide to the Comptroller the agent's name and address and in respect of each non resident landlord of which he or she is agent he must also supply the non resident's name and address, the address of the property owned by the non resident landlord, the name and address of the tenant, the amount of rent and other receipts payable in respect of the property and whether or not the non resident has produced a certificate in respect of the property.

Where there is no exemption certificate the agent must deduct tax at 20% and pay same to the Comptroller within thirty days after the end of each quarter.

If there is no agent then the tenant has the same obligations but only in respect of rent that is greater than £25,000 per annum.

Either an agent or a tenant has to make an annual return to the Comptroller of Income Tax no later than 31 March in respect of each non resident to whom rent has been paid during the previous year.

These provisions do not apply to a charity, pension fund or other person or entity exempt from paying Jersey Income Tax under Article 115 of the Jersey Income Tax Law.

The information and expressions of opinion contained in this guide are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

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