



Safeguarding your money

LANDLORD AND TENANT GUIDE

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It is vital that landlords know they are placing their trust in professional letting agents and that their money is safe. This leaflet outlines some of the financial requirements and obligations required for landlords and letting agents.

STAMP DUTY LAND TAX (SDLT)

Since 1 April 2016 anyone purchasing an additional residential property (that is not their only or main residence) for £40,000 or more must pay an extra 3% stamp duty above the current Stamp Duty Land Tax (SDLT) residential rates.

In certain circumstances tenants could have an obligation to pay SDLT when renting a property. If this is the case the tenant is responsible for sending relevant forms to HMRC.

Where the Net Present Value (NPV) of the rent is more than the residential property SDLT threshold of £125,000 the tenant has to pay SDLT on the rent. They should calculate the tax at a flat rate of 1% on the amount of the NPV that exceeds the SDLT threshold.

For instance, if the annual rent is £150,000 then the amount of the NPV over the £125,000 threshold is £25,000. SDLT has to be paid on £25,000 at a rate of 1% (£250).

The NPV calculation is based on the total rent due each year over the term of the tenancy. So for tenancies granted over several years it will be necessary to split the rental up into yearly amounts before applying the NPV calculation. The NPV adjusted rents in each year are then added together to give the total NPV adjusted rental value.

In November 2017 at the Autumn Budget the Government announced that all first-time buyers will now be exempt from stamp duty on the first £300,000 of homes worth up to £500,000.



WEAR & TEAR ALLOWANCE

Since April 2016 the Wear and Tear Allowance for fully furnished properties was replaced with a relief that enables all landlords of residential houses to deduct the costs they actually incur on replacing furnishings, appliances and kitchenware in the property.

The relief given will be for the cost of a like-for-like, or nearest modern equivalent, plus any costs incurred in disposing of the old item, or less any proceeds received from the asset being replaced.

CMP (CLIENT MONEY PROTECTION)

Letting agents who are members of ARLA Propertymark protect tenants and landlords through Client Money Protection (CMP). This ensures that funds are held in a designated account and in the event of a letting agency going bust or misappropriating funds, Propertymark will reimburse any money lost.

PROFESSIONAL INDEMNITY INSURANCE

All letting agents who are members of ARLA Propertymark must have Professional Indemnity insurance.

This can provide financial recompense for landlords and tenants should an agent be negligent or breach any statutory duties to their clients.

FEES & CHARGES

Since 27 May 2015 all letting agents in England must publicise their fees. Letting agents must openly display a list of all fees, charges or penalties which may be incurred by a landlord or tenant.

Fees should be displayed including Value Added Tax (VAT). Agents must display fees at each of their premises and on their websites.

ALLOWABLE COSTS

All landlords with residential property inside or outside the UK are allowed to claim relief for finance costs (e.g. mortgage interest) incurred on the property they let. Tax relief is available at 40% and 45% for landlords paying tax at the higher and additional tax rates. This tax relief will be restricted to the basic rate of income tax (20%) from April 2020 and phased in gradually from 6 April 2017.

NON-RESIDENT LANDLORDS

Determining whether a landlord falls within the HMRC non-resident tax scheme is based on where the landlord's 'usual place of abode' is. For an individual, an annual absence from the UK of six months or more is normally regarded as meaning that the usual place of abode is outside the UK and thus the relevant tax regime applies to the landlord.

Letting agents are required by law to retain basic rate tax from the rental income received from properties owned

by non-resident landlords. This retention must be made unless HMRC issue the relevant documentation to the agent relating to the non-resident landlord. This absolves the agent from the requirement to deduct tax from the individual landlord's income.

In some cases, where a tenant is paying rent directly to a non-resident landlord, the tenant may have to take this responsibility and may have to retain the tax from their rent.

CONSUMER REDRESS SCHEME

Since 1 October 2014 it has been a legal requirement for all letting agents in England to belong to one of the three government-approved redress schemes.

These are:

- Ombudsman Services: Property
- The Property Ombudsman
- Property Redress Scheme

In February 2018, Ombudsman Services: Property announced that it will withdraw from complaints handling in the property sector.



DEPOSIT PROTECTION

If the property is let on an Assured Shorthold Tenancy which started on or after 6 April 2007 the landlord must put the tenant's deposit in one of the three government-authorised Tenancy Deposit Protection (TDP) schemes:

- Deposit Protection Service (DPS)
- MyDeposits
- Tenancy Deposit Scheme (TDS)

A landlord or letting agent must put a tenant's deposit into the scheme within 30 days of receiving it. The landlord must return the deposit within 10 days of agreeing with the tenant how much they will get back at the end of the tenancy. If a tenant has a dispute with their landlord, then the TDP scheme will adjudicate the dispute and allocate the amount of the deposit to be returned to the landlord and tenant based on their findings.

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USEFUL CONTACTS

Citizens Advice 03444 111 444

Money Advice Service 0800 138 7777

MORE INFORMATION

ARLA Propertymark tenant guides
propertymark.co.uk/tenants

Find a Solicitor solicitors.lawsociety.org.uk

HM Revenue and Customs hmrc.gov.uk

SOURCES, PUBLICATIONS AND LEGISLATION

- Consumer Rights Act 2015
- Deregulation Act 2015
- Enterprise and Regulatory Reform Act 2013
- Finance Act 2003
- Finance (No.2) Act 2015
- Housing Act 2004
- How to Rent Guide
- Landlord and Tenant Act 1987
- The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014
- Unfair Terms in Consumer Contracts Regulations 1999

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DISCLAIMER

These notes attempt to summarise complex legal issues but have been written in plain English. Details of where to obtain full copies of relevant legislation have been provided.

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