



# BUYERS GUIDE TO PURCHASING BRAND NEW OFF PLAN PROPERTY IN **England & Wales**

Purchasing investment grade residential property off the plan in England & Wales should be a straightforward process. To help bring some clarity to this often complex and confusing area, here's your buyer's guide to investing there.



# **Buyers Guide to Purchasing Brand New Off Plan Property in England & Wales**





Purchasing investment grade residential property off the plan either in your country or internationally, can be a complex process. There are many nuances between different countries in the terminology used, the process for purchase and the different market conventions which are adopted.

Our experience is that market information is difficult to obtain and, in many situations, can be misleading. There is a lot of information available on-line, not all of it accurate, not all of it informative. It is also difficult to find reference documents for multiple jurisdictions all in one place.

Anyone investing in real estate should of course seek guidance from a professional tax accountant and lawyer operating in the same jurisdiction as the property. However, our Buyer Guides are designed to be a straightforward easy to follow reference to help understand the purchasing process. Read in conjunction with our County Guides give investors an understanding of the market why we believe there is an opportunity to invest and a basic understanding of the process.

To help bring some clarity to the process we have developed a series of Buyer Guides to help investors navigate the process. At Du Val PropTech, our aim is to democratise residential real estate investment.

At Du Val PropTech we publish Buyer and Country Guides on Australia, New Zealand, and the United Kingdom. If you are a member of Du Val PropTech, your personal Portfolio Manager is available to personally guide you through each of these core markets in detail, but you may find our guides a useful tool to refer back to.

For those new to investing or who haven't yet signed up to Du Val PropTech [www.duvalproptech.com](http://www.duvalproptech.com), please take a look at our members only investment platform. At our website we provide real time market research, investment and portfolio analysis tools as well as our unique Du Val Dynamic Pricing tool which allows investors confidence to invest with the power of an institutional investor, by achieving economies of scale.





# Restrictions On Property Ownership



There are no restrictions on foreign investors buying property in the United Kingdom. However, there are specific differences between the purchase process and taxes in each of the different four countries in the United Kingdom (England, Northern Ireland, Scotland, and Wales). This Buyer Guide is focused on the countries of England and Wales which share the same taxes and real estate market rules.

The majority of large developers in the UK have committed to market London developments domestically before any global sales and marketing campaign can take place. However, as the majority of purchasers in the UK are owner occupiers, the reality is most do not commit to purchase until much closer to completion. As such, the reality is that this early domestic marketing is more to tick a box rather than achieve significant volume of early sales.

## Requirements

All purchasers, both domestic and foreign must satisfy are Anti Money Laundering (AML) Checks. Under the Money Laundering Regulations 2017, as part of the customer due diligence measures, those individuals purchasing property must be identified by obtaining the given and family name, date of birth and residential address as a minimum. The

identity evidence must have been issued by a recognised body, for example a Government department, that has secured identity proofing measures with the customer's full name and photo, with a customer's date of birth or residential address such as a valid passport, driving licence or a national identity card.

Due diligence checks are carried out on all purchasers and beneficial owners and are required to establish whether there are any beneficial owners on whose behalf the transaction or activity is taking place. The source or destination of funds will also be requested.

Under UK law, it is not only the purchaser's solicitor who must carry out AML (Anti Money Laundering checks) but also the property agent selling the property, who must conduct these checks at the point when an offer to purchase a property is accepted. In many circumstances this will be carried out by a third party on behalf of the property agent.

# VISA'S

The UK does not offer citizenship or residency through the purchase of property. However, the UK encourages inward investment and has investor Visa for those wishing to reside in the UK. This program is known as the Tier 1 (Investor) Visa, details are set out below.

## Tier 1 Investor Visa

The Tier 1 (Investor) visa scheme is designed for individuals looking to relocate to the UK from outside the European Economic Area (EEA) and Switzerland. These individuals must have access to a minimum of £2 million in investment funds in order to apply and meet the other eligibility requirements.

Investors must have money of their own, under their own control, held in a regulated financial institution and is disposable in the UK not less than £2 million, and the funds must be held as either cash in the bank or investments. However, this money cannot include the value of any property or real estate, or an estimate of the money that will become available when the property and real estate is sold.

Under a government scheme introduced on 6 November 2014, applicants are not able to rely on the purchase of property to satisfy the investment requirement necessary to apply for a Tier 1 (Investor) visa. Successful applicants can come to the UK to work or study for a maximum period of 3 years and 4 months and may extend their visa for a further 2 years, and can apply to settle within the country after 2, 3 or 5 years if they invest £10 million, £5 million or £2 million respectively.

## British National (Overseas) Visa

In July 2021 the UK government announced a new immigration route for Hong Kong British Nationals (Overseas), enabling them to live in the UK with their immediate dependents. The applications process will open in July 2021.

There are various requirements that need to be met in order to obtain a BN(O) Visa including the ability to demonstrate that applicants can accommodate and support themselves in the UK for at least six months.



# Forms Of Property Tenure



Property can be held in a variety of different forms of tenure in the UK, the common forms are set out below.

## Freehold

The majority of residential properties (i.e. houses) in the UK are freehold. The owner of a freehold property owns both the property and the land on which the property stands and is responsible for its maintenance and repair. The owner may do what they wish on the parcel of land they own and within the property as long as it is in accordance with legal requirements.

## Leasehold

If the property is leasehold the purchaser owns the property for a set period of time only. Most apartments in England and Wales are held by leasehold. Additionally, some new build houses are also held by leasehold.

Unlike a freehold the purchaser does not own the ground upon which the property stands, the land is leased for an agreed number of years. Most leases, when initially granted, are for approximately 125 years but can also be 250 or 999 years; the length may be extended by agreement with the freeholder at a specified cost or in accordance with longstanding legislation. There is a high level of protection for leaseholders to renew their leases.

The 'lease' outlines the rights and obligations of the parties (generally referred to as landlord/ lessor and tenant/ lessee). Most leasehold properties will have a ground rent which is payable to the freeholder or landlord, usually on an annual basis.

Service charges will be payable for services provided to the

apartments and the communal areas, (covering cleaning, maintenance, insurance of the building and so on). The lease should outline how the service charge is calculated and how it is allocated between other owners; it is important to confirm all of these costs before committing to a leasehold property.

Most mortgage providers will insist that the leasehold property being purchased has a minimum of 80 years remaining although this varies from lender to lender. Your solicitor will check the lenders requirements. Once the set period in the lease comes to an end, unless extended, the ownership of the property (usually the apartment) transfers to the freeholder.

## Commonhold

Commonhold property was introduced in 2004 as a new way to own an apartment in a building. Each apartment is a freehold rather than leasehold interest. The building is owned by all apartment owners who share the management of the building and common areas. Commonhold property has not been broadly adopted in England or Wales.

## Share of freehold

Share of freehold is means an owner of an apartment has a shared ownership of the freehold of the title relating to the building, together with a leasehold interest in the individual flat. Typically Share of freehold is associated with older period properties, that were once houses and converted into apartments, rather than new build property.



# Purchase Process For Buying Off-Plan Property In England & Wales

## Offer and Reservation

When a buyer has identified the apartment they wish to purchase, they will make an offer forward to the developer or via a property agent. If their offer is accepted, the property agent will prepare a Reservation Agreement which captures the details of the sale, including the names of all purchasers to be included on the contract, the agreed price, any stage payments together with any other conditions of the sale. The Reservation Agreement will be signed by both the purchaser and developer and the purchaser will typically pay a reservation fee. Reservation fees vary but are typically £2,000 – £5,000, depending on the value of the property.

At this point the property agent will carry out their AML (anti money laundering) obligations. The purchaser will need to provide their ID and proof of address (utility bill or similar) dated within the last 3 months. This information will be required for each person to be listed on the property title.

## Solicitors Instructed

Once the Reservation Agreement has been signed both purchaser and developers will need to appoint a solicitor, to act on their behalf throughout the purchase process. Typically, the developer or property agent will have a recommend solicitor (or panel of recommended solicitors) to act for purchasers.

Once instructed, the developer's solicitor will submit a draft contract to the purchaser's solicitor, together with documents relating to the Title to the property. If the property being purchased is leasehold, a copy of the lease will also be supplied.

The purchaser's solicitor will review the sales contract and terms of the lease on behalf of the purchaser. They will also conduct investigations relating to the property itself including local searches, to establish if there are any matters a buyer would need to be aware of i.e. is the property being built on or near contaminated land or water.

For new build development the process is slightly different, a significant amount of legal work will have already been

undertaken by the developer and their lawyers at the time they purchased the land to develop a new building. Additionally, there are multiple apartments (or properties) to be sold so the developers recommended solicitor or panel of recommended solicitor(s) will speculate a significant amount of work to ensure that process for purchasing is relatively quick.

The recommended solicitor(s) will have typically undertaken a significant amount of legal due diligence and will have prepared a legal pack and a Report on Title.

Typically, for new build property the solicitor(s) recommended by the developer will have conducted these checks and prepared a 'Report on Title', a review of the lease and local searches.

## Exchange of Contracts

A Purchase and Sale Contract consists of two parts: one is signed by the purchaser and the other by the developer. The two solicitors then 'exchange' their signed contracts and the deposit money is paid by the purchaser's solicitor to the vendors solicitor.

At this point both parties are legally bound by the contract and therefore to proceed to completion. It is important to note now that the purchaser has a legal interest in the property now and therefore, they should obtain insurance for this property, this will be:

- Freehold – building insurance
- Leasehold, or Strata Titled – the building will most likely be insured by the group responsible for managing and maintaining the building, whereas, the purchaser will simply need to insure the contents such as the internal fixtures and fittings (such as kitchens and bathrooms), carpets, blinds and other soft furnishings.

Typically, the 10% deposit will be held by the developer's solicitor as stakeholder, but it is important for the buyer to check this is the case with their solicitor.

Between exchange and completion of the property, stage payments may be due. The amounts and timeframes will

vary but could be in the order of 5% to 10% of the purchase price and will be linked to either construction milestones or time. The purchaser will have been made aware of any stage payments prior to their initial reservation. The stage payments will typically be used to fund the developer's construction costs. Buyers should seek advice from their solicitor as to their recourse, should the building not be completed

### **Construction Updates**

Many investors purchasing off plan property will do so 2 or 3 years prior to the building being completed. Reputable developers will keep buyers regularly updated with regard to the construction process and how this is impacting the estimated completion date. An estimated completed timeframe will be included within the contract, but this may change due to the construction process taking more (or less) time than expected and the contract will allow for this to be changed.

### **Obtaining a Mortgage**

If buyers require a mortgage, they should seek the advice of a mortgage broker. It is recommended to start preparation 3 – 6 months in advance, especially for overseas purchasers as the process may take longer than for domestic purchasers.

There are various types of mortgages available for buy to let investors from either UK or international banks, such as interest only or repayment and buyers can choose either a fixed or variable interest rate. In the UK, mortgages for investment property are referred to as 'buy-to-let' mortgages.

Interest rates and Loan to Value (LTV's) ratios available will of course depend on individual circumstances or the purchaser, although typically for offshore investor this will be around 60% to 70% of the property value. During the mortgage application a valuation will be carried out to confirm the market value of the property. A valuation fee will be charged to the purchaser and this will be proportional to the value of the property and will be in the region of £100 to £300.

Pre Completion 'Snagging' & Building Regulations

Prior to completion, most reputable developers will ask the buyer to 'snag' an off plan property. This is an inspection

that allows the buyer or their representative to check the developer has met all their obligations under the terms of the contract. This may include things such as checking the dimensions of rooms, to checking the paint finishes. If any defects are recorded, the developer should then arrange for these to be remedied.

In many instances, for international purchasers, a letting agent can carry out the snagging on behalf of the purchaser.

All new buildings in England and Wales must be building regulation compliant, whether by way of warranty or separate completion certificate.

The developer will typically complete the construction within the time stated in the contract, and serve completion notice 2 – 4 weeks in advance with a specified completion date. During this period, the buyer will arrange for the remaining funds for the property to be transferred to their solicitor who will make arrangements to 'draw down' funds from the bank.

### **Completion Preparation**

The contract will provide an estimated completion date, but this may change during the construction process due to unforeseen circumstances. As such, most off plan contracts will include a long-stop date, which requires the developer to complete the purchase by a fixed date in the future. This can be a number of years after the estimated completion date.

Developers will typically begin by giving an estimated completion date that covers two quarters of a given year, i.e. estimated completion is Q1/Q2 2022. As construction progresses, the completion 'window' will be narrowed down, to the point where a particular month is given for completion. When the developer is certain of the date, a 14 day notice period will be served. At this point the buyer should arrange for any outstanding funds to be remitted to their solicitor. The solicitor will also arrange to draw down any mortgage funds from their bank. Other costs will also be payable on completion, details of which can be found in our Summary of Purchase later in this guide.



## Completion Date

On the day of contractual completion, the purchaser's solicitors will pay the balance of the purchase price to the developer's solicitor. Title documents and keys will be handed over to the purchaser. There is no requirement for either the vendor or the purchaser to be present at completion.

If the purchaser delays completion beyond the completion date, they will be liable to pay interest at a penal rate on the balance of the purchase price. In most circumstances the likely the developer will serve "special notice" which requires completion within a fixed period, usually 10 working days. If the purchaser still fails to complete, the vendor can treat the contract as being at an end and the purchaser will have forfeited all monies already paid.

## Post-completion

The buyer's solicitors will be handed the Title deeds and they will apply for registration of the buyer as owner of the land or property after payment of Stamp Duty Land Tax (SDLT). This process may take several months, although the SDLT must have been paid to the solicitor at the point of completion. At the end of the registration process, the Land Registry register the title confirming that the purchaser is now the owner of the property (the Registered Proprietor).

Most investors will appoint a letting management company to find a tenant and manage the property and many developers will have a recommended letting and management agent who can advise landlords. Fees vary depending on the state and location of the property.



# Property Tax In The United Kingdom



There are a number of taxes which investors should be aware of when purchasing property for investment. Property Taxes typically are levied in four key times for investment property in the UK, those are:

- Purchase Taxes – taxes which are incurred when purchasing investment property
- Income Tax – taxes which are incurred through owning the property
- Taxes from Sale – taxes incurred should the property be sold; and
- Estate and Inheritance Taxes – if the owner dies what taxes exist

Below we have set out a broad outline of these taxes, however, we strongly recommend purchasers obtain independent taxation advice.

## Income Tax

In the United Kingdom purchase taxes are referred to as Stamp Duty Land Tax (SDLT). The tax is payable by the purchaser immediately after the completion of the purchase of a property. Property in England and Wales, has two forms of SDLT which are:

- First Time Buyer SDLT
- General SDLT

## First Time Buyer SDLT

First time buyers have specific SDLT rates which apply to any person(s) purchasing their first home, the rates are set out below.

Purchase Price	First Time Buyer SDLT
Up to £300,000	Zero
Between \$300,001 and £500,000	5% of the portion of the purchase price between £300,001 and £500,000

If the purchase price of the property is more than £500,000 then the property will fall outside of the First Time Buyer SDLT and the General SDLT rates will apply.



## General SDLT

In the UK SDLT is charged in a progressive system which applies to all property and additional surcharges apply depending on whether or not the purchaser is buying an investment property (or second home) and if they are a foreign purchaser or not. The additional surcharges are added to the SDLT and are:

- Second Homes and Investment Property Surcharge – an additional surcharge of 3% on the purchase price for properties with a purchase price of £40,000 or more
- Non-resident Surcharge – in addition to both the General SDLT and the Second Homes and Investment Property Surcharge, Non-resident purchasers will pay an additional surcharge on all purchases after 1 April 2021

Purchase Price			SDLT	UK Residents (Second home or Investment Property)	Non-Resident Purchasers (after 1 April 2021)
£0	to	£125,000	0%	3%	5%
£125,000	to	£250,000	2%	5%	7%
£250,000	to	£925,000	5%	8%	10%
£925,000	to	£1,500,000	10%	13%	15%
£1,500,000	and above		12%	15%	17%

## Multiple Dwellings Relief

In the United Kingdom (England and Wales) there is the additional benefit of Multiple Dwellings Relief (MDR) when you buy more than one dwelling in a linked transaction. Under the MDR rules the relief identifies the average price paid for residential units and average price determines the rate of SDLT (with a minimum charge of 1%). This rate is then applied proportionally to the total consideration paid for all of the residential properties.

MDR rules require that all of the dwellings are purchased from the same vendor at the same time. MDR applies to leasehold, freehold or indeed a headlease interest (provided that the lessor's interests when granted did not have an initial term of more than 21 years).

MDR can be used when you have a linked transaction. A linked transaction is defined as being carried out by the same purchaser and vendor or persons connected to them, so a husband and wife or other close family members may count as linked by the relief (depending on the circumstances). If you have a linked transaction between the same vendor and purchaser, it is not necessary for the contracts to be exchanged on the same

day. However, it is required that a purchaser would need to clarify the circumstances surrounding the transaction to demonstrate they are linked.

For transactions involving connected parties there is no clear guidance on what a linked transaction is. Since you will need to consider the facts to determine whether the transaction is a single arrangement or series of arrangements between a buyer (and connected parties) and a seller (and connected parties). What is clear is that the transactions can be series of transactions, so it is wider than simply looking at transactions entered into on the same day. The transactions don't even have to be part of the same contractual documents.

Similarly, if the same developer selling and the same buyer buying for example in different blocks held under different special purpose vehicles. There is no restriction on the number of units which can be purchased and still qualify.

If any of the properties are sold within a three-year period of MDR being claimed, then SDLT payable on the remaining properties needs to be recomputed and any additional SDLT is required to be paid.



## Acquisition of 6 (or more) Dwellings in a Single transaction Deeming Rule

A deeming rule applies to the transfer of six or more dwellings in a single transaction which treats them collectively as non-residential for SDLT purposes. The total consideration for all units is added up and then the non-residential rate of SDLT is applied to the total consideration the non-residential rates are set out below.

### Non-Residential SDLT Rates

Property or lease premium or transfer value	SDLT Rate
Up to £150,000	0%
Next £100,000 (i.e. the portion from £150,000 to £250,00)	2%
Remaining amount (i.e. the portion above £250,000)	5%

MDR and 6 (or more) Dwellings in Single transaction Deeming Rule

If a purchaser, purchases in excess of six or more dwellings in a single transaction, the purchaser can elect for either:

- Multiple Dwelling Relief (MDR); or
- Non-residential SDLT rates to apply

For example:

If a purchaser, purchases ten residential properties in a single transaction from a developer for £5,000,000 million at an average of £500,000 per property. The residential rate of SDLT on each is as follows.

Normal SDLT Rates (Second home or investment Property)

Banding	SDLT Rate	SDLT Due
First £125,000	3%	£3,750
Next £125,000	5%	£6,250
Balance £250,000	8%	£20,000
<b>Total SDLT Due</b>		<b>£27,000</b>

The total SDLT for all ten properties is  $1 \times £27,000 = £270,000$

If the Non-residential SDLT rate is applied the SDLT is as follows

Banding	SDLT Rate	SDLT Due
First £150,000	0%	0
Next £100,000	2%	£20,000
Balance £3,750,000	5%	£187,500
<b>Total SDLT Due</b>		<b>£207,500</b>



The total SDLT applying non-residential rate in this example is £207,500 and so the purchaser would opt paying on the non-residential basis rather than seeking MDR.

## Transfer Charges

In addition to legal fees and SDLT, the purchaser is also required to Land Registration fees, these are fees payable to land registry the registration of the purchaser's title this is in accordance with the table below.

Purchase Price of Property	Fee
Between £100,000 – £200,000	£190
£200,001 – £500,000	£270
£500,001 – £1,000,000	£540
£1,000,000+	£910

## Income Tax

In the United Kingdom, investors pay income tax on the net profit generated from investment. Net profit is calculated as the gross rental income less deductible expenses.

## Deductible Expenses

In the UK it is possible to deduct expenses to calculate net profit are:

- Costs of repairs and maintenance (expenses incurred prior to 1st letting to put the property into good order may be allowable);
- agents' fees for managing the property
- ground rents, service charges and other expenditure on common parts
- insurance premiums
- legal costs of renewing a short lease or tenancy agreements
- accountancy fees for preparing accounts and tax computations
- any unrecovered VAT on the above items above

## Finances Charges

In the past, landlords been able to claim tax relief on the total amount of finance costs paid in the tax year at their marginal rate of tax. However, from April 2017 those costs were gradually being restricted until the maximum relief available as the basic rate of 20% from April 2020.

## Non-Cash Deductions

Non-Cash deductions are no longer allowed in the United Kingdom from a tax perspective. These deductions are now recovered on a 'renewals' basis. There is no deduction for the initial installation of furniture, but the costs of replacements can be claimed. This will include fixtures such

as baths, washbasins, and kitchen units et cetera.

There are no depreciation allowances for capital improvements.

## Calculating Tax

In the United Kingdom income tax is charged upon the UK rental income arising for individuals, non-UK resident companies (up to 5 April 2020) and trustees irrespective of their residence and domicile status. UK resident companies and, from 6 April non-UK resident companies, are liable to UK corporation tax on their rental profits.

Income Tax is charges on rental income after deduction of relevant tax-deductible expenses.

## Personal Allowances

For an individual, whether resident or not, there is an entitlement to personal allowances where that individual is a British citizen. The personal allowance is £12,500 p.a. from April 2019.

In addition, the following types of individuals are also entitled to UK personal allowances:

## EEA Nationals

Individuals who are resident and nationals of Thailand and Malaysia

However, personal allowances are reduced by £1 for every £2 of income earned in excess of £100,000, so anyone earning rental profits in excess of £125,000 cannot benefit from a personal allowance.

Trusts and companies do not benefit from a UK personal allowance.



## Rates of Tax

The rates of tax on net rental profits for 2019/2020 are:

Individual	Basic Rate	£0 – £37,500	20%
	Higher Rate	£37,500 – £150,000	40%
	Additional Rate	Over £150,000	45%
Trust	If a UK residential property is owned directly by a Trust, there is a basic rate of £1,000 of income that is taxed at 20% and then a flat rate of 45% applies against the remaining income.		
Company	Up to 5 April 2020 non-UK resident companies pay a flat rate of 20% income tax on rental profits. Since 1 April 2017 UK resident companies have paid a flat rate of 19% corporation tax on rental profits. This rate will decrease to 17% with effect from 1 April 2020. From 6 April 2020, non-UK companies will come into the UK Corporation tax regime, rather than paying the basic rate of income tax on rental profits.		

## Estate and Inheritance Taxes

Estate taxes and inheritance taxes are triggered by death. The difference between the two is essentially who pays the tax, estate taxes are paid by the estate of the deceased before the any money is distributed. Whereas inheritance tax is levied on the person who receives the money.

Several countries have various estate and inheritance taxes, such as Japan, South Korea, France, United States, Spain, Ireland, Belgium, Germany, the Netherlands, Greece, Chile, Denmark, Finland, Iceland, Poland, Switzerland, Turkey and the United Kingdom.

The United Kingdom has an Inheritance Tax (IHT).

IHT is the tax charged in the UK upon death or, in some cases, on the transfer of capital from one individual to another. The estate of an individual domiciled in the UK is subject to IHT on all his or her worldwide assets.

The exposure of non-UK domiciled individuals has been widened under the legislation taking effect from April 2017.

From 6 April 2017, the estate of a non-UK domiciled person includes the following (defined as an interest in UK residential property):

- UK situated residential property directly owned by an individual
- A share of a partnership that owns UK residential property
- Shares in an overseas company to the extent that the company owns UK residential property, unless that company satisfies the GDO requirements (broadly controlled by more than 5 persons who are not connected to each other).
- A non-bank loan provided to finance the purchase of UK residential property or collateral provided for such a loan.

In addition, shares in a UK company are UK situated assets and the entire value attributable to such shares forms part of the deceased's Estate, not just that part of the value attributable to UK residential property.

There is an extension to the IHT charge for a period of 2 years, where shares in a company that owns a UK residential property are sold and any consideration received, even if reinvested offshore, remain within the scope of IHT. This does not apply to individuals directly disposing of UK residential property, nor does it apply where a company sells a UK residential property and subsequently repatriates the proceeds of sale overseas.

The changes are effective for all chargeable events which take place from 6 April 2017 and these events will include the following:

- The death of an individual who owns any interest in UK residential property, as defined above, at the date of their death.
- The death of an individual who has made a gift of an interest in UK residential property within 7 years prior to their death.
- The death of an individual who owns shares in a UK company or has made a gift of such shares in the 7 years prior to their death.
- The transfer of an interest in a UK residential property or shares in a UK company to a Trust.

Residential properties specifically excluded from a charge to IHT are care or nursing homes, any buildings with 15 bedrooms or more which have been purpose-built for student accommodation and are occupied by students as well as prisons and military accommodation.

The estate not only includes assets held at the date of death, but any gifts made by the individual in the 7 years



leading up to that point. IHT is currently charged at 40% on the total value of the estate subject to the tax; the first £325,000 (known as the 'nil rate band' or 'NRB') is not subject to tax. The unused portion of an individual's NRB can be transferred and utilised on the death of their spouse. It cannot be transferred to any other family member or to an unmarried partner.

From April 2017 an enhanced NRB is available where one of the assets in the deceased's estate is the main residence. This is determined by question of fact. It does not apply to investment property. The amount of enhanced NRB available for 2019/20 is an additional £150,000 and has been increased to £175,000 from 2020/21.

The enhanced NRB can be transferred in exactly the same way as the standard NRB between spouses. The total amount of NRB available to a married couple on the death of the second spouse will therefore be £1million in 2020/21, but only where part of the Estate consists of a main residence and which is passed to descendants. There are also provisions which protect relief built up if a property has been downsized or sold prior to death.

In addition, the full enhanced NRB will not be available where the value of the main residence exceeds £2m and the enhanced NRB is tapered away by £1 for every £2 of value in excess of this £2m limit. In summary, where the estate consists of a main residence (and other assets chargeable to IHT) worth a total of more than £2.35m in 2020/21, the estate cannot benefit from the enhanced NRB.

The value of the asset taken into account when calculating the IHT due is the equity in the property – being the market value at the date of death less any outstanding mortgage. In order to obtain a deduction for IHT purposes, the property needs to have been bought at the outset with mortgage finance or a mortgage taken out later to enhance the property or purchase other chargeable UK assets.

Under anti-avoidance rules introduced in July 2013, there is no deduction for any debt incurred after the property is purchased where it is incurred to acquire assets that are not chargeable to, or are relieviable from, IHT. Thus, no IHT relief is normally available for the debt where a property is acquired for cash and a mortgage taken out subsequently to acquire say non-UK assets which are outside the scope of IHT.

Property passing between spouses who are either both UK domiciled or both non-UK domiciled are not subject to UK IHT. In addition, a transfer of assets from a non-UK domiciled spouse to a UK domiciled spouse is also not subject to UK IHT.

However, the transfer of assets between a UK domiciled spouse/civil partner to a non-UK domiciled spouse/civil partner is within the scope of IHT once the transfer has exceeded a spousal limit of £325,000. This spousal limit of £325,000 is in addition to the NRB of £325,000. In order to benefit from unlimited spousal relief, it is possible for a non-UK domiciled spouse to irrevocably elect to be treated as a UK domiciled spouse for IHT purposes only if such a cap would crystallise a chargeable transfer.

The potential impact of IHT can also be mitigated by low cost life insurance to meet the potential IHT or by gifting prospective beneficiaries an immediate interest in the property.

In addition, from April 2017 Trusts established by non-UK domiciled individuals to acquire UK residential property will potentially face trust IHT charges every ten years. The amount of charge is scheduled to be at 6% on the ten year anniversary of when the Trust was created.



# Protection For Buyers

## Consumer Code for Home Builders

The Consumer Code for Home Builders specifies that a reservation agreement is issued which details the purchase price, exactly what is included within that figure as well as the nature and estimated cost of service charges or management fees.

## Construction Guarantee

Most reputable developers in the UK provide a construction warranty guarantee, which is a form of insurance against defects and buyers should be wary of purchasing a newly constructed property without this. This cover should also protect the 10% deposit in the event that the builder becomes insolvent and does not complete the property. Buyers should ask their solicitors to check the developer as a construction guarantee in place. It is important to note that the guarantee typically only covers the first 10%, so stage payments (if any) may not be covered.

There are various companies who offer protection over this nature, including NHBC, Zurich Insurance and Premier Guarantee to name a few. However, the NHBC warranty is by far the most common.

The policies will of course vary depending on the specific provider, but 10 - year cover usually includes a 2-year builder warranty period backed by the providers resolution service and guarantee followed by an 8-year insurance policy by covering physical damage to the home caused by a failure to build to the certain technical requirements.

If the completion date on the build is 'unreasonably' delayed, purchasers may have the right (under the Consumer Code for Home Builders) to withdraw from purchase and claim a full refund for monies paid.





## LEASING AN INVESTMENT PROPERTY

For investors seeking to let their property on completion, there are various types of legal tenancy agreements in the UK. The Letting Agent will advise you which form of Agreement will be applicable to the type of lease agreed with the tenant. In summary, the different forms of Agreement are:

- Assured Shorthold Tenancy (AST)
- Company Let
- Non-assured Shorthold Tenancy
- Assured Tenancy
- Regulated Tenancy

Having said this, landlords of new build property will most likely only ever lease their property on an AST or Company Let.

### Assured Shorthold Tenancy (ASTs)

Any tenancies started on or after 15 January 1989 in the United Kingdom, are most likely to be an AST. Most new (non-holiday) agreements with rent of up to £100,000 per annum will use an AST.

Any deposit taken by the landlord must be logged in government authorised deposit protection scheme, in which the money will be governed during the tenancy to prevent abuse and unfair deductions.

Assured shorthold tenancies always start with a fixed term clearly described in the tenancy agreement, usually, six or twelve months. It guarantees the tenancy for both the landlord and the tenant. Ending the tenancy in its fixed term can only happen if both parties agree to terminate the contract or if the tenant breaks particular clauses of the tenancy agreement. When the fixed term expires, the landlord can reclaim their property by serving the correct notice to the tenant. The tenant can move out with no obligation to stay past the fixed term.

If both parties agree, the fixed term can be renewed, and if no action is taken, the fixed term tenancy converts into a periodic tenancy which is more flexible for both sides. A periodic tenancy would continue indefinitely so long as the tenant and landlord both agree, and the landlord can reclaim their property by serving a Section 21 notice, giving the tenants two months of time to arrange their move.

Any new terms, for example the tenant taking in pets or the landlord increasing rent, must be negotiated and re-agreed using an addendum agreement or a new tenancy agreement which is signed by both parties.

Repairs and maintenance are the responsibility of the landlord, with daily maintenance and care for the property being the tenant's duty. Tenants are in control of who has access to the property; the landlord must obtain the tenants approval each time they visit.

## Company or corporate let

If the property is rented to a company rather than an individual, the property cannot be leased on an AST. Some of the obligations under Company Lets are different to that of an AST – for example, there is no requirement to lodge the deposit in one of the government approved deposit protection schemes and to obtain possession of the property the Landlord would serve a notice to quit rather than a Section 21 notice.

As mentioned above, it is highly unlikely that new landlords will use anything other than an AST or Company Let and so the information below is for general interest only and unlikely to be applicable.

## Assured tenancy

Assured tenancies were more commonly used between 1989 and 1997 by private landlords such as Housing Associations or Housing Trust, giving tenants long-term tenancy rights and eviction protection. Landlords are responsible for major repairs, but tenants are in charge of daily maintenance and have complete control over their home.

Throughout the contract, the landlord may propose a rent increase, however the tenant can either agree or challenge it, and the final rent increase will be settled based on the real valuation of the property according to the current property market. Furthermore, under assured tenancy, tenants have the right to live in the same property indefinitely, so long as they continue to pay rent and respect the terms of the tenancy agreement. The landlord can only evict a tenant if they serve a Section 8 notice and prove to the court they have reasonable grounds to obtain a possession order.

One important aspect of the Assured tenancy is that it can be passed on to another person. For example, if a family lives on rent with an Assured tenancy and it's written under the husband's name, upon his death his wife can inherit the tenancy and remain a resident in the property.

## Regulated tenancy

This refers to long-term tenancies that started before 15 January 1989. Similarly, to an Assured tenancy, tenants have increased protection from eviction and were entitled to a fair rent set by the Valuation Office Agency. Regulated tenancy can also be inherited.

## FURNISHED/ UNFURNISHED PROPERTIES

To furnish or not to furnish? Until April 6, 2016 there were tax advantages to renting property on a furnished basis. With that tax advantage having been removed, the most important questions to consider are whether a furnished property will a) command a higher rent and b) reduce any void periods. The answers are likely to be location specific and, in many cases, the developer will have appointed a 'Recommended Letting Agent' with local knowledge who will advise on the local demand.

### FURNISHED

There are no legal obligations as a landlord to provide furnished properties for tenants. As a general rule, modern one or two-bedroom apartments in metropolitan cities (e.g. London, Birmingham, and Manchester) that usually appeal to 'burden free' young professionals and overseas tenants tend to be offered fully furnished.

Offering new build apartments as furnished attracts a wider range of tenants, generally meaning void periods are lower.

In new build apartments where many apartments complete simultaneously, tenants have considerably more choice, so the quality of furniture is important. Furnishing a new build property with second hand or inherited furniture from a grandparent is not going to attract tenants or secure a good rental.

Having said this, expensive high-end designer furniture is not going to result in higher rents. Tenants want good quality furniture and landlords need furniture that is durable. Tenants in most new build developments are not going to pay more rent because the property has an Eames chair in the living room.

Kitchen appliances and flooring are included in new build developments. A 'standard' furnished property should include sofa, curtains or blinds, dining table and chairs, beds and bedroom furniture such as a wardrobe or chest of drawers, and all furniture must conform to the legal fire resistant standard – all fabric furniture such as sofas must have labels proving that they meet this standard.

Since 6 April 2016, landlords may claim 'Replacement Domestic Item' tax relief for the replacement of particular items of furniture, appliances, and floor coverings.

### UNFURNISHED

It is often the case that families (particularly those relocating to the UK from overseas due to changes in employment) will have a preference to rent an unfurnished house.

When it comes to renting apartments, it is possible for Landlords to 'save' money by not providing furniture. They will require less maintenance and potentially incur less time replacing items during or at the end of a tenancy. Having said this, it is typically the case that furnished properties let more quickly and for a higher rent than an unfurnished property. Any initial 'saving' made by not spending money on furniture becomes an expense; with a lower rate and longer void.

Investors should always speak with the recommended letting agent or other local letting agents to take the temperature of current tenant requirements in the local area. Should a landlord choose to let their property on an unfurnished basis, it may be possible to claim 'Replacement Domestic Item' tax relief on household appliances such as televisions, fridges and freezers.





## BUY-TO-LET MORTGAGES

Many purchasers will obtain a mortgage for their property. If a buyer is seeking to rent the property (as opposed to live in the property themselves), they will require a buy-to-let mortgage.

Buy-to-let mortgages generally require a larger deposit than residential mortgages and will incur a higher rate of interest. This is because of an element of perceived risk by lenders, who seek extra security to account for potential void periods of tenants failing to keep up with rental payments.

The actual rate will also depend on the loan-to-value ratio (LTV) and the anticipated rental income expected on a property.

Buy-to-let mortgages are available on a fixed or variable rate:

**Fixed-rate mortgage** – a fixed interest rate over a specified period. Typically, the longer the fixed period, the higher the level of interest. The interest rate and monthly payments will remain the same for an agreed length of time. A fixed rate mortgage is usually fixed for 2, 3 or 5 years, but other terms are available. At the end of the agreed period, the borrower will usually be switched to lender's standard rate of interest unless they apply for a new mortgage.

- **Variable rate mortgage** – interest rate could go up or down depending on lenders' decisions and Bank of England's base rate
- **Tracker mortgage** – The rate of interest is set at a percentage above the variable rate, and it is marked up against the Bank of England's base rate. If the base rate fluctuates, the interest rate will also change.
- **Discount variable mortgage** – this is based on the lender's standard variable mortgage rate and a set discount may apply

Investors will select the type of mortgage based on their personal circumstances and preferences. An independent mortgage broker will be able to advise which best suits an investors' circumstances.

The minimum deposit for a buy-to-let mortgage is usually between 25 – 40% of the property's value, i.e. LTV is around 60–75%. Lenders typically require the rental income to be 25 – 30% higher than the monthly mortgage payment.

Buy-to-let mortgages can be either interest-only or on a repayment basis. Interest-only mortgages mean the investor will only pay the interest each month but not the capital amount, and at the end of the mortgage term, they will have to repay the original loan in full; whereas for repayment mortgage, a small part of the loan and interest will be repaid each month, and the whole loan will be paid off at the end of the term.



## PURCHASE COSTS AND UNDERSTANDING THE INVESTMENT

In addition to the cost of the property, there are additional costs to consider when purchasing property in England and Wales. By far the greatest additional cost is Stamp Duty, and this will vary between state and varies depending on whether the purchaser is a resident investor, or a non-resident investor.

The Du Val Prop Tech Platform provides our members with an extensive suite of interactive property analysis tools to evaluate and compare any investment transaction, the UK (and Australia and New Zealand), specific to their domicile status and income.

For the purposes of this guide, we provide below the costs of a transaction for a £500,000 property for both residents and non-resident purchasers.

The table below highlights the fixed transaction costs for a property of £500,000 for investors based in the UK or overseas. We have not included the costs associated with arranging mortgage finance or some legal costs as these will vary depending on a purchaser's individual circumstances and exactly where the property is located. Whist legal fees may vary, all purchasers regardless of their status should appoint a solicitor or licensed conveyancer, hence including these as a 'fixed' cost in the sense that all buyers will incur legal fees.

	UK Resident Investor*	Non-UK Resident
Property Price (£)	500,000	500,000
Stamp Duty (£)**	30,000	40,000
Lease Registration (£)	540	540
Legal Fees (£)	3,000	3,000
Total Purchase Price (£)	521,040	543,540

*\*Assumes the investor already owns a property in the UK or elsewhere in the world*

*\*\*Assumes the property completes after 31 March 2021*

As is demonstrated by the table above, the purchase or upfront costs are very low when compared to other countries. For investors, it is also important to understand more than just the initial cost of the investment.

In order to drive financial performance, investors must maintain accurate and up to date records and understand what they say. Businesses record their key financial data and records in three key statements – which are linked to each other. Those three statements are the cashflow statement, income statement and the balance sheet. Guidance as to how these three statements work and their application to real estate investment is set out below.

Ideally, investors should prepare these documents in excel before purchasing an investment property. This will provide a forecasting tool to help review the investment opportunity and consider the impact of various assumptions and scenarios to determine what the reality of your investment is from your own financial perspective. Critically the key is not to rely on anybody else's forecasts and information, anybody selling something will quite obviously, cast it in a favourable light. Investors need to be able to see through that and understand the numbers.

The British Government accounted reduced SDLT rates for properties purchased (completed) between 8 July 2020 and 31 March 2021 (inclusive).





**The rates below apply if you are buying your first and only property anywhere worldwide until, 31st March 2021.**

Property or lease premium or transfer value	SDLT rate
Up to £500,000	Zero
The next £425,000 (the portion from £500,001 to £925,000)	5%
The next £575,000 (the portion from £925,001 to £1.5 million)	10%
The remaining amount (the portion above £1.5 million)	12%

**For purchasers who already own a property anywhere in the world, the following rates apply until 31 March 2021.**

Property or lease premium or transfer value	SDLT rate
Up to £500,000	3%
The next £425,000 (the portion from £500,001 to £925,000)	8%
The next £575,000 (the portion from £925,001 to £1.5 million)	13%

## Cashflow Statement

The cashflow statement sets out the cashflows generated by the investment. It will set out the total collected cash in a given period and will net off cash expenses throughout the same period. Importantly, it will set out the free cash flow (or lack of it) that the investment generates. By preparing a simple spreadsheet an investor will be able to determine the impact of increasing the achieved rental and importantly the impact of vacancy periods or not achieving forecast rental levels.

This will display how much free cash flow is available at the end of each month. This excess cash can be used to pay income tax, pay down a mortgage or simply be taken as personal income. Equally, the cashflow statement will set out situations where the cash in the investments do not generate sufficient income to cover the costs and will require you to make additional payments to maintain your investment.

Importantly the cashflow does not set out the position before tax, it simply demonstrates the net cashflow the investment generates. Even if the cashflow is negative, it does not mean you there is not a tax obligation. In order to determine what income tax needs to be paid (with respect to your investment) an income statement must be prepared.

## Income Statement

Because of the timing differences between the way in which income and expenses are recognised from an accounting perspective, it is necessary to have an Income Statement (sometimes referred to as Profit and Loss Statement). The income statement is where these timing differences are captured and more importantly their impact from a tax perspective.

From a real estate perspective, the income statement needs to track and separately deal with four key elements:

- Gross Income – the gross income is your income from rent and any other perspective such as retained deposits, etc
- From your gross income, net off the expenses. How these expenses are dealt with from a taxation perspective changes depending on the country in which the property is held. Expenses, will broadly fall into three 'buckets' and it is important that they are tracked in these buckets, and not mixed up, they are:
- Management and Operating Expenses – these are sometimes referred to as 'immediate deduction' expenses, these are the main expenses involved operating and managing the investment, such as property management, letting fees, etc
- Interest Costs – these are the interest costs for finance, ensure that any principal payments are removed from this number – (by 'Googling' the PMT function in excel a simple loan payment schedule can be prepared in order to work this out

- Non-Cash expenses – these are generally costs associated with depreciating assets. Residential investment property typically has three components land, building & fixtures and chattels. Chattels are assets which are not 'fixed' to the land, each country will have different rules to assess this, but generally it depends on how fixed to the property they are for example a floor tile would be considered a fixture, whereas a freestanding bookcase would be considered a chattel. Generally, both the building and fixtures and chattels can be depreciated from a tax perspective.

Then, from a general accounting perspective:

Gross Income less Management & Operation Expenses,  
Interest Costs and Non-Cash Expenses = Net Taxable  
Income

However, for property investment how these expenses are treated is different in different countries. In the United Kingdom, investors are only able to recover a proportion of their costs associated with finance and cannot depreciate plant or the cost of capital improvements, such as the building or any renovations.

Recognising these costs (or not) at the correct point in the Income Statement, will have a significant impact on the taxable income.

Once the Income Statement and Cashflow have been prepared, investors can then determine three key pieces of information:

- Cashflow generated before tax
- Income tax liability generated by the property
- Net cashflow after tax

By doing this investor will then be able to prepare some scenarios to analyse and determine how the investment will perform depending on changes in rental income, growth etc.





## Balance Sheet

For the property investor the Balance Sheet of the investment or investment portfolio is different to that of a traditional company. Whereas a large company would consider both their short-term and long-term assets and liabilities, this is not important to long-term investors. Therefore, it is only relevant to report overall long-term assets and liabilities.

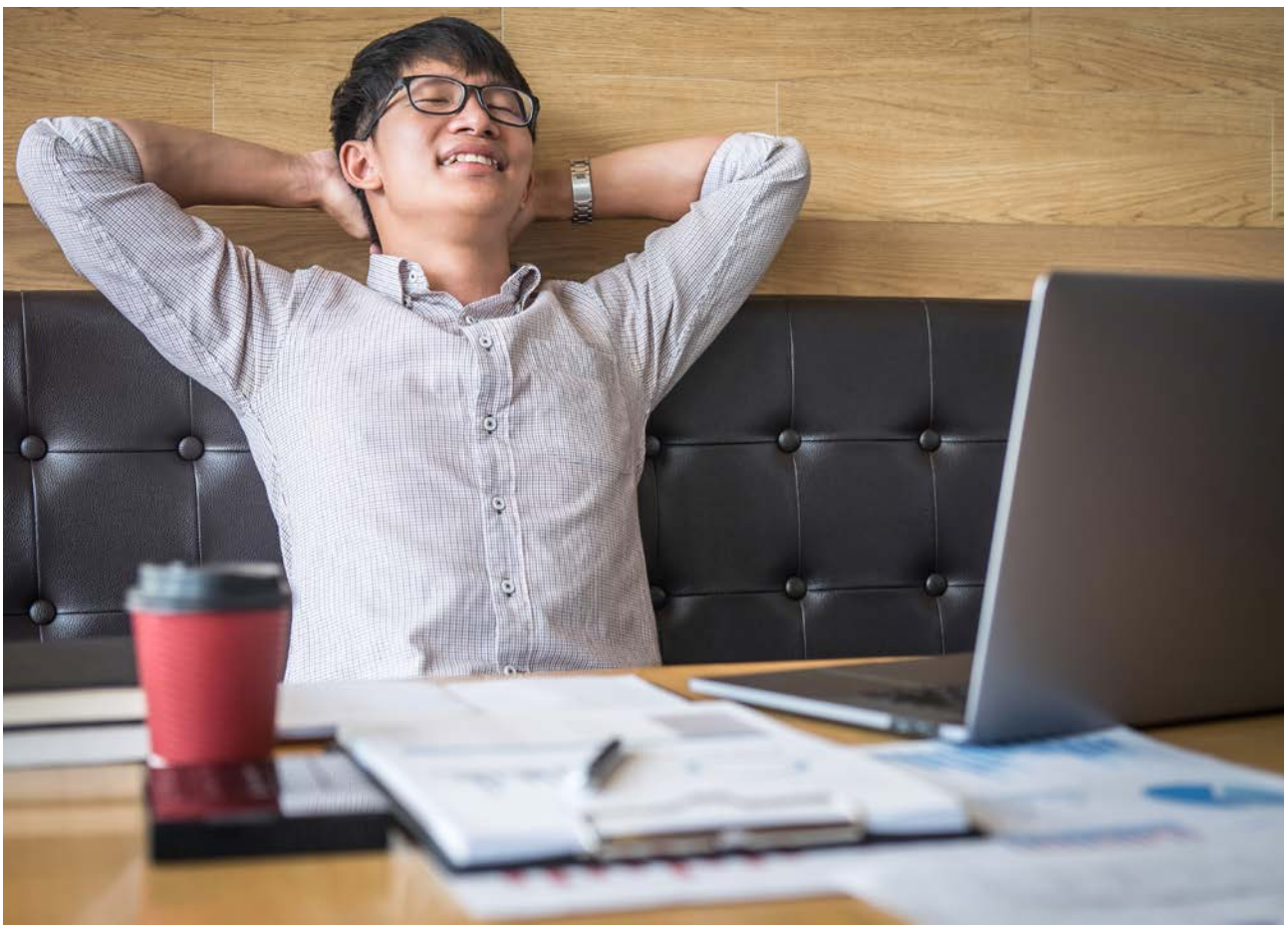
The balance sheet is an important tool for an investor as sets out the financial position and the equity held. This will have an impact on the investor's ability to raise debt and the equity free for other investment. The Balance Sheet sets out the Assets (the property owned) and Liabilities (mortgage debt) the difference between the two is the Equity.

It is crucial to understand the equity position as this will drive decision making. If an investor is trying to build a portfolio, they may be less concerned with the generation

of cashflow and more concerned about 'excess equity' from a loan to value perspective which can be employed in buying more property. Whereas, if an investor has a portfolio to generate income, they may be more concerned about increasing equity and lowering risk and therefore lowering finance costs.

For some it might seem daunting to prepare these documents. However, with some internet research and time mapping out spreadsheet's investors will gain an understanding of these three critical statements. And having a deep understanding of them is the only way investors will be able to drive investment performance.

Alternatively, sign up to our Du Val PropTech platform. Our easy to navigate website maps provides all these financial models and calculators for our members. All the member needs to do is input some basic property information, and our models and calculators do the rest!



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