

## Readers' forum: Rental income

29 June 2021

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### Treatment of rental income for non-resident.

#### Rental income

We have a new client who is in the armed forces. He is being seconded for two years to Cyprus. My understanding is that so long as he continues to be paid by the army his employment income will be taxed as though he is UK resident.

However, he also has rental income, interest and dividends, which should be taxed on the basis that he is not resident. The double tax agreement takes the dividends and interest outside the UK tax net, but the rental income will remain taxable here.

I would normally expect the income to be covered by personal allowances for a non-resident. However, his salary will use the allowances and basic rate band, so that the rental income would attract higher rate tax if included in self assessment. Is this correct? If not, what is the mechanism for reporting this rental income to achieve the correct tax position?

*Query 19,769 – Querist.*

#### Residency affects the taxation of different income sources

Members of the armed forces are considered to be crown servants, so the client will continue to receive their personal allowance, no matter whether they are UK or non-UK resident. What residency will do is affect how the different sources of income are taxed. This needs to be understood to then see the impact on rental income.

The employment income of a crown servant is taxable in the UK irrespective of where the posting may be, as the duties are deemed to be performed in the UK. See [tinyurl.com/mm4uvmey](http://tinyurl.com/mm4uvmey). So, this will remain taxable, with the benefit of the personal allowance.

The client's UK dividend and interest income are taxable in the UK as they have a UK source. Article 10 of the UK/Cyprus DTA does not exclude a UK tax charge. However, under UK law, UK dividends and interest income that is received by a non-UK resident is 'disregarded income', meaning that UK liability is restricted to the tax credit deemed to attach to this income. The effect of the rules in ITA 2007, s 811 is that no further UK tax will be due on the UK dividends or interest income.

Rental income received in the UK by a non-UK resident will be taxable as it is a UK sourced income (ITTOIA 2005, s 269). The method by which tax is collected will depend on whether an approved application has been made to receive gross rent under the non-resident landlord scheme (NRLS).

Without the NRLS, the default method of collecting tax is by way of the landlord receiving rental income net of tax. ITA 2007, s 971 states that basic rate income tax must be deducted by the landlord's representative who could be a letting agent or tenant where there is no letting agency. The representative is responsible for ensuring that any taxes due are paid directly to HMRC.

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However, on the basis that the client is registered under self assessment, an application can be made under the NRLS to receive gross rental income and pay any taxes due through self assessment. So as the Querist states, the rental income will be assessed to higher rates of tax, payable via his tax return. – **Elman Wall, a Xeinadin company.**

### Tax on rental income can be paid through self assessment

Querist is correct, that as a crown servant, the salary and allowances his client receives from the armed forces will continue to be taxed in the UK. The taxation of any other income will be dependent on the client's residence status. Assuming he is not UK resident under the statutory residence test then his investment income will not be subject to UK tax under the UK/Cyprus double tax agreement.

If the client has UK rental income and is non-UK resident, then the letting agent or tenant will be required to deduct basic rate income tax from the rent paid to the client. A letting agent should allow for any expenses they have paid when working out how much tax to deduct. The client can apply to use the non-resident landlord scheme under which he can receive rental income with no tax deducted, by making an application to HMRC on form NRL1. If the property is jointly owned, each owner must complete a separate form.

Querist does not state what the client's income is. If the client's armed forces salary will use personal allowances and basic rate band, then the rental income will attract higher rate tax. The tax on rental income can either be paid through the self-assessment system or through adjustments to the client's tax code so it is effectively collected through his armed forces salary. The latter can be requested by a telephone call to the HMRC helpline. – ANA.

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