

Non-Resident Landlord Companies

12 March 2020

INTRODUCTION

From 6 April 2020, non-UK resident companies that carry on a UK property business or have other UK property income will be brought within the scope of corporation tax (as opposed to UK income tax, as is currently the case). The change in legislation also applies to those who invest in UK property through collective investment vehicles.

The aim of the legislation is to equalise the treatment of resident and non-resident companies receiving UK property income.

The income tax regime remains in place for rental income received in the tax year ending 5 April 2020 and companies are still required to file a final Self-Assessment return in the normal way by 31 January 2021. Where a non-UK resident company receives UK rental income on or after 6 April 2020, the profits on this income will be subject to corporation tax and reported on a corporation tax return (known as a CT600). Non-resident landlord companies are currently subject to income tax at 20% on their property income, however the corporation tax rate is currently 19%.

Where non-resident companies continue to have other income apart from property income, this will still be subject to income tax and will be required to be reported on a Non-Resident Company Income Tax Return (SA700) for the tax year 2020/21 and following years. Certain companies may therefore be required to file both a CT600 and a SA700 from 2020/21. The following sources of income would continue to be included on the SA700:

- Income from trading in the UK – other than through a permanent establishment.
- Offshore receipts in respect of intangible property.
- Other UK income, including royalties or income from trusts.

The guidance issued by HMRC states that the new rules will not affect those companies that:

- Have all of their tax deducted under the non-resident landlord scheme and are not required to file a tax return.
- File an income tax return that is not a Non-Resident Company Income Tax Return (SA700).

There are transitional rules that need to be considered when calculating corporation tax.

LOSSES

Any UK property business losses that have arisen under income tax rules and are unrelieved may be carried forward into the corporation tax regime. These losses will only be available to offset against future UK property income or any non-trade loan relationship profits relating to the same UK property business. The pre-6 April 2020 losses cannot be offset against other sources of income or capital gains. These property losses will be offset in priority to post-6 April 2020 losses. Relief is automatic so cannot be disclaimed.

Losses generated by the company once within the corporation tax regime will be subject to the corporation tax loss rules. These rules allow losses to be carried forward and used against future profits up to £5 million. If profits exceed £5million, the brought forward losses that can be offset are limited to 50% of profits above £5million. Post-6 April 2020 losses can be surrendered as group relief, subject to certain conditions.

The pre-6 April 2020 income tax losses are not subject to the above restrictions.

CAPITAL ALLOWANCES

If a company has claimed capital allowances under income tax, the capital allowances written down pools as at 5 April 2020 will be transferred to the corporation tax regime with no balancing charges or allowances arising.

Where the accounting period straddles 6 April 2020, writing down allowances will need to be apportioned between the periods subject to income tax and corporation tax using the same apportionment method as used for working out the company's profits.

RELIEF FOR FINANCE COSTS

Finance costs and interest will no longer be deductible as an expense in calculating property income. They are worked out separately under loan relationship rules where they will be normally be brought into account as a non-trading loan relationship deficit.

Changes were introduced from 1 April 2017 to limit the tax relief for finance costs and interest. This is known as a

Corporation Interest Restriction (CIR). The CIR does not apply to standalone companies that have net deductible interest and finance costs of less than £2 million per annum. The CIR rules are complex and this update should be read in conjunction with our technical update on "Corporate Interest Expense".

DERIVATIVE CONTRACTS

The derivative contract regime will also apply. Profits and losses from derivative contracts used as part of a UK property business are treated in a similar way to loan relationships. The debit and credit amounts of a derivative contract that have been entered into for the purpose of the UK property business are included in the calculation of the non-trading loan relationship profit or deficit for the period. Further consideration is needed if applicable.

LOSSES ON LOANS REFERABLE TO A PERIOD PRIOR TO 6 APRIL 2020

Companies cannot claim relief for losses under a loan relationship where the loss relates to a period where the company was not liable to pay Corporation Tax.

BANK INTEREST RECEIVABLE

Under the corporation tax regime, companies will not be subject to UK tax unless the interest is directly attributable to the operation of the UK property business. Under the current rules, companies are not subject to UK tax on bank interest received under the non-resident landlord regime.

ADMINISTRATION

Companies will need to complete a final self-assessment return in the normal way to report income arising to 5 April 2020. A corporation tax return will need to be filed for the period commencing 6 April 2020 and subsequent accounting periods.

The corporation tax return must be filed online along with company accounts and tax computations. Where accounts are filed under UK GAAP, it is usual to file iXBRL accounts. However, where accounts are prepared using local accounting standards, PDF accounts can be filed.

In cases where a UK property business does not prepare accounts, the P&L account will generally form part of the corporation tax computations. In such a case, there will be no UK property business accounts to be filed as part of the return. The worldwide balance sheet and P&L account should be included as a PDF file.

Companies are being automatically registered for corporation tax and will be sent a new Unique taxpayer Reference (UTR). HMRC expect these to be issued before 30 June 2020.

HMRC have confirmed that they will not be transferring the existing agent authorisations over to corporation tax. Therefore, new agent authorisations will need to be completed.

ACCOUNTING PERIODS

The first accounting period for corporation tax will start on 6 April 2020 and end on 5 April 2021.

If your company's annual accounts are not prepared to 5 April, your accounting period for corporation tax will:

- Begin on 6 April 2020 and end on the same date as your company accounts for the first accounting period
- Begin and end on the same date as your company accounts for the second and next accounting periods.

HMRC should be notified in writing if accounts are prepared to a date different to 5 April so they can update their records.

FILING DEADLINES AND PAYING CORPORATION TAX

Corporation tax returns are required to be filed within 12 months after the end of the accounting period.

Payment dates are different under the corporation tax scheme. The due dates for companies and groups with taxable profits up to £1.5million falls nine months and one day after the end of the accounting period. Those with higher profits will need to pay tax in quarterly instalments. HMRC have confirmed a one-off transitional rule will apply so that instalments for large and very large companies will not start until the second and next corporation tax accounting periods.

PAYING 2019/20 INCOME TAX

If the company's only source of UK income is expected to be from the UK property business, the company will not need to make income tax payments on account for 2020/21 and future tax years.

If the company will receive other UK income that remains chargeable to Income Tax after 6 April 2020, the company will need to continue making payments on account. However, it is likely that payments on account can be reduced as tax on UK property income will no longer form part of the company's income tax liability.

NON-RESIDENT COMPANY PROPERTY DISPOSALS

With effect from April 2019, the scope of Non-Resident Capital Gains Tax (NRCGT) was expanded to cover disposals of commercial UK property and substantial interests in UK property rich entities. Disposals of UK residential properties were already brought within the scope of NRCGT in April 2015. Disposals of commercial property can be rebased to their April 2019 market value, ensuring no gain arising prior to that date is subject to UK tax. Disposals of UK residential property continue to be rebased to April 2015.

From 6 April 2019, non-resident companies will be subject to corporation tax rather than capital gains tax on the disposal of UK land and property. For disposals made prior to 6 April 2020, a single one-day return is required to be filed for the date of disposal. Therefore, for companies receiving UK rental income, a SA700 should be filed for 2019/20 as well as a corporation tax return for any UK property or land disposal.

From 6 April 2020, there is no need to report capital disposals on a separate return, as these will be reported on the CT600, along with the property income.

Please speak to your usual contact at Dixon Wilson if these changes may affect your company.

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