



THE APRIL 2020 CHANGES
Offshore corporate landlords and corporation tax



April 2020 will bring significant changes to offshore corporate landlords as the tax regime switches from income tax to corporation tax.

Prior to April 2020 non-UK resident companies operating a UK property rental business are subject to UK income tax at 20% on their profits. The tenants or letting agents are also required to withhold tax from rent paid to their non-resident landlords unless the landlord registers for the non-resident landlord scheme ("NRLS") which will allow the rent to be received gross. Consequently the landlord pays UK income tax via self-assessment and completes annual tax returns.

From 6 April 2020 non-UK resident companies operating a UK rental business (whether residential or commercial) will come within the scope of UK corporation tax (at 17%) on:

- Profits from its UK property business and profits that consist of "other property income" which includes rent receivable for UK electric-line wayleaves, along with
- Profits arising from loan relationships and derivative contracts which they are party to for the purpose of their UK property business.

Tax Return Filings

From 6 April 2020 non-UK resident companies will cease to file paper income tax returns for each UK tax year (which runs from 6 April to 5 April) and, instead they will file electronic corporation tax returns in respect of their corporation tax accounting periods.

Companies which have an accounting period which straddles 6 April 2020 will operate under a transitional provision which will split the accounting period as follows:

- The first taxable period begins on the first date of the accounting period and ends on 5 April 2020. The profits that arise within this period will remain chargeable to income tax and will be included in the company's final self-assessment income tax return. The filing deadline for this return will be 31 January 2021; and
- The second taxable period begins on 6 April 2020 and ends on the last date of the accounting period. The profits that arise within this period will be chargeable to corporation tax and will be included on the company's first online corporation tax return (CT600). Corporation tax returns are due within 12 months of the end of an accounting period.

Income Tax Losses

Grandfathering rules will apply where the non-UK resident company makes or has made a UK property business loss in the income tax year ended 5 April 2020 or any prior tax years, for which income tax relief has not been given. The remaining loss is referred to as the "unrelieved amount".

The unrelieved amount is automatically carried forward to reduce the profits of the UK property business (so long as the business continues) for accounting periods ending after 6 April 2020, and before utilisation of any carried forward corporation tax loss.

The unrelieved amount is not a corporation tax loss and is therefore not subject to the 50% carry forward restriction (see below). The unrelieved amount cannot be surrendered as group relief, or be used to reduce other sources of income.

Any losses that arise post 6 April 2020 will be corporation tax losses and will be subject to the rules on corporation tax loss relief, which restricts the amount of the loss that can be utilised in an accounting period depending on a company's level of profits and available deduction allowance.

Corporate Interest Reduction Scheme

For corporation tax purposes there is a limit (known as a corporate interest reduction) to the amount of tax relief available as a deduction for interest and other financing costs. This reduction only applies to companies or groups of companies that will deduct over £2 million in a 12 month period. If a company's (or group of companies) net interest and financing costs are restricted, you must submit a Corporate Interest Restriction return within 6 months of the end of the accounting period.

Capital Allowances

To avoid the switch to corporation tax triggering a disposal for capital allowance purposes (with potential balancing adjustments) the legislation removes the section which otherwise treats a company as permanently ceasing to carry on a UK property rental business if it ceases to be within the charge to income tax. Therefore the switch to corporation tax is not a capital allowances disposal event.

Any capital allowances at 5 April 2020 will be transferred to the new corporation tax regime and can continue to be claimed by the offshore company in the future.

Administration and Compliance Issues

- HMRC will write to offshore companies during 2019 to inform them of the switch and to provide a corporation tax reference number. This will satisfy the requirement to notify chargeability to corporation tax and means companies will not need to apply for corporation tax references.
- Online filing of corporation tax returns must include accounts and tax computations. The accounts will need to be in iXBRL format with iXBRL tags which is likely to be an additional cost to the company.
- Corporation tax payments are due within 9 months of the end of an accounting period, which is 3 months before the CT600 is due. (With the exception of large companies whose profits are over the 'upper limit' currently of £1.5million who must pay by instalments.)
- Tax advisers will need to obtain new client authorities to be able to deal with HMRC in respect of the company's corporation tax affairs. Any authorities that are currently in place for income tax will not cover corporation tax.

Summary

From 6 April 2020 non-UK resident companies with UK rental income will benefit from the lower corporation tax rate of 17% (compared to the current 20%). However, taxpayers need to be aware of the potential increase in compliance costs. In addition the rental profits of such companies will be calculated using corporation tax rules and as a result of these changes, taxable rental profits may be higher under the corporation tax regime than they would have been under the income tax regime.

Directors of companies should start thinking about the potential implications arising as a result of these changes and consider what needs to be done in advance of April 2020 to plan for this and to satisfy the new compliance requirements.

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