



Non-resident property businesses and Corporation Tax



Changing how non-resident companies' UK property income and certain gains are taxed.

The Government intends to bring the profits of UK property businesses operated by non-UK resident companies within the scope of corporation tax.

Until now, the rental profits of such companies have been liable to Income Tax at the basic rate of 20%, but from April 2020 they will instead be liable to UK Corporation Tax. The current legislation provides for a Corporation Tax rate of 17%.

So, at first glance, the tax rate reduction might look like good news for overseas-based property owners. However, less obvious is the fact that the UK Income Tax rules are different from the Corporation Tax rules:

- This is particularly relevant in relation to how the property is financed. Finance (No2) Act 2017 introduced a 30% cap on the amount of deductible interest expense incurred by large companies where the interest cost exceeds £2m. No such restriction applies for Income Tax purposes. Larger corporate investors will now see a reduction in their deductible interest payments.

- In addition, the timing of a tax deduction for a finance expense where funds are raised through discount bonds is less generous for Corporation Tax purposes than it is where a business is taxed under the Income Tax rules, depending on where the payment is to be made.
- Restrictions under the Corporation Tax rules on the ability of a company to utilise losses carried forward were introduced in April this year. No such restrictions were introduced in the corresponding Income Tax rules.

Property investors based overseas may need to revisit their current structures to understand how they will be affected. In some cases, they may need to look again at their financing arrangements and future cash flow budgets. Whilst the headline rate of tax will reduce by 3% on their annual profits, it may be that the profits chargeable to corporation tax are higher than those which would have been charged to income tax.

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