



Tax treatment of corporate non-UK resident landlords from 6 April 2020

The tax treatment of non-UK resident companies that carry on a UK property business (“NRL companies”) is changing from 6 April 2020 when they will become subject to UK corporation tax instead of UK income tax.

This is in addition to the change introduced from 6 April 2019 that non-UK resident companies are now subject to UK corporation tax on capital gains arising on the disposal of interests in UK land and property.

The change to become subject to the corporation tax rules will have a number of implications in relation to compliance requirements and the way in which taxable profits will be calculated. The main changes are outlined below.

TAX RETURNS

- A self-assessment non-resident company income tax return (SA700) will continue to be completed for all periods to 5 April 2020. The filing deadline for this paper return is 31 January following the tax year.
- The first corporation tax computations and return (CT600) are to be completed for the period from 6 April 2020 to the end of the company’s accounting period. The filing deadline will be 12 months after the end of the accounting period.
- A NRL company which has an accounting period that straddles 5 April 2020 will be treated as having two accounting periods so that profits for the part of the period to 5 April 2020 will be subject to income tax and the remainder subject to corporation tax. Income and expenses will be divided on a time apportion basis.
- The corporation tax return and computation must be filed online together with a copy of the company’s accounts. The return and computation must be prepared in ixbrl format and also in some cases the accounts.



PAYMENT OF TAX

- From 6 April 2020 taxable profits will be subject to corporation tax which is currently 19%. This will be a slight reduction from the current rate of income tax of 20%.
- A NRL company currently pays income tax in 2 instalments, on 31 January and 31 July, based on the previous year's tax liability with any balance due the following 31 January.
- The date on which corporation tax is payable depends on the size of the company.
 - *For the first period starting on 6 April 2020 corporation tax will be due 9 months and 1 day after the end of the accounting period.*
- *A "large" company with taxable profits of £1,500,000 or over, but not exceeding £20m, pays its corporation tax in 4 quarterly instalments, two falling in the accounting period and two after.*
- *A "very large" company with taxable profits of £20m or over pays its corporation tax in 4 quarterly instalments, all of which fall in the accounting period.*
- *The above limits are divided by one plus the number of 'related 51% group companies'. They are also proportionately reduced for periods of less than 12 months.*

But going forward:

- *A company with taxable profits not exceeding £1,500,000 pays its corporation tax 9 months and 1 day after the end of the accounting period.*

CHANGES TO THE CALCULATION OF TAXABLE PROFIT FROM 6 APRIL 2020

There will be a number of changes to the way that taxable profits of a NRL company will be calculated in the future for corporation tax compared to income tax rules. Listed below are some of the main differences.

Deduction for loan interest and other financing costs

Loan relationship rules

Interest will no longer be allowed as a property business expense.

Instead for corporation tax the loan relationship provisions will apply to any loans taken out by the company and therefore to any resulting interest charges, loan releases etc. Relief will instead be claimed as a non-trade loan relationship deficit.

There are special rules that apply where interest is payable to a connected party, for example in particular circumstances interest may not be allowable if it is not paid within 12 months of the year end.

Corporate interest restriction ("CIR") rules

The CIR rules will be relevant if a stand-alone NRL company or a group's total net tax-interest payments exceed £2m. A group is defined as a parent company and its 51% subsidiaries.

For a NRL that is part of a group its interest expenses and receipts are already taken into account for establishing the group's worldwide accounts interest figures.

From 6 April 2020 the interest payments and receipts relating to a NRL's UK rental business will also be included in calculating the group's total net tax-interest expense.

This total is compared to the group's interest allowance calculated under either the fixed ratio or group ratio and also the £2m de minimis to establish any restriction.

If relevant a restriction could be allocated to a NRL so that full relief may not be available for NRL's financing costs.

Qualifying Infrastructure Company

A NRL company could be a Qualifying Infrastructure Company under the corporate interest restriction rules. This should be reviewed to see if electing into the Public Infrastructure regime could be beneficial for the company and/or the group.

Swap costs and derivatives

There are special corporation tax provisions for companies that have entered into swaps to hedge financing arrangements. If appropriate the impact of fair value accounting under GAAP on the corporate tax treatment of these and other relevant derivative contracts should be reviewed.

Losses

If a NRL company has losses available to carry forward at 6 April 2020 these can be offset against UK rental profits of the company for corporation tax.

The new rules introduced for corporate losses from 1 April 2017 will apply to a NRL company's losses arising from 6 April 2020. The £5m annual cap will therefore apply. For a single company it can only offset losses brought forward against profits of up to £5m plus 50% of remaining profits.

If the company is part of a group (defined as a parent and its 75% subsidiaries) the £5m cap is shared with all other group companies subject to UK corporation tax.

The £5m cap will apply across all types of losses, including property business losses, loan relationship losses and capital losses.

NRL companies subject to UK corporation tax can be part of a 75% group for group relief. Therefore NRLs can claim group relief from other group companies and potentially surrender UK property losses. Although this is providing that the losses cannot be used in the local territory of the non-UK resident company.

Capital allowances

If the company has claimed capital allowances, the tax written down values at 6 April 2020 are carried forward into the first period for which corporation tax applies to the NRL company.

Management expenses

NRL companies can claim a deduction for expenses of managing the company so far as they relate to the company's UK property business and not any other businesses.

Administration

NRL companies will have to register again with HMRC for corporation tax. HMRC have said that they will send all companies registered as NRLs a corporation tax reference but it may be safer to register anyway.

The NRL scheme of registering with HMRC to receive rental income gross is expected to continue.

Should you wish to discuss these changes in further detail, please contact your BGM adviser or Tax Partner, Louise Delamere at louisedelamere@bgm.co.uk





bright grahame murray

CHARTERED ACCOUNTANTS



Disclaimer: This information provides an overview of the issues considered and is for general information only. It is not intended to provide advice and should not be relied upon in any specific transaction.

Bright Grahame Murray
Emperor's Gate
114a Cromwell Road
Kensington
London SW7 4AG

T: +44 (0)20 7402 7444
F: +44 (0)20 7402 8444

E: post@bgm.co.uk
W: www.bgm.co.uk