

Corporate NR property businesses: introduction

(Lecture B1192 – 14.30 minutes)

Basic principles

From 6 April 2020, any non-resident company carrying on a UK property business, or deriving income from UK property becomes subject to UK corporation tax, rather than income tax.

If the non-resident company does not have a 5 April year-end, as is likely, it will need to file both an income tax return and a corporation tax return for the period that straddles this date.

The transition to corporation tax is not considered to be a cessation event for income tax purposes which means, inter-alia, that there will be no balancing allowances or charges on capital allowances pools. An apportioned writing down allowance will be calculated to 5 April 2020, then the tax written-down values will be used for calculating writing down allowances under the corporation tax regime.

Any unrelieved losses can be carried forward from the income tax regime to the corporation tax regime. They will not be capped like normal corporation tax loss-carry forwards, but will be used in priority to corporate losses in future periods to reduce future rental profits as much as possible.

Exception

A non-resident company with a UK property business does not have to give notice of chargeability to corporation tax if it reasonably expects that:

1. All income chargeable will suffer (20%) income tax deduction;
2. There will be no chargeable gains for the period.

As the rate of UK corporation tax is now expected to remain at 19%, even if not required to notify chargeability, it may be (slightly) beneficial to do so. Any excess income tax suffered would be refunded.

In making the decision the company must take into account corporation tax compliance costs based on possibly having to file accounts and an iXBRL CT600 as well as the potential complexity of corporation tax rules compared to income tax (these are covered in a separate session).

Filing and reporting requirements

Non-resident companies will need to register for corporation tax self-assessment. HMRC is writing to those it believes are affected by the change and registering these companies itself.

Agents may need to get authority to act for the company in corporation tax matters and register this with HMRC.

The company will need to file a corporation tax return (CT600) within 12 months of the end of the chargeable accounting period, including tax computations in iXBRL format (using third-party software).

They will also have to file accounts with HMRC, the form of which will depend on the circumstances.

If audited accounts are prepared for the company these must be filed along with management accounts for the property business. These audited accounts only need to be in iXBRL format if they fall within a recognised taxonomy (UK GAAP, UK IFRS, US GAAP etc) otherwise a PDF can be filed.

If no audited accounts are prepared, the company only needs to file what is required by legislation (iXBRL-tagged P&L for a property business) but will need to explain on its CT600 why no full accounts are being filed.

Payment dates

Non-resident companies will be used to paying the income tax due on 31 January following the end of the tax year.

The general rule for corporation tax is that the tax is due 9 months after the end of the chargeable accounting period.

Companies with larger profits must make instalment payments, but non-resident companies will be exempt for their first year if they were not within the scope of CT in the previous period (i.e. they did not have a UK permanent establishment nor made a profit from dealing in UK land).

If profits (including any gains) exceed £1.5 million p.a. (divided by the number of companies in the same 51% group), tax is paid on account in 4 instalments. The first is due by the 14th day of the 7th month then at three month intervals after this.

For example, a company with a 31 March year-end would pay instalments by 14 October and 14 January during the period, then 14 April and 14 July following the end of the period.

If profits (again including any gains) exceed £20 million p.a. (divided by the number of companies in the same 51% group), the instalments are accelerated. The first is due by the 14th day of the 3rd month of the period, then at three month intervals after this, so all estimated tax is paid within the accounting period.

There are special rules on instalments dates for short accounting periods which are not covered in this session.

Any balance of tax owed above the instalments is due within 9 months after the end of the accounting period. Interest accrues on the amount that each instalment should have been (with hindsight having finalised the liability) and how much was paid on each date. This interest is a deductible expense for corporation tax purposes.

Transitional year

If the company does not have a 5 April year-end, some of the profit for an accounting period will be liable to income tax and some liable to corporation tax.

Example

A Jersey company has a year ended 31 March. It derives UK property income in its year-ended 31 March 2021.

Five days' profit of this period (1 – 5 April 2020) will be liable to income tax and 360 days' profit (6 April 2020 – 31 March 2021) will be liable to corporation tax.

Numerical example

A non-resident property company has following property business profits

- Year to 31 December 2019 £150,000
- Year to 31 December 2020 £250,000
- Assume no capital allowances are claimable

Income tax profits for year to 5 April 2020

- $270/365 \times £150k = £110,959$
- $96/366 \times 250k = £65,573$
- Total profits £176,532
- Paper income tax return (SA700) required by 31 January 2021

Corporation tax profits for the period 6 April 2020 to 31 December 2020

- $270/366 \times £250k = £184,426$
- CT600 needs to be filed by 31 December 2021

Capital allowances – an example

A Guernsey company has brought forward capital allowance balances at 1 January 2020 of

- General pool £78,000
- Special rate pool £42,000

What are the writing down allowances claimable for the 2019/20 income tax return and the CT return to 31 December 2020?

	General pool	Special rate pool	Total
Income tax return:			
Balance b/fwd	78,000	42,000	
WDAs:			
18% x 78,000 x 96/366	(3,683)		3,683
6% x 42,000 x 96/366		(661)	661
Income tax WDAs			<u>4,344</u>
Balance c/fwd	<u>74,317</u>	<u>41,339</u>	

Balance c/fwd	74,317	41,339	
WDAs:			
18% x 74,317 x 270/366	(9,869)		9,869
6% x 41,339 x 270/366		(1,830)	<u>1,830</u>
Corporation tax WDAs			<u>11,699</u>
Balance c/fwd	<u>64,448</u>	<u>39,509</u>	

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