More change for UK property owners

Capital Gains Tax (CGT)

From 6 April 2019 the non-resident capital gains tax regime is being extended to charge non-resident individuals to CGT on all UK immovable property including commercial property. This will apply to gains accrued after 6 April 2019 and extends legislation that was introduced from April 2015 on UK residential property.

The default position is to rebase the property to its market value at 5 April 2019, but alternatively the gain or loss can be calculated using the original acquisition cost.

Indirect disposals will also be brought into tax under provisions taxing a person who disposes of an entity that derives 75% or more of its gross asset value from UK land. A disposal of a property-rich entity will only be caught if the 25% ownership test is satisfied. The test requires the person to hold an interest of 25% or greater at:

- the time of the disposal, or
- within the 2 year period prior to the disposal.

The interest in the entity must either be directly or through one or more entities.

From 6 April 2019 non-resident individuals will have to pay CGT due on disposal of UK residential property within 30 days of disposal, there is no exception for those already filing under self-assessment.

ATED related CGT provisions will be abolished from April 2019.

Taxation of non-resident companies

For those with offshore property companies, from April 2020, income from UK property will be chargeable to corporation tax (CT), rather than the current situation where income tax levied.

Furthermore from April 2019 gains from the disposal of all UK immovable property will instead be subject to CT, compared to the previous CGT rate of 20%. This is welcome as CT rates are currently lower at 19% and set to reduce further.

Note that, where a non-resident company is in receipt of UK rental income in the 2019/20 tax year and incurs a gain on the sale of a UK property in that same tax year, both an income tax return and a CT return must be filed for that one year, as companies will straddle both tax systems. From April 2020, both income and gains will be taxed under the CT regime.

It has not yet been announced what documents will be required to be filed with HMRC, however it is expected that accounts will be required to be filed with the corporation tax return in ixbrl format.

Income tax losses will be able to be carried forward and offset against future profits subject to corporation tax.

The corporate interest restrictions introduced for UK companies on 1 April 2017 will also apply to non-resident property companies. The corporate interest restriction only applies to individual companies or groups of companies that will deduct over £2 million of interest in a 12-month period.

1% Stamp Duty Land Tax surcharge for non-residents on UK residential property

On 11 February 2019 HMRC published a consultation document which proposes the introduction of a 1% surcharge on residential property purchases in England and Northern Ireland by non-UK residents. The consultation runs until 6 May 2019, any legislation will be contained in a future Finance Bill although no indication is given as to the date from which the 1% surcharge will be levied.

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