Non-resident landlord companies to come within corporation tax regime

Large Corporate

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The government is consulting on proposals to move certain non-resident companies from the income tax regime into the corporation tax regime.

On 20 March 2017 the government published the anticipated consultation document on proposals to move certain non-resident companies from the income tax regime into the corporation tax (CT) regime, with the stated policy intention being to ensure parity of treatment between resident and non-resident companies in areas such as the new corporate interest deductibility and carried forward loss rules.

The proposal would bring certain companies with UK source taxable income from real property within the CT regime, the government's reasoning being that to introduce interest restriction and loss reform for non-resident companies by amending the income tax rules would involve significant changes. The following potential issues are considered in the consultation document:

- **Accounting periods**: a non-resident company brought into the CT regime for the first time would have its accounting period begin on the first day on which they come into the charge to CT (6 April of the relevant financial year) with a deemed cessation of the UK property business for income tax purposes. Companies already within the CT charge will have their CT accounting period remain unaffected, with a 'just and reasonable' apportionment of the UK property income. In both scenarios, the government's current thinking is to avoid the creation of balancing charges and allowances for capital allowances purposes.
- **Computation of UK property business profits**: The computational rules for income tax are very different to the rules for CT, including in the taxation of interest and derivatives and the use of losses.

- **CT loss reform**: The CT loss reform rules will apply to non-resident companies in the same way as they are expected to apply to UK-resident companies, but will not apply to losses that arose before the UK property business came within the scope of CT. These losses will be available to be carried forward and offset against future income from the property business without restriction.
- **Interest restriction**: The interest restriction rules would apply in the same way to a non-resident company as they would to a UK-resident company, to ensure fairness of treatment.
- **Disregard Regulations**: These will apply in the same way to non-resident companies brought within the CT regime.
- **Management expenses**: Relief for these will only be given to the extent that they are directly linked to the taxable UK source income, with unused property losses extinguished when the UK property business ceases.

The proposals say that the current intention is not to bring income arising from a trade carried on in the UK otherwise than through a permanent establishment into the CT regime, as this is understood to only apply to a small number of non-resident companies – however, the consultation document says that the government will keep this under review.

The proposals also include bringing non-resident capital gains tax gains on residential property into the CT regime, with the existing computational rules remaining largely the same, but the consultation does not include plans to bring other gains into the CT regime. The consultation also indicates there are no plans to change the current practice in respect of deduction of income tax on interest and other payments.

We would welcome your thoughts and comments on these proposals and the specific questions posed in the consultation document. Please send any comments on this to sdalton@ciot.org.uk by Friday 19 May if possible.