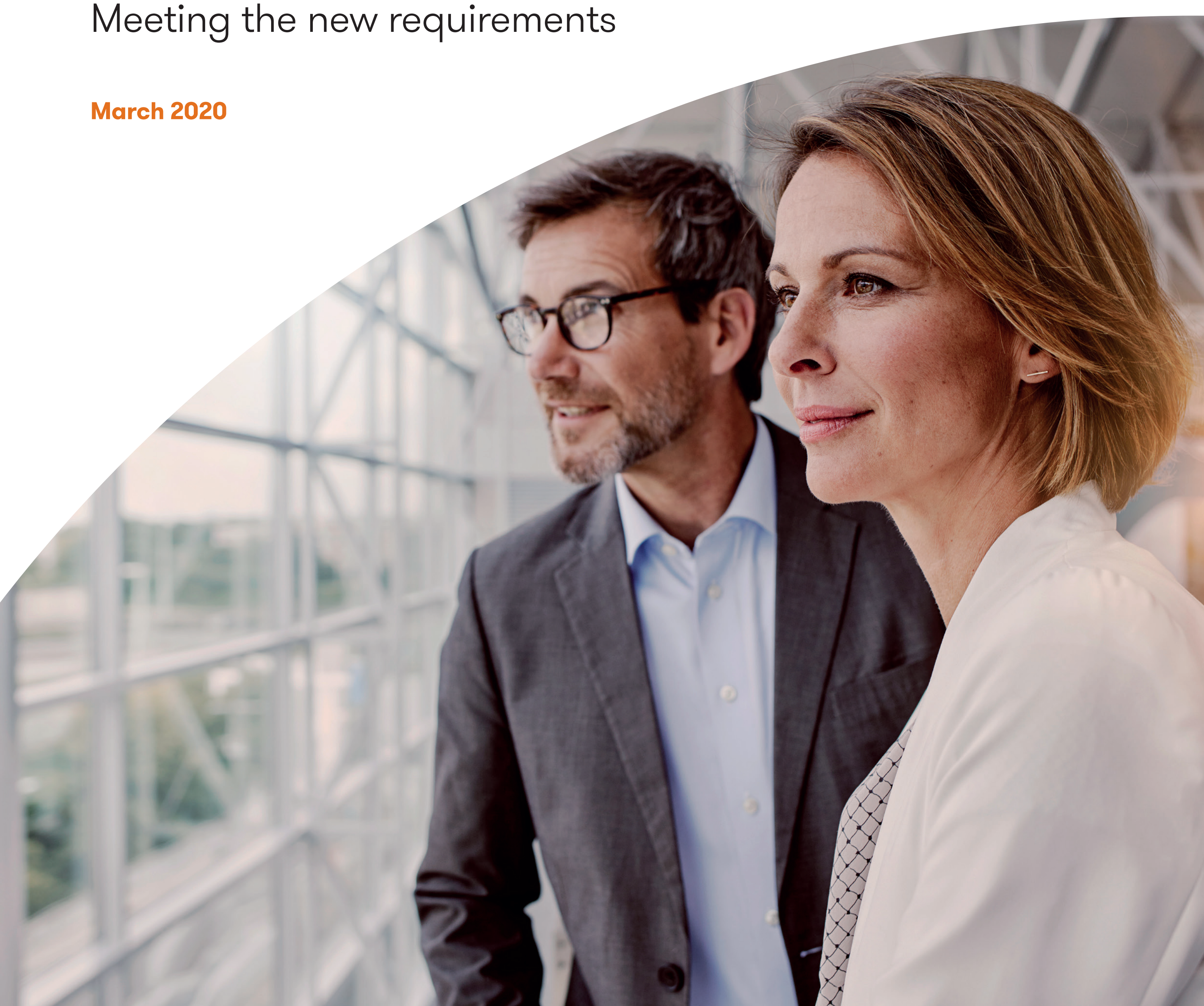
Tax

The UK tax landscape is changing for Non-Resident Landlords

Meeting the new requirements

March 2020



From 6 April 2020 there will be fundamental changes to the UK tax treatment of non-resident landlord ("NRL") companies. From this date, they will no longer be liable to income tax on their UK property income. Instead, they will be liable to UK corporation tax ("UKCT").

Advisors to NRL companies will have to familiarise themselves not only with administrative changes to the way in which UKCT returns are managed and filed, but also the significant changes from a technical perspective, as to how UK taxable profits are calculated, and the resulting effective rate at which UKCT is paid.

These updates bring major changes to the way companies have to approach and manage the more complex rules and regulations of the UKCT legislation.

Technical changes

Tax rate

Under the NRL system, income tax would be charged at 20% on a company's property income. Under the new system, UKCT will instead be charged at the prevailing rate in any given year (currently 19%).

Whilst this initial reduction in the tax rate may seem welcome, this must be balanced against additional complexities that are presented under the UKCT system, which are outlined below:

Loan Interest

One of the biggest changes to be aware of is the treatment of loan interest.

Under the UKCT regime, loan interest is, in principle, deductible against taxable income. However there can be significant restrictions under the complex provisions of the Corporate Interest Restriction rules, which may restrict the amount of UKCT relief a company can claim for net interest and other financing costs. In broad terms, these rules cap interest deductions to 30% of the UK 'Tax EBITDA' (essentially tax adjusted profits before interest and some other adjustments). To assist companies, there is a £2m de minimis for net interest costs across companies in a group, which are subject to UKCT (if net interest is below this amount, the restriction does not apply), and also the option to utilise various elections, if they happen to give a better result in terms of interest deductions.

Under UKCT, restrictions to loan interest can also apply if payments fall foul of the UK's Anti-Hybrid Mismatch or Transfer Pricing legislation. Each of these rules need to be considered in order to arrive at the appropriate deductions available against taxable profits for UKCT purposes.

How can Grant Thornton help?

- Undertake a 'health check' on the 2019/20 NRL return, and liaise early with HMRC, in order to support with a smooth transition into the UKCT regime.
- Use our detailed knowledge of the UKCT system and the various claims and elections which are available, in order to ensure effective mitigation of the UKCT payable from 6 April 2020. This tax expertise is held locally within the Channel Islands, allowing us to be flexible and responsive.
- Advise on the most tax efficient use of loss relief throughout the UK tax paying group, including the interaction of NRL income tax losses, and UKCT losses.
- Tax planning for future property purchases and disposals.

Action to take now

- Understand the impact on the return to investors through changes in UKCT payable, vs NRL tax – potential increase in effective tax rate?
- Take remedial action to mitigate any increase in effective tax rate.
- Liaise with HMRC promptly to enable on time online filing of the corporation tax returns and supporting documents.
- Ensure availability of appropriate company accounts to support the UKCT filing.

Losses

Income Tax Property Losses ("ITPL")

ITPL are those losses that a company realised prior to 6 April 2020, when the company was assessed to income tax under the NRL tax regime.

The ITPL loss as at 5 April 2020 will automatically be carried forward to the company's corporation tax record and will be offset against future rental profits realised. No separate claim is needed to access the losses. ITPL must be used at the earliest opportunity and cannot be disclaimed.

Corporation Tax Losses ("CT losses")

CT losses are any losses arising on or after 6 April 2020 and these need to be recorded separately to the ITPL.

There is considerable flexibility around the use of CT losses. For example, they can be surrendered to / from other companies in the same group that are also subject to UKCT. However, UKCT losses are also subject to the corporate loss restriction, which limits the amount of losses brought forward in excess of £5m, which can be offset against taxable profits in any one year.

Chargeable Gains

The fundamental shift into the UKCT regime continues a trend from HM Revenue & Customs ("HMRC") to bring non-resident companies within the scope of UKCT. This continues the work undertaken previously by HMRC to bring capital gains within the UKCT net.

With effect from 6 April 2015, direct disposals of UK residential property by NRL companies have been assessable to UK tax under the Non-Resident Capital Gains Tax regime. From 6 April 2019, any non UK resident company that disposes of UK property (potentially including indirect disposals of property rich companies), be it commercial or residential, is now liable to UKCT.

The generation of profits by NRLs both through corporate gains and rental income will, from 6 April 2020, be inextricably linked to the UKCT regime. Proper management of the reporting and payment of taxes ought to be ensured to prevent costly compliance failures.

Administrative changes

The first year of UKCT will be regarded as a transitional year

Generally speaking, a UKCT return covers the same period as the company's set of accounts. For the first year of UKCT however, known as the transitional year, an adjustment may need to be made, depending on the year end, to ensure that no income is assessed, or expenses relived, twice.

Tax filing deadlines are no longer 31 January

Gone are the days of a single tax return filing deadline [31 January] for every NRL return. Now, the filing deadline for a UKCT return is determined by the company's year-end; the deadline of which being 12 months after the end of the accounting period.

Tax payment deadlines are changing

As with the tax return filing deadline, the tax payment deadline is also specific to each individual company. Under the income tax regime, NRL companies had to pay their balance of tax by 31 January following the end of the tax year in question. Under the new UKCT regime, payment must be made within 9 months and 1 day after the end of the account period.

There are separate rules for large, or very large, companies whereby these companies must settle their UKCT liability in instalments; the deadlines for which will vary depending on the company's profit level, and the worldwide group structure. In certain circumstances, there is a grace period for the first year of UKCT in relation to quarterly instalment payments.

Ensuring timely and accurate payments of UKCT is vital to avoid costly interest or penalties being levied by HMRC.

UKCT returns must now be filed online

Unlike NRL tax returns, UKCT returns must be filed online, with appropriate company accounts.

Want to know more?

We are delighted to announce the recent appointment of Andy Shaw, a UK corporation tax specialist, who joins our Jersey office from a leading independent Chartered Accountancy and Business Advisory firm in the UK. If you would like to learn more about how Grant Thornton can support you in your transition to this new regime, or would like to learn more about our services, please contact

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