

## CHANGE AHEAD FOR UK COMMERCIAL PROPERTY TAX RATES - FOR SOME AT LEAST

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One of the attractions of the UK to non-UK resident investors in commercial property is a benign direct tax regime - in particular that capital gains can be realised free of UK tax. That is set to change from April 2019 under new proposed measures.

The proposed measures will have an adverse effect on returns for non-UK residents from UK commercial real estate, and so make the UK less attractive than at present as an investment destination. The effect is likely to be felt now as non-UK residents price the measures into their financial modelling. These measures may also be a catalyst to disposals before April 2019 (as part of a strategic re-deployment of capital).

Under current law, non-UK residents (corporates and individuals) who invest in commercial UK real estate are able to dispose of that property free of UK tax on the capital profit (the 'gain') that arises on disposal. Gains from disposals of UK residential real estate by non-UK residents are already within the charge to UK tax.

It was announced in yesterday's Budget that, from April 2019, a new charge to UK tax will arise on gains from UK commercial property made by non-UK residents. Government is consulting on the new tax, and has set out its proposals.

- There will be a single regime for tax on the disposal of any interest in residential and commercial property by non-UK residents.
- The regime will capture indirect (as well as direct) sales of property: so, tax will arise on the sale of shares or other interests in "property rich" entities (where 75% or more of its gross asset value represents UK property at the date of disposal) - but only where the seller has a 25% or more interest in the entity (or held at some point that size of interest in the 5 years prior to sale).

- The tax will apply only to gains accruing after 1 April 2019 (for companies) or 6 April 2019 (for individuals), and so there will be a re-basing of property values to these dates for tax purposes.

There will also be an extension of the UK tax regime for non-UK residents investing in UK residential property to companies which are widely held (the current tax regime for residential property only applies to close companies). There are likely to be exemptions for institutional investors such as pension schemes.

It has also been announced that, from April 2020, non-UK companies carrying on a UK property rental business will be charged to corporation tax (rather than income tax, as at present). This means that such measures as the restriction of deductions for interest and the new corporate loss restrictions will, from that time, apply to such businesses, and (as a result) either pay more tax or pay tax earlier than under the current rules.

Whilst the introduction of the proposed measures is yet some time way and whilst they may evolve before introduction, it is important for investors to consider, discuss and review how the measures will affect their own property investment and disposal decisions; and to consider, also, how they may already be affecting the decisions of others.

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