

Client Alert

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U.K. Is to Tax Gains Made by Non-Residents on Commercial and Residential Real Estate and Introduce Corporation Tax for Certain Non-Residents

The U.K. has announced that, from April 2019, tax will be charged on gains made by non-residents on disposals of all types of UK real estate, extending existing rules that apply only to residential property. The proposals, which are subject to consultation, are:

- There is to be a single regime for disposals of interests in both residential and commercial property, introducing a new charge for gains on disposals of commercial property and extending the rules for residential property to indirect sales and disposals made by “widely-held” companies.
- Indirect disposal rules will apply to ‘property rich’ entities, which is broadly where 75% or more of an entity’s gross asset value at disposal is represented by UK immovable property. Such disposals will trigger the charge only where the person holds, or has held at some point within the five years prior to the disposal, a 25% or greater interest in the entity.
- With respect to non-residential property, only the gains attributable to changes in value from 1 April 2019 (for companies) or 6 April 2019 (for other persons) will be chargeable, which will be achieved by rebasing property values at April 2019.
- new rules to apply from 22 November will counteract arrangements that seek to avoid the new charge by exploiting provisions in some tax treaties.

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The consultation closes on 16 February 2018.

Additionally, following consultation published in March 2017, legislation is to be introduced so that non-UK resident companies which carry on a UK property business or have other UK property income will be charged to corporation tax rather than income tax as at present. This brings such companies into the scope of various corporation tax measures such as the corporate income restriction and corporate loss rules. The government plans to publish draft legislation for consultation in Summer 2018 and it will have effect after 6 April 2020.

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