

Briefing document

Non-Resident Landlords Scheme

Introduction

The Non-Resident Landlords (NRL) Scheme is a scheme for applying withholding tax to the UK rental income of persons whose usual place of abode is outside the UK. Such persons include individuals, companies and trustees who receive UK rental income and usually live or are based outside the UK.

Broadly speaking, a 20% withholding is due under the scheme, and any additional tax or repayment is then dealt with under the Self-Assessment system. NRLs should ensure that they are compliant with the Scheme to ensure that they do not suffer unnecessary interest and penalties.

The tax position for non-UK resident companies is due to change from 6 April 2020, in that from this date corporation tax will apply to UK property income instead of income tax. The NRL Scheme will continue to apply.

While this note concerns income tax, a brief paragraph on the tax and reporting position on disposal of UK residential property is included below.

How the NRL Scheme works

The responsibilities of a NRL depend upon whether the NRL is registered or unregistered under the Scheme.

Unregistered Landlords

If a NRL is not registered with HM Revenue & Customs (HMRC) under the NRL Scheme, they suffer withholding tax at the basic rate of income tax (currently 20%) in respect of any UK rental income received.

Basic rate tax is deducted from rent by the letting agent or tenant and the tax needs to be paid over to HMRC within 30 days after the end of each calendar quarter. Tax is collected in the first instance by the letting agent, if there is one. If the NRL does not have a letting agent acting for them, and the rent is more than £100 per week, the tenant is responsible for deducting the tax. HMRC can issue a written notice requiring the tenant to deduct tax at source if the weekly rent is £100 or less.

In calculating the amount of rent that should suffer the withholding tax, the collecting agent or tenant may deduct allowable expenses that he or she has paid on the NRL's behalf, such as agent's fees and repairs. If NRLs have suffered additional expenses directly, they may claim relief for them via a Self-Assessment tax return each year.

In addition to quarterly returns summarising the tax withheld for the quarter, the collecting agent or tenant must also complete an annual return for each financial year (ending 31 March), which must be submitted to HMRC by the 5 July following the end of the year. The collecting agent or tenant must also provide a certificate of tax deducted to the landlord by the same date (5 July following the end of the year).

Registered Landlords

It is possible for a NRL to apply to HMRC for approval to receive rents with no tax deducted.

HMRC will grant exemption from tax being deducted at source if they are satisfied with a NRL's ability to comply with UK tax obligations. NRLs can apply to receive rent with no tax deducted on the basis that either:

- Their UK tax affairs are up to date; or
- They have not had any UK tax obligations before they applied; or
- They do not expect to be liable to UK income tax for the year in which they apply; or
- They are not liable to pay UK tax because they have Sovereign Immunity from UK taxation (persons with Sovereign Immunity are generally foreign Heads of State, governments and government departments).

Once approval has been given, HMRC will send notices to the NRL advising that rents may be received with no tax deducted. A corresponding notice will be sent to the letting agent or tenant named on the application, authorising him or her to pay rent to the person with no tax deducted. This gives an obvious cash flow advantage to the NRL, as rents are received gross, and any tax due is collected through the tax return process (see below).

Agents must complete an annual tax return where they collect rents on behalf of a landlord within the scope of the NRL scheme, even where HMRC have given approval for rents to be paid gross. Tenants do not need to complete an annual return, provided they have not been required to withhold tax during the year. Neither agents nor tenants need to provide the landlord with a certificate of tax deducted if no tax has been withheld on rental income.

Self-Assessment – the landlord

A NRL who has received approval from HMRC to receive rents with no tax deducted is normally required to file an annual Self-Assessment tax return. Self-Assessment returns may also be required in some cases where tax has been deducted at source, such as where the tax deducted at source is less than the tax payment due. Landlords may also wish to file a Self-Assessment tax return if expenses have been incurred which are deductible for income tax purposes but not for the purposes of calculating the tax to be withheld at source, as this may result in a repayment of tax.

NRL companies are assessable to basic rate (currently 20%) income tax in respect of their rental profits. Normal income tax rates apply to individuals and trustees. NRLs usually need to file a Self-Assessment tax return.

NRLs who are required to file a Self-Assessment income tax return must file the return and pay any tax due by 31 January following the end of the tax year on 5 April. The NRL may also be required to make two payments on account in respect of the following tax year's liability. If payable, each payment will be equal to 50% of the prior year's income tax liability and the payments will be due by 31 January in the tax year and 31 July following the tax year.

Changes to taxation of non-UK resident companies

As noted in the introduction, non-UK resident companies will be brought within the scope of corporation tax on UK source rental income from 6 April 2020, at which point the corporation tax rate is expected to be 17%. Consequently, the rate of tax non-UK resident companies are liable to pay on rental income will reduce. Transitional rules apply in relation to the move from income tax to corporation tax.

Capital gains

This note specifically comments on the tax position of income. Different rules apply to the taxation of capital gains and to the payment of capital gains tax. It should be noted that a tax return is required within **30 days of disposal** of UK land by a non-UK resident individual or non-UK resident trustees in almost all cases. Different rules apply to companies. Please contact us in good time if a non-UK resident is considering disposing of a property, so that we can assist with this point.

Find out more...

This note reflects the law in force as at 2 August 2019. Please be aware that this note does not cover all aspects of this subject. To find out more about any aspect of the above, please discuss with your usual Deloitte contact. If you do not have a usual contact, please contact Michelle Robinson (michellerobinson@deloitte.co.uk).

For further information visit our website at www.deloitte.co.uk.

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