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Your client's UK property – new UK tax rules

Private Client Update

May 2016

The tax rules affecting UK residential property have undergone substantial changes in the last three years. This has continued with the introduction of Capital Gains Tax (CGT) for non-UK residents owning residential property in the UK from 6 April 2015. The timeline below illustrates just how many changes have been made in a short space of time!

- **21 Mar 2012** 15% SDLT for "enveloped" property > £2m
- **1 Apr 2013** ATED for property >£2m
- **6 Apr 2013** ATED CGT for property >£2m
- **17 Jul 2013** IHT debt restrictions
- **20 Mar 2014** 15% SDLT for "enveloped" property >£500,000
- **6 Apr 2014** Changes to CGT main residence relief (PPR)
- **4 Aug 2014** Changes to debt remittance rules
- **4 Dec 2014** New SDLT rates and bands
- **Apr 2015** CGT for non-residents and other changes to PPR
- **Apr 2015** ATED/ATED CGT property >£1m
- **Apr 2016** Wear and tear allowance restriction
- **Apr 2016** ATED/ATED CGT property >£500,000 3% more SDLT on second residential properties
- **Apr 2017** Interest relief restriction for landlords
- **Apr 2017** IHT if UK property held via companies or trusts

2012 2013 2014 2015 2016 2017

What do these changes mean for non-UK resident property owners?

All of these changes have made buying, owning and selling UK residential property a complex tax issue and it is important that property owners are appropriately advised on the structuring and financing of UK residential property ownership. It is likely that many property owners have struggled to keep abreast of the numerous changes and they now may not fully understand how the changes impact the UK tax treatment of their property.

Property Tax 'Health Check'

Given the increasing complexity of the tax rules affecting UK residential property we are recommending all property owners or buyers/potential buyers obtain a property tax 'health check'. This will identify the current tax position, how the tax changes may have an impact and make recommendations, where possible, to help improve the suitability of the structure. The following questions are examples of issues we are discussing with our clients which we would aim for our property tax 'health check' to address.

What is the Inheritance Tax (IHT) exposure on my property?

Directly held UK residential property will in most situations be within the scope of UK IHT, regardless of the owner's residence and domicile position. It is important to understand the level of any IHT exposure on the property and how that may be managed (for example through an appropriately drafted will).

Will the proposed Inheritance Tax (IHT) changes on excluded property trusts affect me?

The Government intends to amend the rules on excluded property so that trusts or individuals owning UK residential property through an offshore company, partnership or other opaque vehicle, will pay IHT on the value of such UK property in the same way as UK domiciled individuals. The measure will apply to all UK residential property whether it is occupied or let and of whatever value.

Is my property affected by the current or future Annual Tax on Enveloped Dwellings (ATED) rules?

The ATED rules have been widened to apply properties worth £500,000 or more from 1 April 2016.

Will the introduction of Capital Gains Tax for non-UK residents be applicable?

CGT applies to disposals of UK residential property by non-UK resident owners from 6 April 2015. Only gains accruing from that date are within the charge. This applies to individuals, trustees and companies, although there will be exemptions for institutional investors and companies that are not closely held. The new charge applies to residential property across the market, not just to those properties above a certain value. There are strict reporting and compliance rules, even if reliefs are available.

Can residential landlords get mortgage interest relief as a deduction from rental income?

From 6 April 2017, there will be a restriction on the deduction of finance costs (including loan interest) related to let residential property from the profits of property businesses chargeable to income tax.
The rules applying the restriction are complex, particularly for property businesses which have mix of residential and commercial properties. We recommend Property rental businesses seek advice on the impact of the changes on their tax position.

Will the changes to the tax treatment of loans apply to the loan used to buy the property?

Important changes have been made to the tax treatment of loans from an IHT perspective. These changes could have significant tax implications and it is important to understand the implications.

Stamp Duty Land Tax (SDLT) Changes

As you can gauge from the above time line, there are various changes to SDLT rules which have come into force. These include a 15% charge on the purchase of property via an ATED related structure as well as an extra 3% charge on the purchase of second residential properties.

The complexity of the SDLT rules has significantly increased in the three years leading up to 1st April 2016.

Property trading/developing vs investing

The chancellor's budget announcement in March 2016 announced a charge in the double tax agreements between Guernsey and the UK which will have wide ranging impact on certain property development businesses operating out of the islands. It is anticipated that the new rules will be introduced from June 2016 but targeted anti avoidance measures come in to immediate effect. The gist of these new provisions is that where previously planning could legitimately be put in place to ensure that profits deriving from transactions in UK land and property were taxable in Guernsey, the whole of these profits will not suffer UK corporation tax. Being able to differentiate between investment and trade has never been more important in this context.

Planning opportunities

It is difficult to assess any possibilities prior to the finalisation of the IHT rules to be enforced from April 2017. However, it is anticipated that certain exemptions may exist for collective investment schemes, similar to those that apply to NRCGT and these may provide opportunities for planning.

If you would like a property tax 'health check' in respect of your clients, or have any other questions regarding the taxation of UK residential property, please contact one of the KPMG advisors below.

Your contacts at KPMG in the Channel Islands

Tony Mancini
Tax Partner
amancini@kpmg.com
T: +44 (0)1481 741845

Paul Beale
Senior Tax Manager
paulbeale@kpmg.com
T: +44 (0)1481 755798

Sinéad Leddy
Senior Tax Manager
sleddy@kpmg.com
T: +44 (0)1481 755788

kpmg.com/channelislands