

Changes (and proposed changes) to the regime for the ownership of high value UK residential property

11 SEPTEMBER 2012

CATEGORY:
ARTICLE

The March 2012 Budget included the announcement of a range of measures designed to discourage taxpayers from holding UK residential properties worth more than £2m in complex structures, particularly companies.

The first measure, which came into effect immediately, was an increase in the rate of stamp duty land tax (SDLT) to 15% where such a property is purchased by a company (the rate on purchases by individuals also increased – but only to 7%).

The other changes are intended to take effect from 6 April 2013. These comprise an annual charge on corporate owners of high value residential properties and the introduction of capital gains tax on the disposal of such properties. Normally, capital gains tax is not charged on gains made by non-residents. The capital gains tax change seems destined to apply not only where properties are held by companies but also where they are held by trusts (however, none of the new rules will apply where a company or trustee merely holds as a nominee or bare trustee for an individual). It will also apply where the disposal is of the shares of a company more than 50% of the value of which is attributable to residential property.

The annual charge will depend on the current market value of the property, and it is expected that properties will need to be revalued every five years. The charge will initially range from £15,000 (for a property worth £2m – 5m) to £140,000 p.a. (for a property worth over £20m).

These changes will affect not only how residential property is purchased in the future but also the existing owners of such property. Our experience since the increased rate of SDLT was introduced in March is that new purchasers are less attracted by the idea of buying through a company, even though this may in many cases offer the best solution in terms of protection from inheritance tax. Where property is currently held in a structure, the cost of paying the annual charge each year and capital gains tax on an eventual sale will need to be balanced against the possible costs of altering the ownership arrangements before the changes take effect.

There has recently been further consultation on the details of the changes, but it is unlikely that we will know the final shape of the new legislation until early 2013. In the circumstances, it seems premature to unwind existing structures at this stage. However, given that there may be only a few months between the publication of the draft legislation and the new regime coming into effect, now is a good time to assemble the information that may be needed to determine what course to take. Taxpayers who have a high value residential property held by a company and/or trust may now want to consider obtaining details of its cost price, its market value and its rental value so that they are ahead of the game when a decision needs to be made.

Authors

Justine Markovitz

CHAIRPERSON | GENEVA

Private client and tax

 +41 22 593 7711

 justine.markovitz@withersworldwide.com

Judith Ingham

CONSULTANT | LONDON

Private client and tax

 +44 20 7597 6063

 judith.ingham@withersworldwide.com

Lindsay Brown

SPECIAL COUNSEL | GENEVA

Private client and tax

 +41 22 593 7723

 lindsay.brown@withersworldwide.com

Louisa Douglas Home

ASSOCIATE | GENEVA

Private client and tax

 +41 22 593 7707

 louisa.douglashome@withersworldwide.com

Ian Perrett

PARTNER | GENEVA

Private client and tax

 +41 22 593 7712

 ian.perrett@withersworldwide.com