Switzerland UK Autumn Statement 2014 analysis

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In yesterday's Autumn Statement, the UK Chancellor announced several measures that will directly affect non-UK individuals who live or own property in or are considering moving to the UK. Although in many cases the measures will mean that such individuals are liable to pay more tax in the UK than previously (whether on one-off transactions or on an ongoing basis) the UK remains an attractive place for individuals to settle with a tax regime that has many advantages over those of other European jurisdictions.

Many of the changes focus on residential property which has now been targeted for increased tax by all of the political parties in the UK.

High value residential property – increased purchase costs

The Autumn Statement introduced a significant change to the Stamp Duty Land Tax ('SDLT') system for residential property. These changes came into effect at midnight last night. As from today, SDLT will be payable at new rates on the portion of the purchase price falling within new set bands. This is a significant change to the old system, under which a single rate of purchase tax applied to the entire purchase price.

The effect of these changes is that high value properties will be subject to significantly higher total SDLT charges. In brief, a 0% rate will apply up to £125,000. From £125,001 – £250,000 a 2% rate applies, and from £250,001 – £925,000 a 5% rate applies. A 10% rate applies from £925,001 – £1.5m and a 12% rate over £1.5m.

The bands have been designed to ensure that properties purchased for £937,500 or less will not be affected. However, an individual purchasing a property for more than £937,500 will have to pay considerably more SDLT than before and the greater the purchase price, the greater the overall effect. For example, a £5m property will now carry a £513,750 SDLT charge (where previously the charge would have been £350,000) and a £10m property will now carry a £1,113,750 SDLT charge (where previously the charge would have been £700,000).

The flat 15% charge will continue to apply to properties worth over £500,000 bought by non-UK resident companies.

Extra ATED charge

In addition to the new SDLT charges, the Annual Tax on Enveloped Dwellings ('ATED') is to increase significantly. From 1 April next year the ATED charge for a residential property owned by a company or other 'enveloped' structure will be subject to ATED at £23,350 for properties worth £2 – £5m (previously this charge was £15,400), £54,450 for those worth £5 – £10m (previously £35,900) and £109,050 for those worth more than £10m but less than £20m (previously £71,850). Properties above £20m caught by ATED will pay tax at £218,200 (whereas prior to the increase this would have been £143,750). It should also be noted that from 1 April 2015 properties worth £1m – £2m will also be subject to the regime with an annual charge of £7,000 being payable.

As a result of these increased charges, purchasers of high value properties which are already held in a company will need to consider whether to bear the ongoing ATED charge or pay significant SDLT costs. In addition, the increased charges will cause individuals who already own UK residential property through a company and have decided to pay the ATED (in order, for example, to secure the inheritance tax benefits of owning property through an offshore company) to reconsider whether it is worth continuing to pay in the future.

And CGT too…

In addition to the increased rates of SDLT and the increased ATED charges, the UK government confirmed last week that non-resident owners of UK residential property will be subject to CGT at (generally) 28% on any gains realised on residential property after April 2015. CGT payable will be limited to gains arising after 5 April 2015 so there will be an effective rebasing of the value of the property as at that date. As an alternative, individuals may elect to time apportion the whole gain over the period of ownership.

Remittance basis – new charges

One piece of good news is that the UK government remains committed to the remittance basis. However, the annual charge for those who elect to be taxed on the remittance basis is set to increase for those who have been resident for at least 12 out of 14 years from £50,000 to £60,000. In addition, a new level of charge will be introduced for those who have been resident for 17 out of the last 20 years (the deemed domicile threshold for inheritance tax) which will be set at £90,000. There is no change to the £30,000 charge for those who have been resident for 7 out of the previous 9 years, and no charge at all is payable by those who have been resident for less than 7 years.

It is to be remembered that at present these charges can be opted in and out of on a year by year basis, so that a taxpayer can opt to be taxed on the remittance basis in a year when the tax on offshore income and gains would be more than the charge but to be taxed on the arising basis in other years. However, this may be set to change with the announcement that there will be a consultation on making any decision to pay the remittance basis charge apply for a minimum of three years.

Anti-avoidance

The UK government also introduced various anti-avoidance measures. Although these will not affect many of our clients, these measures are briefly summarised below.

Google tax

The so-called ‘Google Tax’ will generate many headlines. This is the introduction of a new Diverted Profits Tax of 25% with effect from 1 April 2015 which will apply to multinational companies who seek to use artificial arrangements to divert profits overseas so as to avoid UK tax.

Offshore evaders

Individuals who evade tax offshore are being targeted further with enhanced civil penalties for offshore tax evasion being introduced with effect from April 2016. There will also be a new penalty of up to a further 50% for moving hidden funds to other jurisdictions to circumvent international tax transparency agreements.

Rewards for whistleblowers

Anyone who provides HMRC with information on offshore tax evaders will receive ‘enhanced’ financial incentives for doing so. At present HMRC has the power to reward individuals who provide information on tax evaders. The sums rewarded typically range from £50 to thousands of pounds depending on how much additional tax is collected as a result of the information provided. These measures are similar to those in place in the US and other European jurisdictions.

Conclusions

Despite the increased cost of electing to be taxed on the remittance basis and the increasing complexities surrounding property ownership, for many wealthy individuals who are non-UK domiciliaries, the UK tax system retains many advantages when compared with other European jurisdictions.

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