

INHERITANCE TAX ON UK LOCATED RESIDENTIAL PROPERTY

From 6 April 2017 there will be a charge to Inheritance Tax (IHT) on all UK residential property owned directly or indirectly (i.e. in offshore companies that qualify as “close” companies for UK tax purposes, trusts or offshore companies underlying trusts) by non-UK domiciled individuals. The charge will apply irrespective of the use of the property. In essence, all UK residential property will be subject to IHT in the same way as it would if owned directly by a UK domiciled individual. Thus such property will no longer be “excluded property” for Inheritance Tax purposes.

Charges will apply in respect of all UK located residential property on the following events:

- The death of the individual, wherever resident, owning the shares in an offshore close company which in turn owns UK located residential property (at 40% after the NIL rate band, currently £325,000).
- On the gift of shares in an offshore close company which owns UK located residential property into a trust (at 20%).
- On each 10 year anniversary of an offshore trust owning such property (at 6% maximum).
- On the distribution of shares of an offshore company which owns UK located residential property from an offshore trust (at up to 6%).
- On the death of the donor of shares of an offshore company owning UK located residential property within 7 years of the date of the gift to an individual (at up to 40%).
- On the death of the donor or settlor of a trust within 7 years from the date of the gift, or where he continues to benefit from the gifted property or company shares.
- On the death of a life tenant of a pre-March 2006 interest-in-possession trust from which they have an entitlement to income.

Any borrowings taken out to purchase the UK residential property will reduce the value of the property subject to IHT, providing it is not from a related party.

The usual IHT reliefs and charges will apply. Therefore a deceased individual who owned the shares in an offshore company directly will have the benefit of spouse exemption if the shares are left to a



surviving spouse (subject to the special rules that apply when the deceased is non-UK domiciled and the surviving spouse is UK domiciled).

Non-UK Resident Trusts

IHT will apply to non-resident trusts, created and funded by non-UK domiciled individuals, owning directly UK located residential property. The charge will be on each 10 year anniversary and on the distribution to a beneficiary of UK located residential property. If the UK located residential property is owned through an underlying non-UK company, then the value will be included in calculating each Ten Year Anniversary charge, and an IHT Exit charge will apply on the distribution of the shares in that offshore company to a beneficiary.

Isle of Man Companies

Where the owner of an Isle of Man (or indeed any offshore) company is not UK domiciled (irrespective of where he is resident) and the company owns UK residential property there will be an IHT charge on the death of that individual, or on the gift of the shares in the company to another person, subject to the same exemptions that apply for UK resident and domiciled owners. .

Draft legislation was issued in August 2016 and withdrawn from the Finance Bill 2017, it is expected that the new legislation will become law in the second Finance Bill 2017 in the Autumn and be back dated to 6 April 2017.

If you would like to know more then please contact

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