

UK RESIDENTIAL PROPERTY HELD IN COMPANIES

The Annual Tax on Enveloped Dwellings (ATED) and Capital Gains Tax on Enveloped Dwellings (CGTED) on valuable UK residential property owned by non-natural persons have been extended to properties worth more than £500,000.

These new rules apply to “Non-Natural Persons” (NNPs), both UK resident and non-UK resident, (which for the purposes of this note we will take to mean Isle of Man companies) owning UK located residential property valued at more than £500,000.

None of these charges applies to a company acting as a nominee or as a corporate trustee.

STAMP DUTY LAND TAX (SDLT)

15% Rate

The 15% rate of SDLT on the purchase by a company of UK located residential property was extended to apply to all residential properties costing £500,000 or more, with effect from 19 March 2014.

Exemptions/Reliefs

The only exclusions from the 15% rate of charge are if the NNP is carrying on genuine commercial activity of property development or is an investment company renting the residential property to unconnected third parties. If any exemption or relief applies then SDLT will be at the appropriate rate based on the cost of the property. See our note “UK Located Residential Property”.

Companies acting solely in their capacity as corporate trustees of a trust are not within this higher rate SDLT charge.

ANNUAL TAX ON ENVELOPED DWELLINGS (ATED)

This charge has applied since 1 April 2013 to NNPs owning UK located residential property valued at more than £2m.

From 1 April 2015 this charge applied to NNPs owning UK located residential properties valued at £1m - £2m at April 2012, and from 1 April 2016 to UK located residential properties valued at 1 April 2012 at £500,000 - £1m.

The reliefs mentioned above will also apply to ATED, but they will have to be claimed, annually.

The first charge on properties worth £1m - £2m is based on the market value at the relevant value date, i.e. 1 April 2012, or on the cost at the date of acquisition if later. The first charge on properties worth £500,000 - £1m is also based on the market value at 1 April 2012, or on the cost at the date of acquisition if later. This value will be used until 31 March 2017. The company can self-assess the value or use a professional valuer. It is the open-market value that is needed. Properties will be revalued every 5 years. HMRC will provide a free “banding” valuation check service where the market value is within 10% of any threshold.

The same definition of chargeable persons applies for ATED as for the 15% SDLT rate, as do the reliefs, so that development companies and investment companies generating rental income (providing no person connected to the company occupies or has the right to occupy any such residential property) is not chargeable. However, from 1 April 2015 returns have had to be made by **ALL NNPs** owning UK located residential property valued at more than £1m, and from 1 April 2016 for UK located residential property valued at more than £500,000, and the relevant relief claimed where appropriate.

The due date for submission and payment of the tax is 30 April each year, relating to the year commencing 1 April .

The due date for submission and payment of tax for properties valued at more than £500,000 was 30 April 2016.

Tax returns for the annual charge will be required, listing each property.

There is now a Relief Declaration Return available for completion where a company owns a number of properties eligible for one of the reliefs, instead of completing a separate return for each property as was the case previously. The filing deadline for this type of return is 30 April.

If the property is only owned for part of the year or you change how you use the property in the year so that it moves into or out of ATED, then ATED applies on a proportionate basis.

If a property is bought after 1 April then the return and payment are due for that year within 30 days of purchase, with interest and penalties being charged for being late.

Because payment is required at the start of the period of account (i.e. on 30 April for the year to the following 31 March), if a property is sold during the relevant period, a repayment claim can be made subsequently on a pro-rata basis.



The amounts of the charges are as follows:

Value of UK Residential Property	2017/18 charge £
£500k - £1m	3,500
£1m - £2m	7,050
£2m - £5m	23,550
£5m - £10m	54,950
£10m - £20m	110,100
over £20m	220,350

The annual charge will be indexed to the Consumer Price Index (CPI) and updated in April each year.

CAPITAL GAINS TAX ON ENVELOPED DWELLINGS OWNED BY NON-NATURAL PERSONS – extended

From April 2013 Capital Gains Tax (CGTED) has applied to a company on the disposal of the UK located residential property which has been subject to an ATED charge.

For properties valued at April 2012 at £1m - £2m, from April 2015 CGTED has applied to the gain where the UK located residential property is disposed of and the property has been subject to an ATED charge.

For properties valued at £500,000 - £1m CGTED applies on the gain from April 2016 if the property has been subject to an ATED charge.

CGTED only applies to that part of the gain which has accrued from the relevant date onwards. Therefore the market value of the property should ideally be ascertained at the date from when a property has been within an ATED charge.

Where a loss arises, an election can be made for rebasing not to apply. The rate of CGTED on the ATED related gain will be 28%, even for UK companies.

The gain is computed in accordance with normal CGT rules for companies, except that no indexation allowance is available on ATED related gains. Losses will be available for offset or carry forward. UK companies are liable to UK Corporation Tax on the balance of such gains. Where such gains accrue to a non-UK company with UK resident participators, those gains are attributed to the participators under the usual rules.

Principal private residence exemption is not available.

CAPITAL GAINS TAX ON UK RESIDENTIAL PROPERTY FOR ALL NON RESIDENTS

Legislation was introduced from 6 April 2015 to charge capital gains tax on **all** non-residents on the sale of UK located residential property, no matter how it is held, irrespective of the value of the sale proceeds or the purpose for which it has been held. See our note "Capital Gains Tax on UK residential property for all Non - UK Residents".

INHERITANCE TAX

It was proposed that from 6 April 2017 UK residential property held in an offshore company will be subject to UK Inheritance Tax charges. These changes were withdrawn from the Finance Bill 2017, however, it is expected they will be included 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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