



**IFF Research**

# Views and behaviours in relation to the Annual Tax on Enveloped Dwellings

Prepared for



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& Customs**

By IFF Research

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**IFF Research**

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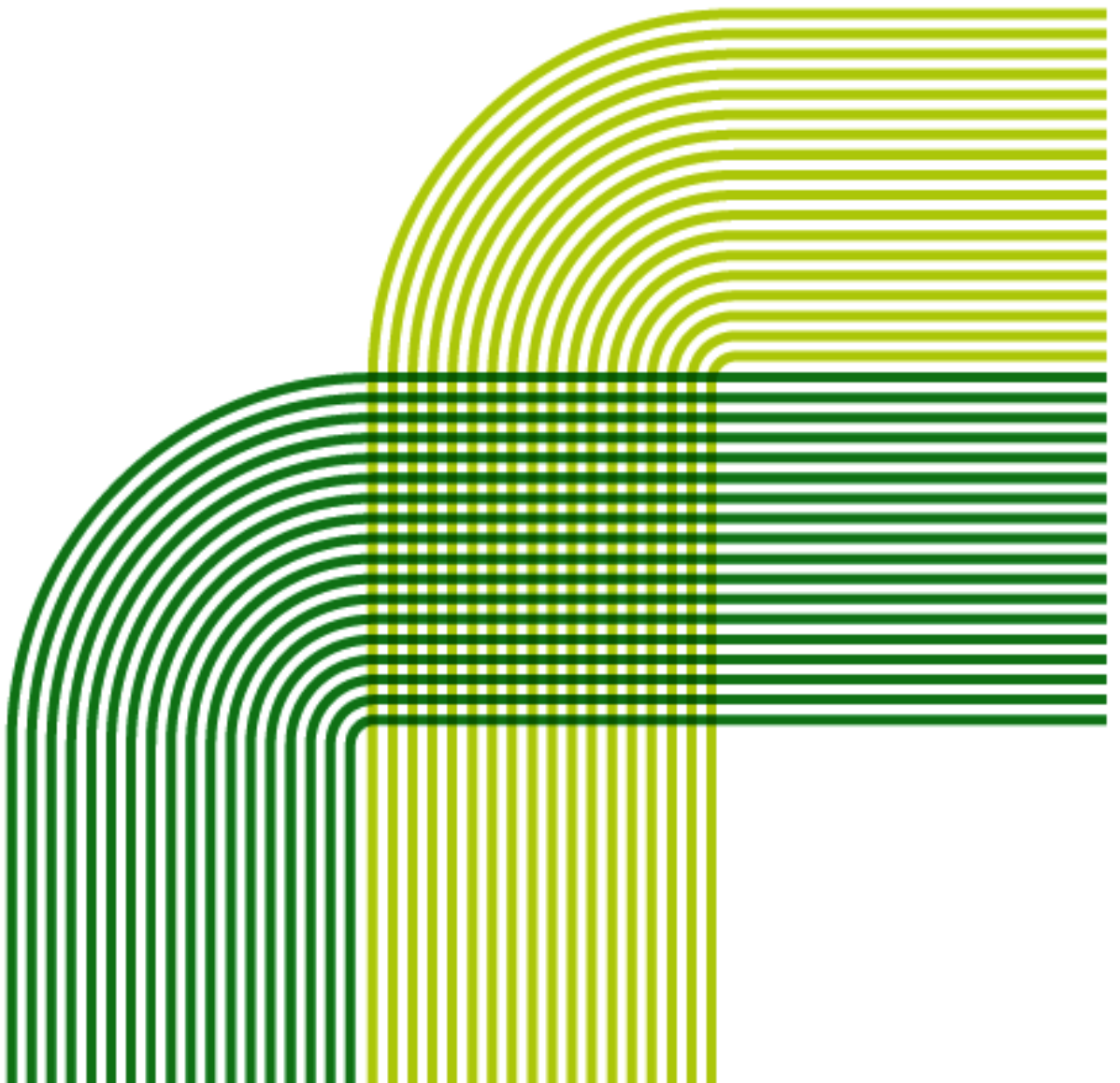
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# 1 Glossary

Term	Definition
<b>Agent</b>	An agent was a tax advisor with experience of filing ATED returns. Agents were one of the three audiences that participated in this research.
<b>Annual Tax on Enveloped Dwellings (ATED)</b>	ATED is a tax payable by “non-natural persons” (NNP) that own UK residential property. A NNP could be a company, a partnership with a corporate member, or a collective investment scheme. ATED came into effect from 1 April 2013 and is payable each year.
<b>Capital Gains Tax (CGT)</b>	A tax paid on any profit made from the sale of property or other asset. Capital Gains Tax is charged at 28 per cent for higher or additional rate income taxpayers. In relation to ATED however, the amount of CGT to be paid on de-enveloping is 28 per cent on any gain in property value since April 2013 when the CGT measure was introduced, not since the property was purchased.
<b>Company representative</b>	A representative (e.g. the accountant/Financial Director) of a company such as a property management or investment company, which holds properties in envelopes.
<b>Owner of envelope</b>	While the property is owned by the NNP, the ‘owner of the envelope’ here refers to an individual shareholder in the company that owns the property. Their individual personal circumstances might affect their future behaviour relating to the envelope.
<b>Inheritance Tax (IHT)</b>	Inheritance Tax is paid if a person’s estate (their property, money and possessions) is worth more than £325,000 when they die. This is called the ‘Inheritance Tax threshold’. The rate of Inheritance Tax is 40% on anything above the threshold. If someone’s estate is less than the Inheritance Tax threshold, the remaining threshold can be transferred to their husband, wife or civil partner’s estate when they die. This means the surviving partner’s estate can be worth up to £650,000 before any Inheritance Tax is due.
<b>Stamp Duty Land Tax (SDLT)</b>	Stamp Duty Land Tax is payable when a person or company buys a property in the UK over a certain price and is charged on all purchases of houses, flats and other land and buildings. SDLT is not payable on transfers of properties within corporate envelopes. Before the ATED-related reforms, SDLT was paid at the normal rate when transferred into a corporate envelope: as part of the reforms a 15 per cent rate of SDLT is now charged when a residential property moves into an envelope.
<b>Very wealthy</b>	In this report, this term was used to describe owners of envelopes whose personal wealth was very large and who were often described by their agents as non-UK resident, and non-domiciled in the UK (sometimes mentioned as being royalty or similarly high-ranking). However, agents did not provide a full definition of what they meant by the term ‘domicile’. Therefore throughout this report this group are referred to as “mainly based overseas”. The properties held in envelopes by this group tended to have a value of at least £10 million, and often over £20 million.
<b>Wealthy</b>	In this report, this term was used to describe owners of envelopes with large personal wealth, often described by their agents as UK-resident and domiciled in the UK. However agents did not provide a full definition of what they meant by the term ‘domicile’. Therefore throughout this report this group are referred to as “mainly based in the UK”. Their level of wealth was not as high as those in the ‘very wealthy’ category; the properties they held in envelopes were commonly valued between £2 million and £5 million, with some up to £10 million.



## 2 Executive Summary

### Background

- In most cases UK residential properties are owned directly by an individual. However in some cases the property may be owned by a company or other type of corporate structure, meaning it is 'enveloped' in a corporate 'wrapper'. Prior to 1<sup>st</sup> April 2013, properties in envelopes could be 'sold' by transferring the shares of that company. This transaction would not be subject to the normal rate of Stamp Duty Land Tax (SDLT) or Capital Gains Tax (CGT). In this context a new tax, the Annual Tax on Enveloped Dwellings (ATED) was included in the Finance Act 2013. The primary aim of this tax was to ensure that people enveloping residential property in corporate envelopes (and not using them for a commercial purpose, such as renting,) pay their "fair share" of tax.
- Alongside the introduction of ATED, the 15 per cent rate of SDLT was introduced for purchases of such property into an "envelope". An ATED-related CGT measure was also introduced, in that the amount of CGT to be paid on de-enveloping would be 28 per cent on any gain in property value since April 2013 when the CGT measure was introduced (not since the property was purchased).
- Following the introduction of this new tax, Her Majesty's Revenue & Customs (HMRC) commissioned research to understand what impact ATED has had on enveloping and de-enveloping behaviour. This research involved speaking to the owners of property envelopes, agents, and those who represent companies that hold properties in envelopes (i.e. company accountants).

### Awareness of the Annual Tax on Enveloped Dwellings (ATED)

- Most owners of envelopes were made aware of ATED on a 'need to know' basis and knew as much about ATED as their agents felt it appropriate to tell them. Accountants and other representatives of companies with properties in envelopes tended to have higher levels of knowledge than the individual owners of envelopes themselves.

### Reasons for enveloping

- The most common reasons cited for enveloping properties were **Inheritance Tax (IHT) planning**<sup>1</sup> and the **protection of privacy**. It might have been expected that a main reason for enveloping properties would have been to avoid paying SDLT (because as described, prior to the introduction of ATED, SDLT was not payable on the purchase of enveloped properties). However, avoidance of SDLT was not mentioned as a main reason for enveloping. Some others mentioned property protection as a reason for enveloping. A handful of envelope owners explained the property had been enveloped historically by someone else (often another member of the family), and that they were now not aware of the specific reasons for doing so.

### Reasons for remaining in envelopes

- Instances of de-enveloping properties were relatively rare amongst those taking part in this research. The main reasons given for keeping properties enveloped were:
  - A wish to retain the benefits of the envelope - For some owners **the benefits of the envelope far outweighed the cost of paying ATED.**

<sup>1</sup> This would only apply to non UK-domiciled individuals, please refer to the main findings (section 5) for further detail.



- **General uncertainty** around the changing tax landscape - Some owners of envelopes and some company representatives were 'staying put' until they felt more certain about further changes to tax on high value properties.
- **The perceived cost of de-enveloping** - Several participants were concerned about the increase in their property's value and incurring 28 per cent Capital Gains Tax (CGT).

### Reasons for de-enveloping

- Although few research participants described experiences of de-enveloping property, where it did happen:
  - Most often, the owner of the envelope **could not afford or did not want to pay ATED** and as a result considered de-enveloping and selling the property (or selling within the envelope). These were most likely to be 'asset rich but cash poor' individuals and their property was likely to have been enveloped historically.
  - In fewer cases, where owners of envelopes were **relatively young**, de-enveloping occurred as they were **less concerned about IHT** and more concerned about paying an annual ATED charge for many years into the future.

### Likely future behaviour and advice offered by agents

- Feedback from agents, company representatives and owners of envelopes suggested that few people would be likely to envelope properties in the future as a result of ATED:
  - People who wanted to hold their property in a structure for the purposes of succession planning or other property protection were being advised to **use alternative structures**, such as trusts, by their agents.
  - Some people were advised by their agents to **hold their property personally**, as a simpler option.
  - Some **people planning on renting their properties may still envelope** in the future, as using the property commercially would enable them to qualify for ATED relief.
- This research has shown that it is unlikely that many owners of envelopes will de-envelope in the near future as **the cost of ATED is not burdensome enough to outweigh the benefits of an envelope**. However, in some cases agents mentioned that their clients' property may be de-enveloped if a future 'tipping point' were reached.

### Typologies

- Those holding properties in envelopes were categorised into five main groups, listed below<sup>2</sup>:
  - Very wealthy (owners of envelopes, mainly based overseas – as described by their agents);
  - Wealthy (owners of envelopes, mainly based in the UK – as described by their agents);
  - Property / investment companies;
  - 'Asset rich but cash poor' (owners of envelopes based in the UK);
  - Other companies

<sup>2</sup> For detailed definitions of these groups please consult the glossary at the beginning of this report. The typologies are also discussed in more detail in Section 12 of this report.



## 3 Introduction

### Background

- 3.1 In most cases UK residential properties are owned directly by an individual. However in some cases the property may be owned by a company, a partnership with a corporate member, or a collective investment scheme. In these circumstances the dwelling is said to be 'enveloped' because the ownership sits within a corporate 'envelope'. Once the property is enveloped it can be "sold" by transferring the shares of that company. This transaction would not be subject to Stamp Duty Land Tax (SDLT).
- 3.2 In this context a new tax, the Annual Tax on Enveloped Dwellings (ATED), was included in the Finance Act 2013. The primary aim of this tax was to ensure that people enveloping residential property in corporate and other envelopes and not using them for a commercial purpose, such as renting, pay their "fair share" of tax.
- 3.3 ATED came into effect from 1 April 2013 and is payable each year. Individuals need to complete an ATED Tax Return for their property if all of the following apply:
- The property is a dwelling;
  - The property is situated in the UK;
  - The property was valued at more than £2 million on 1 April 2012, or at acquisition if later; and
  - The property is owned, completely or partly, by a company, a partnership where one of the partners is a company, or a 'collective investment vehicle' - for example, a unit trust or an open ended investment company.
- 3.4 It should be noted that in Budget 2014 a reduction in the starting threshold for ATED from £2 million to £500,000 was announced, to be phased in over the following two years, beginning 1<sup>st</sup> April 2015.
- 3.5 It was then announced in Autumn Statement 2014 that ATED charges would increase by 50 per cent above inflation for residential properties worth more than £2million, for the period 1 April 2015 to 31 March 2016. The effect of the Autumn Statement on enveloping behaviour is discussed further in Chapter 11.

### ATED rates

- 3.6 ATED imposes an annual charge. When first introduced the annual charge ranged from £15,000 for properties valued between £2 million and £5 million, to £140,000 for properties valued at more than £20 million. In the present financial year (2015/16), the annual charge ranges from £23,350 to £218,200.
- 3.7 From 1 April 2015 an additional band was introduced for enveloped properties worth between £1 million and £2 million with an annual charge of £7,000 and from 1 April 2016 there will be a further band for properties worth between £500,000 and £1 million with an annual charge of £3,500.
- 3.8 There are reliefs from ATED for specific circumstances for example, where the properties are owned for legitimate commercial purposes, such as for commercial letting. However, such reliefs have to be formally claimed; even if no tax is due, and owners of the envelope will still need to file the necessary returns or employ agents to do so on their behalf.
- 3.9 There are also exemptions; for example for charitable companies using the dwelling for charitable purposes. In these circumstances it is not necessary to file an ATED return.
- 3.10 ATED itself should be viewed in the context of a wider package of taxes designed to affect enveloped properties (not used commercially) which includes:





- SDLT at 15 per cent on acquisition of a residential property that is bought by a company; and
- Capital Gains Tax (CGT) at 28 per cent on disposal of the property, or the envelope, on any increase in value since April 2013 when the CGT measure was introduced.

### Overall objectives

- 3.11 HMRC commissioned research to understand in more detail the impact ATED has had in relation to the behavioural drivers around enveloping and de-enveloping residential properties.
- 3.12 More specifically, the research aimed to enable HMRC to better understand:
- The reasons people put their properties into envelopes;
  - The reasons why people have chosen to de-envelope (or intend to in the future);
  - The impact ATED, the 15 per cent rate of SDLT and the CGT charges have on people's behaviour with regards to enveloping and de-enveloping;
  - Why people have not de-enveloped in light of this change; and
  - What effect ATED reliefs have had.



## 4 Sampling and Methodology

4.1 Qualitative, in-depth interviews were conducted across three main audiences between 8<sup>th</sup> October and 17<sup>th</sup> December 2014. Initially the research was intended to explore two audiences (and the sample was structured to achieve this): agents and ‘individuals’, the latter being the actual owners of the envelopes. When analysing the results however, it became clear that the ‘individual’ group included not only the owners of envelopes, but also representatives of companies that managed or owned enveloped properties. Throughout the report we therefore refer to these three audiences:

- Agents
- Owners of envelopes
- Representatives of companies that own or manage envelopes

4.2 The first audience included tax agents with ATED clients, i.e. tax professionals who had prepared ATED returns, or provided advice to clients on future courses of action in relation to ATED.

4.3 The second audience were people who owned property envelopes themselves, and the final, third audience were those who represented companies that hold enveloped properties (for example the company accountant or Financial Director).

4.4 The contact details for agents and owners of envelopes (or their representatives) were provided by HMRC – these were contacts that had filed ATED returns.

4.5 Owners of envelopes and representatives of companies holding envelopes provided feedback on their individual circumstances, or those of the company they represented (and how this related to their enveloping behaviour). Agents provided feedback on the circumstances of both individual clients and their wider client caseloads.

4.6 Most (34 of 40) interviews were carried out face to face<sup>3</sup>. Interviews lasted between 30 minutes and an hour. 40 interviews were achieved in total. The table below shows how the total number of achieved interviews split between the two main audiences. It also shows how many of the respondents within each audience had experience of de-enveloping a property.

### Achieved sample

Audience	Number of interviews achieved in each group	Number within each group with experience of de-enveloping, or plan to de-envelope in the future
Company representatives / owners of envelopes	13 <sup>4</sup>	3
Agents	27	14
<b>Total</b>	<b>40</b>	<b>17</b>

<sup>3</sup> Six interviews were carried out by telephone, as the respondents were based abroad.

<sup>4</sup> 9 interviews with company representatives and 4 with owners of envelopes



- 4.7 While 40 interviews can provide a useful insight and rich detail on individual circumstances, the aim of qualitative research is not to extrapolate findings to the wider population. Findings should therefore be interpreted in this context and should not be taken as representative of all companies holding enveloped properties. Furthermore behaviours of particular sub-groups within the sample should not be extrapolated to all those in this subgroup in the general population.
- 4.8 In addition, please bear in mind that the majority of these findings are from a third party view on another individual's choices and behaviour with regards to enveloping properties and not directly from the individuals themselves (except in the case of interviews that took place with the owner of the envelope).



## Main Findings

### 5 Why are properties enveloped?

- 5.1 The research suggested that many enveloped properties were held by property management companies for the purpose of using them commercially as rented accommodation. In this case, the properties were necessarily enveloped to bring them within the property company's ownership so they could be used and managed in this way. These properties qualified for commercial reliefs and so no ATED was payable; however, as discussed later, applying for the necessary reliefs on all liable properties has resulted in an increased level of administration for these firms.
- 5.2 This research focuses on circumstances where ATED is payable, that is residential properties that sit within corporate structures without a commercial purpose, and this section explores the reasons why these properties were initially enveloped.
- 5.3 Respondents reported that properties were largely enveloped for two reasons, one directly related to tax (IHT planning) and the other was non-tax related (privacy).
- 5.4 In agents' experience, IHT planning was the most common tax reason given for enveloping properties. Holding a property in a corporate envelope in certain circumstances ensured that the value of the property did not contribute to an individual's personal wealth, and therefore a reduced amount of IHT would be payable on their death.
- 5.5 The legislation around enveloping and IHT is such that only those who are *non UK-domiciled* can mitigate their IHT risk through enveloping property. During the interviews it was not specified by agents or property representatives that this would *only* apply to their non UK-domiciled clients, however given that many agents explained that many of their clients were based abroad, it is reasonable to infer that IHT was being mentioned in the context of non UK-domiciled property owners. In some cases this was also mentioned more explicitly.

*It's people who are non-domiciled in the UK coming to the UK. Maybe they're not planning to live here but they visit often and want a base in London and don't want that to fall within the IHT net.*

**Agent, 50-249 employees**

- 5.6 Agents also mentioned that IHT could be less of a concern if the owner of an envelope was younger, because IHT was a consideration for far into the future. Specifically, one agent also commented that it was likely that by the time the person needed to think about their IHT liability the property was likely to have been sold on.

*IHT is identified as the primary motivator, but it depends on the age of the individual buying the property. Younger clients are less likely to envelope for tax reasons.*

**Agent, 10-49 employees**

- 5.7 Protection of privacy was commonly cited as a non-tax reason for enveloping by agents, particularly amongst people with very high levels of wealth, high-ranking individuals, or those in the public eye. These owners of envelopes did not want the value and / or the address of their property to be publically known. One way to ensure anonymity was for the property to be held by a company to ensure their own name was not on the land registry. There was a spectrum of motivations for privacy protection:



- 5.8 Some owners of envelopes wanted to keep the fact that they owned expensive property private in order to protect their reputation or business.

*A client was buying a property and he said "I know there's high levels of stamp duty and ATED to worry about when buying through a company but I just can't afford to be on the land registry. My business competitors would get a lot of mileage out of it. If I have an expensive property in London I can't afford for it to be in the press in India."*

**Agent, 250+ employees**

- 5.9 Other owners of envelopes wanted to keep their family protected.

*There is a big concern among the very wealthy, that if their wealth becomes known their family will be at risk. We had one client whose children have been kidnapped so the easier it is to find out what people own, the easier it is to find out how much you can blackmail them for.*

**Agent, 250+ employees**

- 5.10 Aside from IHT planning and the protection of privacy, other reasons for enveloping specifically mentioned by agents of very wealthy clients (generally based overseas) centred on various forms of property protection and succession planning.

- 5.11 Some wanted to protect the property from foreign inheritance laws to ensure that they had control over who would inherit it.

*The owners are Lebanese and under Lebanese law one cannot totally disinherit a family member. Keeping a property enveloped means someone no longer in favour cannot inherit the property.*

**Agent, 250+ employees**

- 5.12 Others wanted to prevent the property being seized if they were personally sued or liable to pay damages.

*A lot of the entities that I look after are in South Africa. A lot of them are concerned about the political stability of South Africa and that it might go the way of Zimbabwe so they are just wanting to protect the wealth they've built up for their children's future and rather hold it in a safe and stable jurisdiction.*

**Agent, 10-49 employees**

- 5.13 In this context divorce was also mentioned by agents as an example of a costly legal battle that could result in personal wealth being appropriated by others. Keeping the property outside of 'personal' wealth was therefore considered an advantage.

*[To protect against] the risk on divorce; and that is a big concern.*

**Agent, 250+ employees**

- 5.14 There were also examples given by agents whereby very wealthy property owners (who were mainly based overseas) simply wished to ensure that their British property (often a holiday home) was properly managed and maintained when they were not living in the UK.

- 5.15 Some also referred to ensuring it was protected from the youthful exuberance of their children.



*...I think it is that they can just get on and live in the property rather than have to worry too much about it, and having it in a corporate means the directors are involved in the management of it ... but most of ours seem to be fairly similar in that they have a lot of wealth and not a lot of time, to be honest.*

**Agent, 250+ employees**

*They [the children] may live to excess and they want to have the controls to stop that happening if they need to.*

**Agent, 250+ employees**

- 5.16 While IHT planning, privacy and property protection were the main reasons for enveloping properties given by agents discussing very wealthy clients, these reasons were less commonly mentioned by owners of envelopes who considered themselves 'asset rich but cash poor' (and were often based in the UK). Owners of envelopes describing themselves in this way referred to earning what they called 'regular' salaries or stated they had retired. In these instances the owner of the envelope often explained that the property had been enveloped a long time ago through historical circumstance, and often they had not been involved in the original decision to envelope.

*I can't tell you [exactly why it was enveloped] as that was done by my father who got professional advice – there was an element of keeping the ownership confidential. The bottom line is he made a mistake in going to the professionals ... there was no majestic tax plan, and all included – we've ended up paying more tax.*

**Owner of envelope, asset rich / cash poor**

- 5.17 Historical circumstance was also mentioned by several of the company representatives taking part in this research.

*The principal purpose here is agriculture, so when the land was acquired it was put into a company... then a little bit later, around 2001/2 this property, the enveloped property, was constructed on the land that was already within the company.*

**Representative, UK farm**

*All the properties that are owned were already within companies, so it's not a question of us buying them into companies – they were already there.*

**Representative, property / investment company**

- 5.18 Although avoiding SDLT was not often mentioned by agents as a main driver for enveloping a property, it remains the case that enveloped properties were not subject to it before the tax reforms outlined in section 3. When this subject was raised with agents several commented that while they understood the tax has been introduced as a measure to prevent SDLT avoidance, that in their experience it was other aspects (those mentioned above) that predominantly drove property enveloping.

*Our residential property group probably deals with hundreds and thousands of transactions a year - they said at the time that the [ATED] changes were being proposed, they probably dealt with about two a year where the client was using the company to avoid paying stamp duty. I think the scale of the stamp duty avoidance was vastly exaggerated.*

**Agent, 250+ employees**



## 6 Knowledge of ATED & the use of agents

### Knowledge of ATED

- 6.1 Before interview, respondents were screened to ensure they were aware of ATED (and indeed all respondents were from a list that had filed ATED returns). The interview established how much owners of envelopes, and representatives of companies, knew about ATED. This involved speaking directly to these types of respondents, as well as to agents to establish how much they believed their clients knew about ATED.
- 6.2 Knowledge of ATED tended to be at a basic level for owners of envelopes, with some representatives knowing more detail. Agents mentioned that their clients (the owners of envelopes) understood ATED on a 'need to know' basis, and were largely dependent on agents for advice and information. Some agents reported that clients who were based mainly in the UK were likely to know more about ATED than those based mainly overseas, as the former picked information up through the UK press.
- 6.3 Representatives of companies that held property in envelopes tended to be particularly aware of ATED and how it affected their business in terms of monetary costs (if the company paid ATED) and administration (for example, filing returns).
- 6.4 Reliefs for, and exemptions from, ATED are available. Several agents commented that their clients were often not aware of the relevant reliefs available prior to being told about them. Exemptions, such as properties used for charitable purposes, were not mentioned – potentially because the research respondents (or their clients) were not eligible for these exemptions.
- 6.5 The only relief specifically mentioned by owners of envelopes in the context of ATED was the commercial letting relief, which had resulted in owners of envelopes letting out property in order to qualify for it.
- 6.6 Agents were well informed about ATED. Many agents regularly referred to HMRC guidance on ATED and felt it was comprehensive. They accessed this information via the HMRC website, email bulletins, and publications, and did not report any problems in finding the standard information necessary to advise their clients in most circumstances. One agent specifically mentioned that the 'ATED Basics' note on the website had been helpful.
- 6.7 A few agents gave examples of more complex cases that they had dealt with, in which they had been unsure exactly how to advise their clients. Some mentioned that for these, a larger number of more 'unusual' case study examples on the HMRC website would have been useful, for example giving more information about how CGT and ATED interacted under different circumstances.
- 6.8 One agent mentioned they would have liked the guidance on the HMRC website to be updated more regularly, while another felt more information on the future of ATED would have been helpful (though did not mention specifics).
- 6.9 Agents also mentioned consulting sources other than HMRC guidance for information on ATED. These sources included professional publications and associations (STEP was an association mentioned by two agents), online libraries, accountancy colleagues, and attending seminars. One agent also mentioned contacting the Law Society, and another the Jersey Association of Trust Companies. There were few mentions of specifics beyond these and there were no mentions of the use of tax avoidance companies.
- 6.10 One suggestion from an agent was for HMRC to send email bulletins to agents, and those with enveloped properties (identifiable from ATED file returns), ahead of any further changes related to ATED or enveloped properties.



## Use of agents

- 6.11 Agents commonly contacted their clients to inform them about the introduction of ATED if they had liable properties. Equally, if owners of envelopes did not initially have an agent, but read about ATED in the press or came upon the information in another way, they would often approach an agent specifically to ask about the new tax. In these circumstances, discussions focussed on ATED specifically, because this subject (and the client's lack of knowledge of it) had been the reason for the agent-client contact.
- 6.12 Agents felt that while the tax was still relatively new, these specific discussions on ATED were likely to be common. However they expected that as owners of envelopes become more aware of the tax and its implications, these discussions would be subsumed into more regular, overarching discussions about clients' financial affairs.
- 6.13 Some agents also described circumstances in which ATED had *not* been discussed exclusively but alongside other tax issues, for instance if a client based overseas contacted their UK agent to discuss a potential property purchase in the UK, this conversation would encompass a whole raft of issues relevant to the purchase of the property.





## 7 The administrative burden of compliance

7.1 The research highlighted that the introduction of ATED had required agents, owners of envelopes and representatives of companies with enveloped properties to carry out (or resource) the following administrative tasks (albeit to varying extents).

- **Research** on ATED: what it is, the value thresholds, the amounts of tax to be paid, reliefs, how returns should be completed and submitted;
- **Valuations** of any properties held in envelopes to determine whether they fell within the ATED threshold; and
- **Filing** the ATED return (and in some circumstances applying for reliefs).

7.2 Most owners of envelopes did not perceive a large administrative burden within these three areas because they relied on their agents. However this did mean they experienced the direct cost of paying their agent for these services, which was an ‘irritation’, particularly for those who described themselves as ‘asset rich but cash poor’.

*I tried to look into it myself – but it didn't work, I went to the accountant and it cost me more but at least I have peace of mind and I've done it properly.*

**Owner of envelope, asset rich / cash poor**

7.3 In terms of valuations, an agent gave a specific example of undertaking a quick ‘desktop’ valuation of a client’s property to work out whether they would need to pay ATED. This incurred a direct cost of £800, which the agent implied needed to be passed onto their client.

7.4 Representatives of property management companies stated that they had felt an administrative burden, particularly during the initial roll out of ATED. Some explained that they were required to research ATED, and conduct valuations of (for some, large numbers of) properties. Often this had had to be subsumed into their own job role, or the roles of others at their company. One company representative described setting up an internal project to go through all entities and set up training for staff on how to file returns.

*It has caused expense [as] we have to deal with the forms, and train our staff in relation to it.*

**Representative, Property Management Company**

7.5 Some agents mentioned that there was a substantial amount of administration required when clients were entitled to reliefs; an example was given by an agent who had returned 35 forms on behalf of clients but did not expect that all of them would have to pay. Some agents mentioned that this administration would increase as more properties become liable to ATED due to changes to the threshold.

7.6 While agents generally kept abreast of tax policy changes, some agents felt that the roll-out of ATED and the necessary guidance and forms had been ‘rushed’, and mentioned that the ATED forms were changed a number of times, while others recalled them being issued late.

7.7 HMRC held a public consultation<sup>5</sup> on ATED endeavouring to reduce the initial administrative burden that the new tax had introduced. A handful of agents reported that they were aware of the consultation and had contributed to it.

7.8 Agents did however generally perceive the issues mentioned to be ‘teething problems’ and felt that becoming more familiar with the specifics and complexities of ATED over time would reduce the associated preliminary issues.

<sup>5</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335710/hmrc\\_consultation\\_ATED.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335710/hmrc_consultation_ATED.PDF)



## 8 Reasons for remaining in an envelope

- 8.1 Overall, this research suggested that the introduction of ATED has done little to encourage de-enveloping.
- 8.2 For some owners of envelopes, this was because the benefits of the envelope (IHT protection, privacy and property protection) were too important to 'give up' and because the cost of ATED did not outweigh these. For others, the cost of de-enveloping, due to the associated CGT on disposal of the envelope, was too great. An additional consideration was uncertainty concerning the tax landscape in general: many agents reported they had advised clients to 'stay put' in their envelope until there was more certainty with regards to property tax policy. These points are discussed below in more detail.
- 8.3 Agents representing very wealthy clients (often with several properties each worth upwards of £10m, and mainly based overseas) explained their clients were not overly concerned by the extra ATED charge. While agents often discussed the implications of the new tax to these clients, they explained that the financial cost of ATED did not outweigh the benefits for their clients of having the property in an envelope.

*...I don't think it's had a huge impact on them... My impression is they're not complaining about it too loudly.*

**Agent, 50-249 employees**

*When I put the various options I could think of as to how to give them the same thing that they had without paying the [ATED] tax, at the end of the day the reaction was, "Oh! You know what, I think we'll just pay the tax; whatever." Within the scale of the net worth we're talking about, it's relatively small...*

**Agent, 10-49 employees**

- 8.4 For owners of envelopes who were comparatively less wealthy, the 28 per cent CGT due on disposal of the envelope was seen as a barrier to de-enveloping, and was mentioned by many.

*The fact CGT doesn't apply to an enveloped residence is probably the single biggest reason why people have stayed in the structure because of the sheer tax cost of taking them out.*

**Agent, 250+ employees**

- 8.5 Though there are occasional circumstances where the CGT charge goes beyond this, in most circumstances CGT is only payable on any increase in value since April 2013, rather than being charged on any profit made since the property was purchased. It may have been that some of the owners of envelopes interviewed were unaware of this stipulation.
- 8.6 As owners of envelopes were largely advised by their agents, it was important to consider whether agents themselves were aware of this. Although some agents' comments may have been in reference to the rare occasions when a wider CGT charge is payable, it is possible that some agents may have misunderstood, as several mentioned that de-enveloping would require prohibitively high amounts of CGT to be paid.
- 8.7 Several agents commented that their clients were also uncertain about the possible introduction of 'a mansion tax' and how it would affect them. With this in mind they had decided to stay enveloped for the time being with a view to making a decision once the specifics of future tax policy were known.

*There is a lot of awareness out there that [a] 'mansion tax' may be coming in so a lot of people are holding off for the first few years and paying what is a relatively small charge and hoping in a few years they will have a better idea of what the future holds and then restructure.*

**Agent, 250+ employees**



- 8.8 Tied in with this appetite for greater certainty was the fact that the introduction of the 15 per cent SDLT on acquisition of a residential property as part of the wider ATED package had made it more expensive to (re-)envelope properties. In this context many agents described how many owners of envelopes were 'staying put' until there was greater certainty.

*There is also the uncertainty that if you do de-envelope, firstly it will be very hard to get it back into the structure because you will have the SDLT charge on enveloping and secondly you could, even though it is personal ownership, you could have something akin to the ATED anyway because of the value of the property and potential 'mansion tax'.*

**Agent, 250+ employees**

- 8.9 The perceived complexity of the de-enveloping process was another reason cited by both agents and company representatives as a barrier to de-enveloping. In some instances there was also confusion over which of the company's shareholders would own the de-enveloped property.

*For the ones who haven't done it, they've considered it but decided that the complexities of doing it / removal of confidentiality have just made it too difficult to do.*

**Agent, 250+ employees**

*...we've got more than one shareholder owning shares in some of these companies, so to try and de-envelope it would make it awkward, if several owners had a share of a property.*

**Representative, property / investment company**



## 9 Reasons for de-enveloping

- 9.1 Although experiences of de-enveloping properties were rare among participants of the research, agents did discuss instances of it happening. None of the owners of envelopes, or representatives of companies, that were interviewed had yet de-enveloped a property (though small numbers told us at the recruitment stage of the research that they planned to at some stage in the future), so feedback came from agents only.
- 9.2 The most common reason mentioned for de-enveloping a property was that the owner of the envelope did not want to pay the annual ATED charge. Most of these owners were described by agents as 'asset rich but cash poor', and therefore felt that the annual charge would financially stretch them.

*It is more likely people will have de-enveloped if they haven't got enough liquid assets to pay the charge.*

**Agent, 10-49 employees**

*They had a very valuable property that they inherited and they were on a relatively low income. Their wealth is almost entirely in this property and they like living in London but they've now taken a decision, "Well, actually, the cost of me paying that is so expensive, I'm actually going to leave the country," and that's what this person has done...*

**Agent, 50-249 employees**

- 9.3 Agents also mentioned that these types of owners did not necessarily benefit from the envelope in the same way that their much wealthier (and in many cases non UK-domiciled) clients did, for example for reasons of IHT protection, succession planning, or privacy.

*Not wanting to have to pay the ATED, brutally, and coming to the view that the benefits of the structure were not sufficient to warrant that significant ongoing cost.*

**Agent, 50-249 employees**

- 9.4 In a similar vein, some agents mentioned that if one of their clients had decided to envelope their property for primarily IHT planning reasons, but were particularly young, then the client might choose to de-envelope in response to the introduction of ATED. This was not because they could not afford to pay, as was the case for the 'asset rich but cash poor' clients mentioned above, nor was it a direct cost comparison between ATED and IHT. These owners were simply prompted by the ATED charge to conclude that IHT was a planning issue for far into the future, and not something that warranted the payment of an annual charge on the envelope between now and then.

*...If you are a young age you will be paying annually for a long time and Inheritance Tax is a mile off...*

**Agent, 1-9 employees**

- 9.5 Other agents also mentioned that their clients had de-enveloped for reasons not related to ATED, for example wanting to use the property as a pension fund, or because the initial advice to envelope was now considered inappropriate.

*One client has property that is not currently affected by ATED but will be. He is using the property as a pension fund and is non-domiciled and now considering de-enveloping. It's an investment decision, not a tax consideration.*

**Agent, 50-249 employees**



*Simplicity has got to be the big one. I think there is a risk that clients can be talked into complicated structures that clients don't want or need because someone tells them this is what they should do...and it's not necessarily right for them because they're not going to use the property in the same way or their patterns don't match their friends'.*

**Agent, 250+ employees**

- 9.6 One agent also cited that in their experience, de-enveloping was common in some circumstances following divorce<sup>6</sup>.

*The de-enveloping we have done in the past few years hasn't really been ATED related – there has always been a greater driver – divorce normally.*

**Agent, 250+ employees**

- 9.7 The difference in agents' individual client bases meant it was difficult to say whether 'tax' or 'non tax' reasons were more common. While non-tax reasons were mentioned less often by agents overall, a small number of agents reported that the majority of *their own* clients had de-enveloped for non-tax reasons.

<sup>6</sup> As discussed previously in this report, several agents also mentioned *potential future* divorce as a reason for enveloping the property in the first place, as it was an example of a costly legal proceeding that may result in their personal wealth being used as collateral. In the current case however, it was implied the couple had owned the enveloped property together.



## 10 Likely future behaviour and advice offered by agents

- 10.1 Agents reported that since the introduction of ATED it was now rare for properties to be enveloped, both due to the annual ATED charge, and the 15 per cent SDLT payable on entry into the envelope. Opinion was mixed on which charge was the greater deterrent; it appeared to depend on clients' individual circumstances (i.e. whether an up-front lump sum, or a more long term charge, would be the more difficult to accommodate). Agents reported actively advising their clients against enveloping for the first time.
- 10.2 In terms of property already enveloped, the research suggested that most owners of envelopes had not considered de-enveloping in the future – primarily because the cost of ATED did not outweigh the benefits of the envelope, or because the CGT cost associated with de-enveloping was perceived to be too great.
- 10.3 Agents reported that while some of these owners would probably never consider de-enveloping (as their level of wealth was sufficiently large for the charge to never reach troublesome levels, and the benefits that the envelope afforded them were considerable), others may consider de-enveloping in the future if the cost of ATED reached a 'tipping point' beyond which they did not want to pay an annual charge. More commonly owners of envelopes had considered alternatives to de-enveloping in order to not pay the ATED fee, such as selling property, holding the property in alternative structures, or using the property for commercial purposes to make use of reliefs. The latter two options were also mentioned as alternatives considered instead of enveloping for the first time.

### De-enveloping at a future tipping point

- 10.4 Some agents mentioned that for all but their wealthiest clients, a tipping point may be reached in the future at which the cost of ATED outweighed the benefits of the envelope. This tipping point could be triggered by an increase in the annual ATED charge, a reduction in the ATED threshold value<sup>7</sup>, or simply several years paying the annual charge. Generally however, it was rare for agents to mention a specific monetary tipping point.

*There might be a tipping point for people at the lower end of the scale, especially now it's going down to £1M and £500K after that. I would imagine it may cause a lot of the people at the lower end to seriously consider selling the property.*

**Agent, 50-249 employees**

- 10.5 Tipping points were sometimes also a consideration for wealthier owners - a representative of a property company that managed expensive property and assets for wealthy clients, reported that the current ATED bill for some of their clients ran into the hundreds of thousands. They speculated that if it were to reach the "million mark", their clients may consider de-enveloping.

*For some of these properties the buyers are very rich [people] for whom the ATED charge of £20k is still not a worry to them. The biggest (charge we had) is £143k – even that is probably the running costs for them of their yacht. If the ATED charge started getting towards the million mark then it would be a cost they would have to seriously consider.*

**Representative, Property Company**

<sup>7</sup> At the Budget 2014 a reduction in the starting threshold for ATED from £2 million to £500,000 was announced which would be phased in over the next two years, beginning from April 2015.



## Alternative structures

- 10.6 If agents' clients wanted privacy, or property protection should they divorce / become involved in costly legal proceedings, some agents reported that they now suggested trust structures or personal ownership using a nominee, in place of corporate ownership (this could be the case if the property was already in an envelope, or if a client was considering enveloping in the future). However, if mitigating IHT liability (in respect of non UK-domiciled clients) was the main driver for holding a property within an envelope, agents acknowledged that other courses of action would need to be taken, as trusts and personal ownership would not mitigate this risk, (however they did not specify what these other courses of action may be).

*[Our advice] is client specific. We can use a... trust / nominee-type arrangement for privacy, but for other clients Inheritance Tax was the primary driver.*

**Agent, 250+ employees**

- 10.7 Alternatively, some agents said they would simply advise personal ownership with life insurance, which would mitigate the IHT payable on death. However, some agents acknowledged that the premium for such insurance could offset the benefits of not paying ATED.

## Selling the property

- 10.8 A few agents mentioned that some of their clients with properties already in envelopes may look to sell their properties in the future; these were often 'asset rich but cash poor' owners of envelopes (generally based in UK) who felt that the annual charge would stretch them financially. However, there were also examples cited of wealthy owners of properties with a property in a state of disrepair (neither 'earning its keep' in rent, nor providing a family home), who may consider selling their property in the future.
- 10.9 Selling the property was usually mentioned hypothetically by agents as something that *may* be done in the future rather than something that was currently being acted on. In general it was not clear whether, if this course of action were to be taken, the property would be de-enveloped first. However one owner of an enveloped property suggested that they would need to sell the property within the envelope, because they could not afford the CGT that would be payable on de-enveloping.

## Using the property commercially

- 10.10 Agents advised that one alternative to paying ATED was using the property commercially: renting it out and claiming the appropriate relief.
- 10.11 As previously mentioned, high proportions of enveloped properties were owned by property management companies and used specifically for commercial purposes. These properties therefore naturally qualified for commercial reliefs.
- 10.12 Agents also suggested using the property commercially to owners of enveloped property who usually lived in them, or allowed them to stand empty for periods of time. Agents reported that some of their clients had taken this course of action if it suited their circumstances (though agents did not say how common this was). Some owners of envelopes explained that they might consider this course of action in the future, though their circumstances had not allowed for it by the time of interview.

*Yes – if they were buying a UK residential property then we would look at letting it out on a commercial basis – they know this from the outset.*

**Agent, 10-49 employees**



*If my father passed away, rather than sell we would run it as a rental property.*

**Owner of envelope, asset rich / cash poor**

10.13 In some circumstances, agents reported that clients may still choose to envelope a property for the first time if it was to be purchased as a buy-to-let property and therefore would qualify for the relevant relief.

10.14 However, for some owners of envelopes, the property was their family home, a valued holiday home, or of such a high value as to make it difficult to find tenants.

*...they tend to be residential properties that they're living in and the prospect of any kind of commercialisation would never happen.*

**Agent, 50-249 employees**

*They come over here in the summer so they can buy their Christmas goods at Harrods and want the property to be available to them. If they had to consider a commercial use – renting out to other parties – I'm not sure they would be that keen.*

**Representative, property / investment company**

*We have properties in the high numbers so the rent would be astronomical so there would be only a small selective group you would be able to let it to.*

**Agent, 1-9 employees**

10.15 Several agents mentioned that some clients with unoccupied liable properties in a state of disrepair had considered 'doing them up' and renting them out. While this would create its own costs in the form of property management, potential agents' fees and insurance, for some this was a better option than selling or paying ATED.





## 11 Changes as a result of the Autumn Statement

11.1 Autumn Statement 2014 announcements were made as fieldwork for this research was drawing to a close. The following announcements were made relating to property taxes (ATED and SDLT):

- The rates of ATED would increase in 2015/16 by 50 per cent above inflation, resulting in a top rate of £218,200 for properties worth over £20million.
- SDLT for *personally owned properties* would now be payable at each rate on the portion of the purchase price which falls within each band, rather than at a single rate on the whole transaction value. The rates and thresholds are also being amended as part of this reform. This does not apply for an enveloped property where it remains that 15 per cent rate of SDLT is applicable on the entire value of the property.

11.2 While there was little time to explore the effect of the announcements on enveloping behaviour, the following points were made in the final interviews.

11.3 An agent highlighted that the Autumn Statement changes were further examples of a changing landscape that made people want to make minimal alterations to their affairs until there is a little more certainty.

*There is a lot of uncertainty around the residential property market at the moment. In our experience [recent changes are] ...creating a lot of nervousness both domestic[ally] and overseas ... with all the changes happening around ATED and SDLT changing again only this week [in the Autumn Statement]), mootings of '[a] mansion tax', CGT for non-residents; the raft of changes in the past two or three years. We would hope as a profession there wouldn't be any more changes now...*

**Agent, 50-249 employees**

11.4 Another agent commented that the increase in the annual ATED charge may affect the cost / benefit calculation of those with enveloped properties valued near the threshold value of £2m.

*They've just changed [the rates] in the Autumn Statement and increased quite substantially. It went up by inflation last year and now gone up further again. For the marginal ones, the £2M or £4/5M, very possibly [this will mean costs outweigh benefits of envelope]. Above that, I'm not sure. People who can afford a £20M house aren't going to be too bothered.*

**Agent, 50-249 employees**

11.5 A representative of a property management company said that the increase in top rate of SDLT from 7 per cent to 12 per cent, meant that buying a property as an individual is now not very much cheaper than paying the 15 per cent SDLT to have the property enveloped. However, the 12 per cent rate would be paid on a marginal rates basis, i.e. 12 per cent of the portion of the property value above £1.5m, whereas the 15 per cent rate would be paid on the entire property value.

*I think mostly, in the past, it would have been the SDLT at 15 per cent but seeing as the Autumn Statement has changed the SDLT, I think the maximum for anyone is 12 per cent. Even if they bought it outside a company in their own name, they're only effectively paying 3 per cent less.*

**Representative, property management company**

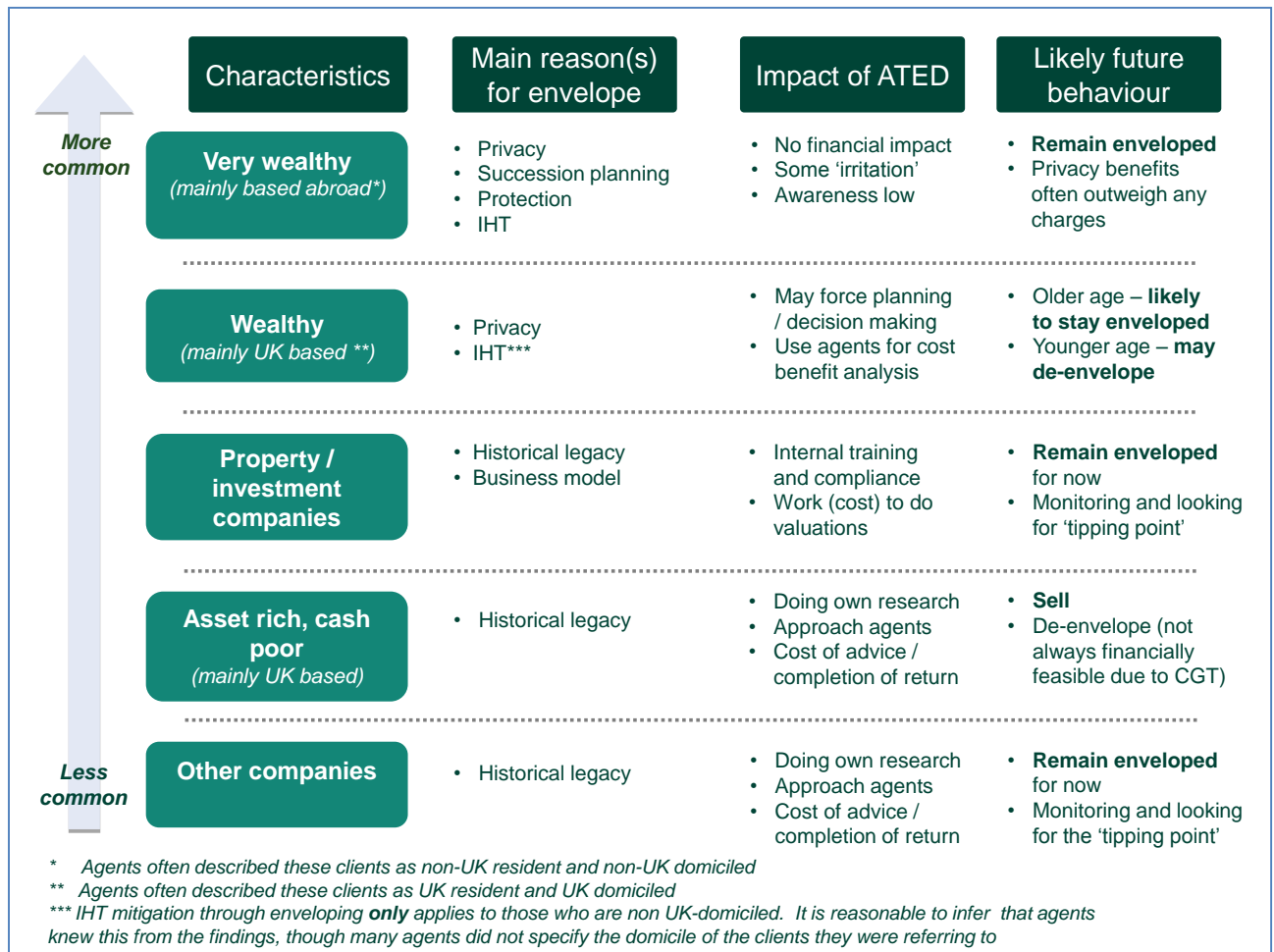


## 12 Summary of the types of companies using envelopes

12.1 This research has demonstrated that different kinds of property owners have different reasons for enveloping, are effected by ATED in different ways, and are likely to take different courses of action as a result.

12.2 The diagram below sets out the broad ‘types’ of property owner identified by the research – how they have been affected by ATED and how they are likely to behave as a result.

### Summary of the ‘types’ of property owners interviewed, either directly, or as described by agents



## 13 Conclusion

### Enveloping behaviour

- 13.1 Reasons given for recently enveloping property tended to be **privacy**, a wish to **protect the property** (for example, from being used as payment in costly legal disputes), and planning around **succession** or **Inheritance Tax**. This featured heavily among owners of envelopes who were wealthy (both those that we have defined in this report as 'wealthy' and 'very wealthy') and often based overseas (although some owners of envelopes were based in the UK as well).
- 13.2 Historical legacy also featured among owners of envelopes (mainly based in the UK), where properties had often been in envelopes for over ten years. Often these owners of envelopes acquired the envelope and were not involved in the original decision making process.

### De-enveloping behaviour

- 13.3 Based on this research, it appeared a **relatively small** number of people had de-enveloped properties or planned to do so.
- 13.4 For most the benefits of the envelope outweighed the charges.
- 13.5 The 28 per cent **CGT payable on de-enveloping** was also a substantial barrier to de-enveloping, especially among people who were 'asset rich but cash poor'.

### Effects of ATED and SDLT on future enveloping

- 13.6 The interviews suggested that ATED and the 15 per cent SDLT has had a **significant effect** on reducing future enveloping.
- 13.7 Agents said they had now advised against enveloping.
- 13.8 Opinion was mixed in terms of whether the larger deterrent to future enveloping was the 15 per cent SDLT on entry into the envelope or the subsequent annual charge.

### Alternatives to future enveloping / de-enveloping

- 13.9 Agents suggested that instead of enveloping in the future, alternative structures such as trusts may be used.
- 13.10 Some owners of envelopes, and agents, reported that they may consider selling the property, rather than face the cost of de-enveloping.
- 13.11 Other owners of envelopes had considered using the property commercially, which would entitle them to ATED reliefs.



## 14 Appendix A: Case studies

14.1 The following case studies provide a picture of the types of companies (and their representatives) within each company type.

### Case Studies: Very Wealthy

#### Inheritance Tax the main reason

**BACKGROUND:**

- Non UK-based family wishing to educate their children in the UK
- They had enveloped the property solely for IHT reasons (£3m-£4m property)

**KNOWLEDGE AND AGENT ADVICE:**

- Agent explained that they were not knowledgeable about the detail or the concept of de-enveloping
- In this instance the agent advised the client to pay the ATED and de-enveloping was not discussed, as he felt it would be too complicated in this instance

**IMPACT OF ATED ON FUTURE BEHAVIOUR:**

- In this example there is unlikely to be any change in the short-medium term - the property will remain enveloped

*Example talked through by an agent*

#### Unlikely to de-envelope for privacy reasons

**BACKGROUND:**

- Family based overseas – own a dwelling worth in excess of £100m
- Enveloped in the 70s for privacy reasons as they are high profile and did not wish for ownership of property to be known
- Property used mainly for overseas visits

**KNOWLEDGE AND AGENT ADVICE:**

- Agent advised that they would be liable to pay ATED
- Surprised when first heard about the tax
- Agent offered three scenarios including de-enveloping – two of these meant loss of privacy

**IMPACT OF ATED ON FUTURE BEHAVIOUR:**

- Client felt better “just to pay” to protect privacy
- Unlikely to do anything differently in the future

*Example talked through by an agent*



## Case Studies: Asset rich, Cash poor & Other

### Historical legacy: 'forced' to sell

Asset rich,  
Cash poor

#### BACKGROUND:

- Father enveloped the property a long time ago on professional advice
- Property worth just over £2m
- The person is not clear why it was originally enveloped – possibly reasons of confidentiality

#### KNOWLEDGE AND AGENT ADVICE:

- Knowledge relatively limited – first heard about it reading City AM in 2013
- Felt had very limited time to sort things out – went to accountant who helped file the return

#### IMPACT OF ATED ON FUTURE BEHAVIOUR:

- Would ideally like to de-envelope to keep the property in the family
- Does not have the money to pay the tax if the property is de-enveloped to his sister
- Only option is to sell – however after 6 months on the market no purchasers
- Aware he could let the property but concerns over maintenance fees

### Company owns property through historical legacy

Other  
companies

#### BACKGROUND:

- Historically the company has a lot of land wrapped in a corporate structure
- Business' principal activity is agriculture
- A house was built on the land 15 years ago – by default became part of the corporate structure
- Owner lives in the house and also liable for 'benefits in kind'

#### KNOWLEDGE AND AGENT ADVICE:

- Researched ATED through websites (including HMRC) and through discussions with agents
- Relatively short timescale

#### IMPACT OF ATED ON FUTURE BEHAVIOUR:

- No impact at the moment – might be reviewed in the future
- If annual charges keep increasing then it may become a bigger priority

*Interview with Financial Director*



## Case Studies: Property / Investment Companies

### Investment portfolio: ATED acted as a 'call to action'

**BACKGROUND:**

- Property management company, that managed many properties for a non-UK client
- One block of flats not let out as it was in a poor state of disrepair – client was happy to leave it in medium term

**KNOWLEDGE AND AGENT ADVICE:**

- Agent explained ATED and liability on the property (worth £4m)
- In this instance the agent advised the client to let the property out

**IMPACT OF ATED ON FUTURE BEHAVIOUR:**

- The property was 'cleaned up' and rented within a couple of months – agent was clear ATED acted as an incentive

*Example talked through by an agent*

### Investment company: Owns through legacy

**BACKGROUND:**

- Company has seven properties enveloped worth between £4m and £100m (£400k ATED bill)
- Historical legacy – all these properties were already enveloped when they were bought
- He assumed originally enveloped by foreign investors for IHT/privacy reasons

**KNOWLEDGE AND AGENT ADVICE:**

- HMRC website the first port of call
- Guidance sought and paid for

**IMPACT OF ATED ON FUTURE BEHAVIOUR:**

- Company would be reluctant to buy any further residential properties
- No immediate plans to de-envelop (due to impact of CGT)
- If ATED bill hits £1m might be the 'tipping point'

*Interview with the Group's Head of Tax*



## 15 Appendix B: Recruitment and methodology

- 15.1 Contact details for company representatives, owners of envelopes and agents were provided by HMRC – these were contacts who had filed ATED returns. An opt-out exercise was carried out within HMRC prior to any contact being made by IFF. The exercise involved sending every contact a letter that explained why the research was being carried out, information on what taking part would involve and the topics to be covered during the interview.
- 15.2 After allowing a two-week period for agents and representatives of companies to opt-out of the research following receipt of the advance letter, IFF Research contacted those remaining. Potential respondents were contacted by telephone and ‘screened’ to ensure they were aware of ATED, could comment on its impact and, in relation to company representatives, were in a suitable position to discuss the company’s tax decisions. They were then asked if they would be willing to take part in a face to face discussion.
- 15.3 Respondents who were based overseas (mainly in Jersey) were interviewed by telephone. In total six interviews were carried out by telephone and the remaining 34 were carried out face to face. All interviews were conducted between 8<sup>th</sup> October and 17<sup>th</sup> December 2014
- 15.4 Interviews were audio-recorded with respondent permission<sup>8</sup> and a detailed summary written by each interviewer. The interviews were analysed by entering the key information from each interview into an analysis framework; the framework allowed the responses given to be compared across interviews in order to identify recurrent themes.
- 15.5 While fieldwork was underway an interim analysis session between HMRC and IFF took place, to discuss the emerging findings. Following these discussions some additional probes were added to the discussion guide (shown in italics on the guides in appendices C and D), in order to further explore certain areas in the remaining interviews.
- 15.6 Agents were able to provide detailed feedback on the types of clients they served, allowing for the coding of the company typologies. It should be noted that even where a contact on the sample list appeared to be the owner of the envelope, or a company representative, in many cases the contact details given were for the agent that processed the return. For this reason, and the fact that agents were more amenable to taking part than owners of envelopes, more agents were interviewed than those from other groups.

<sup>8</sup> Four respondents asked not to be audio recorded.



## 16 Appendix C: Agents topic Guide

### Introduction (2-3 mins)

- **Introduce self**
- **Introduce IFF Research and work we are conducting for HMRC**
  - Thank you for agreeing to take part in this valuable piece of research.
  - The interview will take up to 60 minutes.
- **Confidentiality**
  - All the information we collect will be kept in the strictest confidence and used for research purposes only.
  - We will not pass any of your details on to any other companies. It will not be possible to identify any individual or individual company in the results that we report to HMRC and the answers you give will not be traced back to you.
- **Recording**
  - Permission to record.
  - At the end we will ask if you are happy to have an anonymised version of this transcript provided to HMRC – no obligation to agree, absolutely up to you.
- **Subject**
  - Today's discussion will focus on HMRC's Annual Tax on Enveloped Dwellings (ATED) – specifically your views on the tax, and the impact it has had on clients. We will also focus on client motivations for enveloping or de-enveloping more generally, and the extent to which you have been involved in the enveloping or de-enveloping process.
- **Respondents' role / about the firm**
  - Day to day job role?
  - How long they have worked there?
  - Type and nature of the clients they assist?
    - Any specialist areas/sectors?

### Agents' knowledge of ATED (5 mins)

- **First of all it would be really good to get your general views on ATED – what do you think about it, and what impact has it had on you and your clients?**
- **And what is your view on the recent changes that have been made to ATED? What sort of impact have these changes had on you and your clients?**
- **Where did you get your information about ATED?**
- **How long have you been aware of enveloping?**
- **How much do you think your clients know about ATED?**





- **What, if any, are the compliance costs (for your clients and yourself) in terms of dealing with ATED?**
- **What do you think HMRC's role should be in terms of raising awareness of, and explaining, ATED, both:**
  - **For your purposes**
  - **For your clients**
- **Do you think there is enough information from HMRC available about ATED?**
  - **Are HMRC clear enough on how and when ATED applies?**
  - **Are there any improvements that could be made to the information available from HMRC about ATED?**

### Agents' views on client enveloping and de-enveloping (20-25 mins)

From our initial phone discussions we're aware that you have clients with properties in envelopes, and we'd now just like to explore your views and experiences in this area.

- **Firstly can I just ask -**
  - **IF REPRESENTING OWN VIEWS ONLY: How many ATED clients do you personally manage?**
  - **IF REPRESENTING OTHERS AT THE FIRM: How many ATED clients does the firm manage?**

IF SCREENER SHOWS THAT AGENT HAS SOME CLIENTS WHO HAVE DE-ENVELOPED, CHECK:

**You also said that you have clients who have de-enveloped properties, or who are considering doing so, is that right?**

IF CORRECT – INTERVIEWER ASK ABOUT DE-ENVELOPING AS WELL AS ENVELOPING IN THIS SECTION.

- **Thinking about the ATED clients you currently have, how many were enveloped before they were your clients, and how many have enveloped since?**

INTERVIEWER DON'T NEED EXACT NUMBER, BUT PLEASE PROBE FOR WHAT PROPORTION OF THEIR CLIENTS HAD ENVELOPED THEIR PROPERTIES BEFORE THEY BECAME CLIENTS (ALL / MAJORITY / MINORITY / NONE)

- **Please talk me through the types of properties that your clients have enveloped (and de-enveloped?) at the moment – for instance:**
  - **What sort of value do these properties tend to be?**
  - **What do your clients use these properties for?**
    - ***Do they tend to be 'investments' or do they tend to be long term homes?***
    - ***Do you see / assume a high level of property 'churn' among enveloped properties, i.e. are these properties sold on and sold on? Or do they tend to be held by the same person / company for a while?***
- **In general, what type of clients of yours have been enveloping? (And de-enveloping?):**



- How would you describe them?
- Is there anything that marks them out as different from those that do not envelope? (Or who do not de-envelope?)
- Have you noticed any recent trends in the numbers of clients enveloping (and de-enveloping?) properties?

People have many reasons for enveloping properties, and we are really interested in understanding more about why clients, and / or their agents choose to envelope properties – they might have many reasons, and we realise they could be complex or simple.

(ALL OF THIS IS COMPLETELY CONFIDENTIAL AND HMRC WON'T BE ABLE TO IDENTIFY YOU, YOUR COMPANY OR ANY OF YOUR CLIENTS FROM YOUR RESPONSES.)

- What are the reasons / motivations your clients have for enveloping? (And de-enveloping?): [SPONTANEOUS – PROBE FULLY FOR ALL REASONS]
  - And what are the most common tax related reasons/motivations?
  - What are the most common non-tax related reasons / motivations?
  - Do you think tax considerations or non-tax considerations are more important throughout the process of enveloping / de-enveloping? (Or choosing not to envelope / de-envelope?)
  - Have there been any particularly unique or uncommon reasons/motivations for enveloping? Or de-enveloping?
    - If so, could you please give examples? If not, why do you think that is?
- IF NOT COVERED SPONTANEOUSLY ABOVE, PROMPT: Are any of the following particular reasons why your clients might decide to envelope or de-envelope?
  - To reduce the amount of SDLT / Capital gains Tax paid
  - Planning around inheritance tax
  - Privacy reasons
  - To protect ownership
  - CHECK ON SPECIFIC CIRCUMSTANCE: If the property is only to be held for a short period of time, and it will be easier / more profitable for the property to be enveloped than not, so that the future purchaser gets to pay ATED rather than SDLT.
- And thinking about all of these reasons that we have talked about – which would you say are the most important considerations, and which the least?
- And thinking about all of these reasons we have talked about, do these reasons differ by different types of client, or property?
- And how do these discussions and decisions about enveloping or (de-enveloping) come about?:
  - How involved are you, and your clients? i.e. is this an area your clients leave you to make decisions on? Does this reflect the relationship you have with other tax related issues or is this different?



- **Who suggests it in the first instance? Who drives the discussions?**
- **IF THE DISCUSSIONS DRIVEN BY AGENT: Do your clients tend to agree?**
- **IF DISCUSSIONS DRIVEN BY CLIENT: Where do they get their information from about this?**
- **What different things would you weigh up before coming to a decision? Is it an easy decision?**
- **For what reasons might you NOT envelope a property, after considering it?**
- ***Do you advise clients differently on enveloping / de-enveloping / ATED depending on the value of their properties? How? Why?***
  - ***Is there a ‘tipping point’ in terms of value, i.e. is there a value above which your clients are more or less likely to have properties enveloped / de-enveloped?***
- **Are these discussions about ATED something that is discussed alongside other tax issues, or is it considered separately?**
- **Do your clients tend to have just one enveloped property, or a number?**
- **IF SOME OF THEIR CLIENTS HAVE MORE THAN ONE ENVELOPED PROPERTY: Do the triggers for enveloping (or de-enveloping) tend to be different for different properties? If so how and why?**

Agents' views on why clients may choose NOT to de-envelope in response to the introduction of ATED (10-15 mins)

We would now like to explore the reasons that properties might remain in envelopes, following the introduction of ATED.

- **Firstly, what are your general views on de-enveloping? Can you talk me through the pros and cons from your point of view?**
- **Can you talk me through the process of de-enveloping? How resource-intensive is it for you or your client?**
- **Do you have clients who have chosen not to de-envelope properties following the introduction of ATED?**
- **And did they CONSIDER de-enveloping, and then decide against it, or were they certain from the outset they would not de-envelope?**
- **For some of your clients, is it possible that they simply did not even consider de-enveloping, that it didn't cross their mind?**
  - **How common do you think this is?**
  - **In this situation, would you (or another agent in your firm) be likely to raise this issue with them? What would you advise?**
- **Why do you think individuals might choose NOT to de-envelope after the introduction of ATED? (or why you might advise them not to).**
  - **Are there perceived benefits of remaining enveloped for these clients?**



- And in what way do these benefits outweigh the ATED they have to pay?
- Are there barriers to de-enveloping for such clients?
  - What are these barriers?
  - When might these apply?

IF NOT MENTIONED SPONTANEOUSLY: Are any of the following particular reasons why your clients might decide to remain in an envelope? (or why you might suggest that they do).

- Considerations related to Stamp Duty Land Tax – what are these?
- Considerations related to Capital Gains Tax – what are these?
  - *IF REMAINING ENVELOPED SO AS TO AVOID POTENTIAL MANSION TAX: is this because you / your clients feel specifically that mansion tax will hit your clients harder if the property is out of an envelope? Or is it more that they just want to 'stay put' due to the uncertainty around different taxes being introduced?*
- If the property is only to be held for a short period of time, and it will be easier / more profitable for the property to be enveloped than not, so that the future purchaser gets to pay ATED rather than SDLT.

### Reliefs (10-15 mins)

- How much, if anything, do you think your clients would know about tax reliefs for...?
  - ATED
  - Stamp Duty Land Tax
  - Capital Gains Tax
- To what extent do these reliefs have an impact on your / your clients' decisions to envelope, de-envelope, or not to de-envelope?
- Would these reliefs encourage your clients to use their enveloped properties for commercial purposes at all (or might you suggest this to them)?
- Do you think HMRC has made you / your clients sufficiently aware of these reliefs?
- How could they communicate these reliefs more effectively?

### Views on ATED going forward / as a deterrent (5 mins)

- What are your general views on the future development in this area?
- Do you expect to see an increase in the number of clients de-enveloping?
  - Why? Why not? What will influence these numbers?
  - How much will this depend on future ATED policy?
- How effective do you think ATED is in terms of deterring people from enveloping, or encouraging de-enveloping?
  - Why? Why not? Framed in terms of importance of tax considerations vs others.



- *If ATED will discourage people enveloping, is it the ongoing ATED that's the main deterrent, or the one-off Stamp Duty Land Tax payment, or a combination? Which is most important?*
- *Would you advise clients not to envelope properties in the future?*
  - *IF SO: What would you advise them to do instead? I.e. simply own the property as an individual, or suggest other structures the property could sit in? Why? In what circumstances would you suggest either option?*

Final wrap up (2-3mins)

- Check whether there is anything else they'd like to add that hasn't been discussed about ATED, wider tax policy or HMRC? Any feedback about the ATED process?
- And would you be happy for us to pass a transcript of this interview to HMRC, on an anonymised basis, so with any identifiers removed?

Yes	
No	

THANK RESPONDENT AND CLOSE INTERVIEW



## 17 Appendix D: Company representatives / owners of envelopes topic guide

### Introduction (5 mins)

- **Introduce self**
- **Introduce IFF Research and work we are conducting for HMRC**
  - Thank you for agreeing to take part in this valuable piece of research.
  - The interview will take up to 60 minutes.
- **Confidentiality**
  - All the information we collect will be kept in the strictest confidence and used for research purposes only.
  - We will not pass any of your details on to any other companies. It will not be possible to identify any individual or individual company in the results that we report to HMRC and the answers you give will not be traced back to you.
- **Recording**
  - Permission to record.
  - At the end we will ask if you are happy to have an anonymised version of this transcript provided to HMRC – no obligation to agree, absolutely up to you.
- **Subject**
  - Today's discussion is about exploring the experience of those who are paying the Annual Tax on Enveloped Dwellings (ATED). These discussions will ultimately help to inform policy going forward.
- **About the respondent:** Could you start by telling me a bit about yourself – your occupation for example / how long you have been in that line of work
  - **Are you an owner or board member at your organisation?**

### Clients' knowledge of ATED (5 mins)

- **First I'd like to ask you about what, if anything, you know about the Annual Tax on Enveloped Dwellings (ATED), for instance:**
  - **Do you know why ATED was introduced by the government?**
  - **At what property price does ATED come into effect?**
- **Have you had a need to look for information on ATED in the past?**
  - **Where did you get your information about ATED? When? Why?**
- **And / or will you have a need to in the future?**



IF HAVE / WILL LOOK FOR ATED INFORMATION

- **And do you think there is enough information available from HMRC about ATED?**
  - Are HMRC clear enough on how and when ATED applies?
  - Are there any improvements that could be made to the information available from HMRC about ATED?
- **What are your personal views on ATED?**
- ***What sort of impact has ATED had on you in terms of compliance? i.e. has it been burdensome / costly to research it / fill in and submit forms? How burdensome?***

### Clients' reasons for enveloping and de-enveloping (20-25 mins)

In our initial telephone discussions you said that you have filed a return for the Annual Tax on Enveloped Dwellings and therefore you have (or have had) a property in an envelope.

IF SCREENER SHOWS THAT AGENT HAS SOME CLIENTS WHO HAVE DE-ENVELOPED, CHECK:

**And you also said that you have de-enveloped properties, or are considering doing so, or are waiting to do so, is that right?**

IF CORRECT – INTERVIEWER ASK ABOUT DE-ENVELOPING AS WELL AS ENVELOPING IN THIS SECTION.

**People have many reasons for enveloping properties, and we are really interested in understanding more about why people choose to envelope properties – they might have many reasons, and we realise they could be complex or simple, and tax-related or non-tax-related.**

(ALL OF THIS IS COMPLETELY CONFIDENTIAL AND HMRC WON'T BE ABLE TO IDENTIFY YOU OR YOUR COMPANY FROM YOUR RESPONSES.)

- **Can you talk me through your reasons / motivations for enveloping? (And de-enveloping?):** [SPONTANEOUS – PROBE FULLY FOR ALL REASONS]
  - Are tax-related reasons or non-tax reasons more important to you when taking the decision to envelope / de-envelope (or not)?
  - How much of a driver are tax-related reasons, if at all?
- IF NOT COVERED SPONTANEOUSLY ABOVE, PROMPT: **Are any of the following particular reasons why you might decide to envelope (or de-envelope?)**
  - To reduce the amount of Stamp Duty Land Tax / Capital gains Tax paid
  - Planning around inheritance tax
  - Privacy reasons
  - To protect ownership
  - CHECK ON SPECIFIC CIRCUMSTANCE: **If the property is only to be held for a short period of time, and it will be easier / more profitable for the property to be enveloped than not, so that the future purchaser gets to pay ATED rather than SDLT.**



- **And thinking about all of these reasons that we have talked about – which would you say are the most important considerations, and which the least?**
- **IF HAVE ENVELOPED MORE THAN ONE PROPERTY: And do these reasons differ by different types of property?**
- **Please now talk me through the sorts of property/ies that you have enveloped (and de-enveloped):**
  - **How many have you enveloped? (and de-enveloped?)**
  - **What sort of value do these properties tend to be?**
    - ***Are you aware of any upcoming changes to the ATED rules regarding the value of any properties in enveloped?***
    - ***DON'T PROBE ON VALUES, BUT IF SPONTANEOUSLY AWARE THAT ATED WILL SOON ALSO APPLY TO PROPERTIES VALUED BETWEEN £500,000-£2m: Will this affect your behaviour around enveloping / de-enveloping? How / why? (or Why not?)***
  - **What do you use these properties for?**
    - **What proportion would you say are actively used as residences?**
    - ***Are they used as 'investments', or do they tend to be long-term homes?***
    - ***IF INVESTMENTS: Will any of these properties be repeatedly sold on, do you think? Which ones?***
  - **Have there been any particularly unique properties that you have enveloped? (and de-enveloped?)**
    - **If so, could you please give some details?**
- **Do you know how much tax you are liable to pay on your enveloped property/ies due to ATED?**
  - **Where did you get this information?**
- **When did you decide to envelope? (and de-envelope)**
- **How long have you had the property/ies enveloped? (and de-enveloped)**
- **IF MORE THAN ONE ENVELOPED / DE-ENVELOPED PROPERTY: When was the first time you enveloped (de-enveloped) a property?**
- **IF MORE THAN ONE ENVELOPED / PROPERTY: When was the last time you enveloped (de-enveloped) a property?**
- **And can you talk me through how these discussions and decisions about enveloping or (de-enveloping) come about?: [SPONTANEOUS – PROBE FULLY]**

INTERVIEWER: SEVERAL OF THESE BELOW MAY HAVE BEEN MENTIONED ALREADY DURING THE COURSE OF DISCUSSIONS – WE WANT TO FOLLOW UP HERE ON ANY NOT MENTIONED.

- **How involved are you, versus any advisers you have?**





- **Who suggests it in the first instance? Who drives the discussions?**
- IF THE DISCUSSIONS DRIVEN BY ADVISOR: **Do you tend to agree?**
- IF DISCUSSIONS DRIVEN BY INDIVIDUAL: **Where do you get your information from about these issues?**
- **What different things would you weigh up before coming to a decision? Is it an easy decision?**
- **Do you have any doubts? What are these?**
  - **How are these overcome?**
- **For what reasons might you NOT envelope a property, after considering it?**
- **Are these discussions about ATED something that is discussed alongside other tax issues, or is it considered separately?**
- IF HAVE MORE THAN ONE ENVELOPED PROPERTY: **Do the triggers for enveloping (or de-enveloping) tend to be different for different properties? If so how and why?**

**Clients' reasons for NOT de-enveloping in response to the introduction of ATED (10-15 mins)**

IF SOME OF INDIVIDUALS' PROPERTIES WILL NOT BE DE-ENVELOPED (FROM SCREENER):

**You said when we spoke on the phone that there are at least some properties you have not de-enveloped, and are not planning to.**

**We would just like to explore the reasons that properties might remain in envelopes, following the introduction of ATED.**

- **What do you know about the process of de-enveloping, if anything?**
- **Why have you decided NOT to de-envelope despite the introduction of ATED? SPONTANEOUS – THEN PROBE FULLY AS BELOW:**
  - **Was de-enveloping a consideration at all following the introduction of ATED? IF NOT A CONSIDERATION AT ALL: PROBE FULLY – WHY NOT?**
    - **... were you certain from the outset that you didn't want to? why?**
    - **... or perhaps you just didn't think about it at all? Why do you feel it just wasn't a consideration?**
    - **... any other reasons?**
  - IF A CONSIDERATION: **So you considered de-enveloping, but decided against it. Why was this? PROBE FULLY**
  - IF A CONSIDERATION: **Are there benefits to remaining enveloped? What are these? Does ATED factor as something that is worth considering in terms of making changes to the status of the property/ies?**
    - **And in what way do these benefits outweigh the ATED you have to pay?**
  - **Are there barriers to de-enveloping? What are they? How resource intensive do you feel it is / would be?**



- What different things did you weigh up before coming to the decision? Was it an easy decision?
- Did / do you have any doubts about de-enveloping? What were these? How were these overcome?
- Have you sought advice about de-enveloping? What advice? Where from?
- How involved is your agent in these decisions and discussions? What role do they play?
- IF NOT MENTIONED SPONTANEOUSLY, PROBE: Are any of the following particular reasons why you might decide NOT to de-envelope?
  - *IF REMAINING ENVELOPED SO AS TO AVOID POTENTIAL MANSION TAX: is this because you feel specifically that mansion tax will hit you harder if the property is out of an envelope? Or is it more that you just want to 'stay put' due to the uncertainty around different taxes being introduced?*
  - Considerations related to Stamp Duty Land Tax – what are these?
  - Considerations related to Capital Gains Tax – what are these?
  - If the property is only to be held for a short period of time, and it will be easier / more profitable for the property to be enveloped than not, so that the future purchaser gets to pay ATED rather than SDLT.
- Do you think you will ever de-envelope, or consider doing so? Why? / Why not?
  - How much is this dependent on ATED / other tax policy?

### Reliefs (10-15 mins)

- Are you aware of any reliefs available for:
  - ATED
  - Stamp Duty Land Tax
  - Capital Gains Tax

...that might be available to you under certain circumstances?

- IF NOT MENTIONED SPONTANEOUSLY: Are you aware that there are tax reliefs available for ATED, Stamp Duty Land Tax and Capital Gains Tax, if the properties are owned for commercial purposes?
- Would these reliefs encourage you to use your properties for commercial purposes? Why / Why not?
- Do you think HMRC has made you / your clients sufficiently aware of these reliefs?
- How could they communicate these reliefs more effectively?

### Views on ATED going forward / as a deterrent (5 mins)

- How effective do you think ATED is in terms of encouraging de-enveloping?



- **Why? Why not? Since introduction of ATED has this deterred you from putting any more properties in envelopes? If so, why?**
- ***IF ATED WILL DISCOURAGE ENVELOPING: is it the ongoing ATED that's the main deterrent, or the one-off Stamp Duty Land Tax payment, or a combination? Which is most important?***

Final wrap up (2-3mins)

- **Check whether there is anything else they'd like to add that hasn't been discussed about ATED, wider tax policy or HMRC? Any feedback about the ATED process?**
- **And would you be happy for us to pass a transcript of this interview to HMRC, on an anonymised basis, so with any identifiers removed?**

Yes	
No	

**THANK RESPONDENT AND CLOSE INTERVIEW**

