Taxation of high-value UK residential property held by certain non-natural persons

Who is likely to be affected?

Certain companies, partnerships with company members and managers of collective investment schemes (collectively referred to as non-natural persons (NNPs)) which own residential property in the UK worth over £2 million.

General description of the measure

A package of taxes that affect residential properties valued at over £2 million and held by NNPs, other than genuine commercial businesses and other limited categories.

These taxes are:

- Stamp Duty Land Tax (SDLT) at 15 per cent on acquisition of a residential property;
- an annual tax on enveloped dwellings (ATED); and
- capital gains tax (CGT) at 28 per cent on any gain on disposal.

Policy objective

This package of measures is to ensure that NNPs holding high value residential properties pay their fair share and to tackle tax avoidance, including the wrapping of residential property into corporate and other 'envelopes'. This TIIN updates the one published at Budget 2013 and sets out the impacts of ATED being brought within the Disclosure of Tax Avoidance Schemes (DOTAS) regime.

Background to the measure

The package of tax measures was announced at Budget 2012. The Government issued the consultation document, '*Ensuring the fair taxation of high value residential property*' on aspects of the package, on 31 May 2012, in reply to which it received more than 175 representations. The Government's response was published in December 2012. Draft legislation was published in December 2012 and January 2013.

Detailed proposal

Operative date

The 15 per cent SDLT rate came into effect on 21 March 2012. The changes made to the 15 per cent rate rules (primarily, the introduction of further reliefs) will come into effect from the day of Royal Assent to Finance Act 2013.

ATED will come into effect from 1 April 2013, although returns will not be required until 1 October 2013 with payment required by 31 October 2013.

The DOTAS regime will be extended to require the disclosure of certain schemes seeking to avoid ATED.

The CGT measures will have effect from 6 April 2013.

Current law

SDLT is charged under Finance Act 2003 (FA 2003) on the acquisition of property. The rate of SDLT depends on the chargeable consideration for the property and increases above various thresholds.

SDLT is payable at 15 per cent by certain NNPs on acquisitions with consideration of more than £2 million (under section 55A and Schedule 4A of FA 2003). The only exclusion to this is residential property acquired by property development companies with a track record of more than two years of development activity.

NNPs resident outside the UK are not generally liable to tax on their capital gains (section 2 of the Taxation of Chargeable Gains Act 1992 (TCGA) and section 5 of the Corporation Tax Act 2009 (CTA)). Companies resident in the UK currently pay corporation tax on their chargeable gains, including gains from these properties (section 1 TCGA and section 2 CTA). NNPs that are resident in the UK, but that are not companies, are liable to pay capital gains tax (sections 1 and 2 TCGA).

Proposed revisions

Legislation will be introduced in Finance Bill 2013 to enact ATED, extend CGT, and provide for reliefs from all three taxes.

All three taxes will apply to the same UK high value residential properties: those worth over £2 million and held by NNPs that are not used for specified relievable purposes, nor used by persons relieved from the charge.

The reliefs will cover:

- property development, investment rental and trading businesses;
- residential properties open to the public for at least 28 days a year on a commercial basis;
- residential properties held for employee accommodation;
- residential properties owned by a charity and held for charitable purposes;
- working farmhouses;
- diplomatic properties; and,
- some other publicly-owned residential properties.

ATED will be introduced and will be chargeable at a flat rate for each of four bands as follows:

Residential Property value	Annual Charge
£2 million - £5 million	£15,000
£5 million - £10 million	£35,000
£10 million - £20 million	£70,000
£20 million +	£140,000

The annual charge will be increased by Consumer Prices Index inflation each year.

Finance Act 2013 will add ATED to the list of taxes falling within DOTAS. Regulations will be introduced to require the disclosure of certain schemes seeking to avoid the new tax. Information will be required where the trigger for a disclosure (normally the date on which the scheme is made available for implementation) falls after 12 December 2012.

CGT will apply to disposals of high value UK residential property by NNPs from 6 April 2013. The rate of the CGT charge on these disposals will be 28 per cent. Where the residential property was purchased before 6 April 2013 but disposed of after that date, the charge will apply only to that part of the gain that is accrued on or after 6 April 2013. The balance of any gain (i.e. the gain accrued before 6 April 2013) will continue to be treated as at present. That is, on the gain accrued before 6 April 2013 generally there will be no tax payable by non-UK NNPs, and UK NNPs will be chargeable either to corporation tax or capital gains tax as is currently the case.

Excluding circumstances covered by the new reliefs described above, SDLT will continue to be chargeable at 15 per cent on acquisitions of high value UK residential property by the NNPs.

Summary of impacts

<table>
<tr><td rowspan="9">Exchequer impact (£m)</td><td>2013-14</td><td>2014-15</td><td>2015-16</td><td>2016-17</td><td>2017-18</td></tr>
<tr><td>+75</td><td>+75</td><td>+80</td><td>+90</td><td>+100</td></tr>
<tr><td colspan="5">The row above is from Table 2.2 of the Budget 2013 document, and sets out the revised estimate of the Exchequer impact of the initial package announced and scored at Budget 2012, that is, the introduction of ATED and the 15 per cent SDLT rate.

Extending DOTAS is expected to have a negligible Exchequer Impact.</td></tr>
<tr><td>2013-14</td><td>2014-15</td><td>2015-16</td><td>2016-17</td><td>2017-18</td></tr>
<tr><td>-30</td><td>-40</td><td>-40</td><td>-40</td><td>-45</td></tr>
<tr><td colspan="5">This second row is from Table 2.1 of Budget 2013, and sets outs the Exchequer impact of the exemptions set out in December 2012.</td></tr>
<tr><td>2013-14</td><td>2014-15</td><td>2015-16</td><td>2016-17</td><td>2017-18</td></tr>
<tr><td>+25</td><td>nil</td><td>nil</td><td>+5</td><td>+5</td></tr>
<tr><td colspan="5">The third row is also from Table 2.1 of Budget 2013, and sets outs the Exchequer impact of the application of CGT to NNPs.
These three rows together represent the aggregate costing for the whole package and have been certified by the Office for Budget Responsibility. More detail can be found in the policy costings documents published alongside Budget 2013.</td></tr>
<tr><td>Economic impact</td><td colspan="5">This measure is not expected to have any significant economic impacts.</td></tr>
<tr><td>Impact on individuals and households</td><td colspan="5">Individuals are not directly affected, as the three charges apply only to NNPs. A small number of individuals will be indirectly affected through their interests in NNPs that purchase high value UK residential property, such as companies, trusts investing via companies, and collective investment schemes. Their companies may need to value their residential property every five years, complete an annual return and pay the correct amount of ATED. HMRC will on request assist with a pre-return assurance check of a property's correct valuation band, where the company believes the value is close to the £2 million threshold or to a higher band. An online form will be available to use this service.</td></tr>
<tr><td>Equalities impacts</td><td colspan="5">This measure is not anticipated to impact on groups with protected characteristics any more than on those without such characteristics.</td></tr>
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Impact on business including civil society organisations	The increased range of SDLT reliefs mean that some corporate property rental businesses and property developers will pay a lower rate of SDLT on future acquisitions of high value residential property than they have done on acquisitions in 2012-13. Unincorporated businesses will be unaffected by this measure and will have no self assessment requirement. Most corporate businesses do not buy, hold or sell residential property worth over £2 million and will be similarly unaffected. The small number of corporate businesses that do buy or hold residential properties worth more than £2 million will in most cases be able to claim relief against the charges in a self assessment return each year. They will not be required to accurately value residential properties eligible for relief and the administrative burden overall should be negligible. The measure should not significantly impact on charities. Any that may hold high value residential properties can claim relief from the charge, providing the property is used for charitable purposes. HMRC receives disclosures from around 50-100 promoters (businesses) a year. This measure is not expected to increase those numbers significantly. It will impose some additional reporting requirements on those firms who are required to disclose, which will result in a negligible increase in admin burden.
Operational impact (£m) (HMRC or other)	<u>SDLT</u>: The impacts on cost and operational resources by the SDLT changes will be negligible. <u>ATED</u>: HM Revenue & Customs (HMRC) IT set up costs are estimated to be in the region of £350,000 – £400,000. HMRC will process returns, payments and repayment claims. It will also undertake compliance checks based on land records and other data to pursue cases of failure to make returns or payments; incorrect claims to relief and incorrect valuation bands. Annual HMRC staff costs for business as usual are estimated at £700,000 including enquiry work. Valuation Office Agency costs up to April 2014 are estimated at £500,000 for set-up costs and £200,000 per year thereafter for valuers to undertake requested pre-return banding assurance checks using data provided on the online form, land records and other data; and for valuation work required for compliance activity. <u>DOTAS</u>: the impact on HMRC in dealing with additional disclosures will be negligible. <u>CGT</u>: There will be some costs to HMRC to implement the process needed for reporting and paying the CGT charge (indicative costs for one-off IT changes required are in the range of £100,000) as well as potential ongoing costs of guidance, form changes and changes to compliance measures.

Other impacts	Small firms impact test: many of the companies used to hold residential property worth more than £2 million are special purpose vehicles which own a single property, have no employees and do not undertake genuine commercial activities. The package aims to discourage individuals from setting up such companies to purchase such residential properties. The reliefs aim to exclude genuine commercial businesses from the charge, regardless of size. Other impacts have been considered and none have been identified.

Monitoring and evaluation

The Government has introduced a package of high-value UK residential property measures. These will be monitored and assessed through information collected from tax returns.

Further advice

If you have any questions about this change, whether about SDLT, ATED or CGT, please e-mail: ATED.Budget2013@hmrc.gsi.gov.uk.