From:
Sent: 28 July 2014 00:25
To: zzHMRC_TaxTeam, CapitalGains
Subject: Consultation on non-residents.

Consultation on non-residents.

Implementing a capital gains tax charge on non-residents:

I write in response to the request for comment on the above discussion paper, and in particular questions 8 and 9 -

Question 8: What are the likely impacts of charging gains (and allowing losses) incurred on disposals of residential property by non-residential property companies that are not already operating a trade in the UK?

Question 9: Are there other approaches that you believe would be more appropriate to ensure that non-resident property investment and rental companies are subject to UK tax on the gains that they make on disposals of UK residential property?

Much of what follows reflects the evidence of my own experience in a professional capacity within the insurance sector, particularly regarding lobbying and shaping opinion as legislation develops.

From what I read there has been comment and lobbying by interested parties who primarily are the potential beneficiaries (and their advisors) of the rules the government wishes to change.

The point of the proposed changes is to support UK citizens wishing to own their house, especially as they increasingly have had to compete with other parties who also would like to own "their house" such as UK landlords, foreign owners, corporate owners, or investment funds.

I have a concern that this stage of the process is one where organised stakeholders will make their presence felt, whereas the proposed legislation is there precisely to help the individual homeowner who, virtually by definition, is not organised. Individual homeowners, still less potential individual homeowners, will inevitably be hugely underrepresented in the responses to this consultation paper.

In that context certain features of the market need to be put on record as below, and given an emphasis in the consultation appropriate to their merit rather than being too influenced by their limited presence in other responses, or by the late submission of this response (for which, sorry).

The foreign/investor groups are, as we all know, financially significant. Arguments which refer positively to their financial significance and the fund flows which they direct or might direct towards the UK residential property market are completely misplaced. The fund flows or 'investment' has not resulted in a substantial increase in the proportion of properties realistically being made available to UK domestic buyers. What they have done of course is helped to inflate prices, and they have distorted the nature of the new stock on offer.

It is hardly the case that new construction has been discouraged by pricing being too low. so the extra investment flows are not necessary to incentivise new construction. Construction has been constrained, if it needs saying, by limited development opportunities rather than by inadequate pricing! In this sense the arguments put forward for the foreign/investor groups are undermined by a perhaps not immediately visible, but fatal, flaw in their case.

Simply put, if prices were lower then land values would be lower, but the same construction would be funded by the same construction costs creating the same pricing addition to those land values. It's just that it would be paid for by UK residential owners and their mortgages, which would be in line with the new prices.

But the mix of properties built would be different and the ownership would have the right profile rather than the wrong profile. Everyone lives somewhere even now! It's just that the wrong people own many of the properties, creating an unnecessary rentier segment of UK residential property ownership, which in this country acts to distort the public image of what constitutes enterprise.

If the foreign owned and investor owned properties with low occupancy get spilled out due to the proposed measures at lower prices to domestic buyers then I doubt that would amount to an economic problem. I even would add that the foreign and investor owned properties often are 'real money' cash purchasers and the owners can take the losses. In addition there are 'operational'/supply side economic gains – and I'd guess there are electoral gains to be had too!

The point of the legislation is to change the ownership profile of residential property from what it otherwise would be. Lobbying from the more organised stakeholder groups which really amounts to a restatement of this feature but with negative overtones completely misses the point.

As regards question 9, I'm not sure there are any advantages to diverse ownership groups (perhaps 'dogs' would be an easy acronym) getting tax privileges and the paper does not say there are. It just talks about difficulties with enforcement. The simple answer is to tax all sales of residential property, with the specific exemption of UK residential occupiers, and refuse land registry documentation unless tax is deposited. Corporate envelope type rules would of course be an important part of this solution.

With best regards

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