



## Capital gains tax: changes to the threshold amount for ATED-related CGT

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### Who is likely to be affected?

Certain companies, partnerships with company members and managers of collective investment schemes which own residential property worth over £500,000 that does not form part of a genuine commercial activity, or is not used to house employees of that activity.

### General description of the measure

The measure reduces the threshold on the proceeds of sale of a residential property above which capital gains tax (CGT) is payable, where the annual tax on enveloped dwellings (ATED) has been paid on the property.

### Policy objective

The measure ensures that a seller's liability to CGT when they dispose of a property continues to be linked to their previous liability to ATED on the same property. This improves the fairness of the way property is taxed.

### Background to the measure

Budget 2014 announced two new bands for ATED to bring properties worth between £500,000 and £2 million into the charge. It also announced that the ATED-related capital gains tax charge would apply to properties in the new ATED bands. The Tax Information and Impact Note on those changes was published on GOV.uk on 19 March 2014.

## Detailed proposal

### Operative dates

The measure will have effect in two stages. The threshold amount for consideration received will fall from £2 million to £1 million for disposals on or after 6 April 2015, and then to £500,000 for disposals on or after 6 April 2016.

### Current law

Under sections 2B-2F and Schedule 4ZZA of the Taxation of Chargeable Gains Act 1992 (TCGA) a person other than an individual may be liable to CGT when they dispose of a residential property for consideration in excess of a 'threshold amount'. This threshold amount is currently £2 million (section 2D). Where a property was owned when this CGT became chargeable (in April 2013) gains are 'rebased' so that earlier increases in value are not charged to tax by section 2B.

### Proposed revisions

Legislation will be introduced in Finance Bill 2015 to amend section 2D TCGA so that the threshold value for disposals on or after 6 April 2015 will be £1 million and for disposals on or after 6 April 2016 £500,000. Schedule 4ZZA TCGA will be amended to preserve the principle that increases in a property's value during a period before it became liable to ATED will not be charged to CGT under section 2B.

## Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	+10	+95	+50	+45	+90	+140
	<p>These figures are set out in Table 2.1 of Autumn Statement 2014 as part of <i>Enveloped Dwellings: Increased charge for properties over £2m</i> and have been certified by the Office for Budget Responsibility. The figures incorporate the yield from <i>Capital gains tax: changes to the threshold amount for ATED-related CGT</i>. More details can be found in the policy costings document published alongside Autumn Statement 2014.</p>					
<b>Economic impact</b>	<p>The measure is not expected to have any significant economic impacts.</p>					
<b>Impact on individuals, households and families</b>	<p>Individuals are not directly affected as they are not within the charge to this tax. A small number of individuals will be indirectly affected through their interests in companies, trusts investing via companies, and collective investment schemes which hold residential property worth between £500,000 and £2 million.</p> <p>The measure is not expected to impact on family formation, stability or breakdown.</p>					
<b>Equalities impacts</b>	<p>HM Revenue &amp; Customs (HMRC) does not hold information on the protected characteristics of those who hold residential property through envelope entities such as company vehicles. The measure is not expected to have any equality impacts.</p>					
<b>Impact on business including civil society organisations</b>	<p>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 £500,000 and will be similarly unaffected.</p> <p>The small number of corporate businesses that do buy or hold residential properties worth more than £500,000 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 in most cases should be negligible.</p> <p>The measure should not significantly impact on charities. Any that may hold residential properties in this price range can claim relief from the charge, providing the property is used for charitable purposes.</p>					
<b>Operational impact (£m) (HMRC or other)</b>	<p>HMRC will incur some costs in implementing this measure but these are not anticipated to be significant.</p>					
<b>Other impacts</b>	<p><u>Small and micro business assessment:</u> many of the companies used to hold residential property are special purpose vehicles which own a single property, have few or no employees and do not undertake genuine commercial activities. These companies will be affected by this measure and by the complementary ATED measure which aim to discourage individuals from setting up such companies to hold such residential properties. However, where these (or other) companies carry on genuine commercial businesses, the available reliefs from the ATED charge aim to ensure that ATED, and hence CGT, will not be payable.</p> <p>Other impacts have been considered and none have been identified.</p>					

**Monitoring and evaluation**

The measure will be monitored through information collected from tax returns and tax receipts.

**Further advice**

If you have any questions about this change, please contact Rob Clay on 03000 570649 (email: [rob.clay@hmrc.gsi.gov.uk](mailto:rob.clay@hmrc.gsi.gov.uk)).

**1 Relevant high value disposals: gains and losses**

Schedule 1 contains provision about the calculation of relevant high value disposals within the meaning of section 2C of TCGA 1992.

## SCHEDULE 1

Section 1

## RELEVANT HIGH VALUE DISPOSALS: GAINS AND LOSSES

*Introduction*

1 The Taxation of Chargeable Gains Act 1992 is amended as follows.

*“Relevant high value disposal”*

- 2 (1) Section 2C (“relevant high value disposal”) is amended as follows.
- (2) In subsection (6), in the definition of “the relevant ownership period” for “6 April 2013” substitute “6 April in the relevant year”.
- (3) In that subsection, after the definition of “single-dwelling interest” insert –
- ““the relevant year” means –
- (a) in Case 1 in paragraph 2 of Schedule 4ZZA, 2013;
- (b) in Case 2 in that paragraph, 2015;
- (c) in Case 3 in that paragraph, 2016;”.
- (4) In subsection (7)(b), for “1 April 2013” substitute “1 April in the relevant year”.

*Threshold amount for the tax year 2015-16*

- 3 (1) Section 2D (CGT on ATED-related gains: the threshold amount) is amended as follows.
- (2) In subsection (2) for “£2 million” substitute “£1 million”.
- (3) In subsection (3) for “£2 million” substitute “£1 million”.
- (4) In subsection (5) for ““£2 million”” substitute ““£1 million””.
- (5) The amendments made by this paragraph have effect in relation to disposals occurring on or after 6 April 2015.

*Threshold amount for the tax year 2016-17*

- 4 (1) Section 2D (CGT on ATED-related gains: the threshold amount) is amended as follows.
- (2) In subsection (2) for “£1 million” substitute “£500,000”.
- (3) In subsection (3) for “£1 million” substitute “£500,000”.
- (4) In subsection (5) for ““£1 million”” substitute ““£500,000””.
- (5) The amendments made by this paragraph have effect in relation to disposals occurring on or after 6 April 2016.

*Restriction of losses*

- 5 In section 2E (restriction of losses), in subsection (3) –
- (a) after “5 April 2013” insert “etc”, and
  - (b) for “post-April 2013” substitute “post-commencement”.

*Calculation of gains and losses*

- 6 Schedule 4ZZA (relevant high value disposals: gains and losses) is amended as follows.

- 7 For the italic heading before paragraph 2 substitute –

*“Assets held on 5 April 2013, 5 April 2015 or 5 April 2016: no paragraph 5 election”*

- 8 For paragraph 2 substitute –

- “2 (1) In Cases 1 to 3 below –
- (a) paragraph 3 applies for the purposes of computing the gain or loss accruing to P which is ATED-related, and
  - (b) paragraph 4 applies for the purposes of computing the gain or loss accruing to P which is not ATED-related.
- (2) Case 1 is that –
- (a) the interest disposed of was held by P on 5 April 2013, and
  - (b) neither Case 2 nor Case 3 applies.
- (3) Case 2 is that –
- (a) the interest disposed of was held by P on 5 April 2015,
  - (b) Case 3 does not apply, and
  - (c) no relevant single dwelling interest was subject to ATED on one or more days in the period ending on 31 March 2015 during which P held the interest disposed of.
- (4) Case 3 is that –
- (a) the interest disposed of was held by P on 5 April 2016, and
  - (b) no relevant single dwelling interest was subject to ATED on one or more days in the period ending on 31 March 2016 during which P held the interest disposed of.
- (5) For the purposes of this paragraph –
- (a) “relevant single-dwelling interest” means the single-dwelling interest by reference to which Condition B in section 2C is met in relation to the relevant high value disposal, or, if Condition B is met by reference to more than one such interest, each of them;
  - (b) a relevant single dwelling interest is “subject to ATED” on a day if P –
    - (i) was within the charge to annual tax on enveloped dwellings with respect to that interest on that day, or
    - (ii) would have been within that charge but for the day being “relievable” by virtue of any of the provisions mentioned in section 132 of the Finance Act 2013 (ATED: effect of reliefs).

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- (6) In paragraphs 3 and 4, “the relevant year” means –
- (a) in relation to Case 1, 2013;
  - (b) in relation to Case 2, 2015;
  - (c) in relation to Case 3, 2016.”
- 9 (1) Paragraph 3 is amended as follows.
- (2) In sub-paragraph (1) for “post-April 2013” substitute “post-commencement”.
  - (3) In sub-paragraph (2) –
    - (a) for “post-April 2013” substitute “post-commencement”, and
    - (b) for “5 April 2013” substitute “5 April in the relevant year”.
  - (4) In sub-paragraph (5), for “6 April 2013” substitute “6 April in the relevant year”.
- 10 (1) Paragraph 4 is amended as follows.
- (2) In sub-paragraph (1) –
    - (a) for “pre-April 2013” substitute “pre-commencement”, and
    - (b) for “post-April 2013” substitute “post-commencement”.
  - (3) In sub-paragraph (2) –
    - (a) for “pre-April 2013” substitute “pre-commencement”, and
    - (b) for “5 April 2013” substitute “5 April in the relevant year”
  - (4) In sub-paragraph (4) for “post-April 2013” substitute “post-commencement”.
  - (5) In sub-paragraph (5) for “pre-April 2013” substitute “pre-commencement”.
- 11 (1) Paragraph 5 is amended as follows.
- (2) In sub-paragraph (1) for “5 April 2013” substitute “5 April in the relevant year”.
  - (3) In sub-paragraph (3) for “6 April 2013” substitute “6 April in the relevant year”.
  - (4) For sub-paragraph (6) substitute –
    - “(6) In this paragraph –
      - “chargeable interest” has the same meaning as in Part 3 of the Finance Act 2013 (annual tax on enveloped dwellings) (see section 107 of that Act);
      - “relevant year” has the meaning given by paragraph 2.”
- 12 In the italic heading before paragraph 6, for “*assets acquired after 5 April 2013*” substitute “*or none of Cases 1 to 3 apply*”.
- 13 In paragraph 6, for sub-paragraph (1)(b) substitute –
  - “(b) none of Cases 1, 2 and 3 in paragraph 2 applies to the disposal.”

## EXPLANATORY NOTE

### RELEVANT HIGH VALUE DISPOSALS: GAINS AND LOSSES

#### SUMMARY

1. Clause [X] reduces the threshold amount for consideration received on a disposal of residential property, above which an Annual Tax on Enveloped Dwellings (ATED)-related gain may accrue and capital gains tax (CGT) may be payable. The changes apply to disposals on or after 3 December 2014.

#### DETAILS OF THE SCHEDULE

2. Paragraph 2 amends section 2C of the Taxation of Chargeable Gains Act 1992 (TCGA 1992). Subsection (6) of section 2C is amended so that the 'relevant ownership period' depends on whether the property being sold was held on 5 April 2013, 2015 or 2016, and whether CGT was payable before the relevant date. This ensures that any ATED-related gain on which CGT may be payable reflects only changes in the property's value over the period since ATED was first payable. Subsection (7) of section 2C is amended so that subsection (4) continues to apply correctly after the changes to the threshold amount given in paragraphs 3 and 4 take effect.

3. Paragraph 3 amends section 2D TCGA 1992 to reduce the threshold amount from £2 million to £1 million. The change applies to disposals on or after 6 April 2015.

4. Paragraph 4 amends section 2D TCGA 1992 to reduce the threshold amount from £1 million to £500,000. This change applies to disposals on or after 6 April 2016.

5. Paragraph 5 amends section 2E TCGA 1992 so that it continues to apply correctly whichever date is used in Schedule 4ZZA for 'rebasings' the gains or losses which accrue on the disposal.

6. Paragraphs 6 – 13 amend Schedule 4ZZA TCGA which makes provisions for computing ATED-related gains and losses.

7. Paragraph 8 replaces paragraph 2 in Schedule 4ZZA TCGA 1992 with a new paragraph. The new paragraph contains rules for deciding whether a relevant high value disposal within section 2C falls under 'Case 1', 'Case 2' or 'Case 3'. This is necessary in order to determine 'the relevant year' by reference to which the ATED-related gain is to be computed. The conditions for Case 3 are to be considered first, and if they are not met then Case 2 is considered. If a disposal falls within neither Case 3 nor Case 2 then it will be within Case 1. New paragraph 2, subparagraph (5) contains definitions of terms used in earlier subparagraphs and subparagraph (6) gives 'the relevant year' associated with each of the Cases determined under subparagraphs (2) – (4).



8. Paragraphs 9 and 10 amend paragraphs 3 and 4 of Schedule 4ZZA TCGA. Paragraphs 3 and 4 ensure that changes in the value of a property which take place before the property first becomes chargeable to ATED do not contribute to ATED-related gains when the property is sold (a process known as 'rebasing'). The changes brought about by this Clause mean that ATED in respect of a property which is already owned may become payable either in April 2013, April 2015 or April 2016. The amendments to paragraphs 3 and 4 of Schedule 4ZZA ensure that those paragraphs work properly in all cases.

9. Paragraph 11 amends paragraph 6 of Schedule 4ZZA TCGA so that it is capable of applying equitably in any of the three Cases described at new paragraph 2.

10. Paragraph 13 amends paragraph 6 of Schedule 4ZZA TCGA. Paragraph 6 provides rules for computing ATED-related gains and losses where there is no 'rebasing'. The amendment ensures that this paragraph applies where a disposal does not fall within any of the three Cases described at new paragraph 2.

## **BACKGROUND NOTE**

11. These changes, announced at Budget 2014, ensure that the charge to capital gains tax on disposals of residential property continues to be aligned with that property's previous liability to ATED. The value above which a property is potentially liable to ATED decreases from £2 million to £1 million on 1 April 2015 and to £500,000 on 1 April 2016, and the 'threshold amount' for CGT purposes is changing similarly so that the two charges remain aligned. The methods by which ATED-related gains and losses are computed and CGT charged or relieved are not changing except to recognise that owners of certain properties will become liable to ATED and to CGT for the first time as a result of these measures. Gains and losses attributable to periods before they became liable to ATED will continue to be excluded from the charge to CGT on ATED-related gains.

12. These changes further the Government's policy objective of ensuring the fairness of tax on residential property. A package of measures including the charge to CGT on high value disposals was announced at Budget 2012 and the charge was introduced by Finance Act 2013, after consultation.

13. If you have any questions about this change, or comments on the legislation, please contact Rob Clay on 03000 570649 (email: [rob.clay@hmrc.gsi.gov.uk](mailto:rob.clay@hmrc.gsi.gov.uk)).