Appleby Windsor Ltd
Chartered Accountants
Registered Auditors
International Tax Consultants

RESPONSE TO CONSULTATION ON NON-RESIDENTS FOR THE NEW CAPITAL GAINS TAX RULE

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HM Revenue and Customs
100 Parliament Street
London
SW1A 2BQ

Dear Sirs

CONSULTATION ON IMPLEMENTING A CAPITAL GAINS TAX CHARGE ON NON-RESIDENTS

We have pleasure in presenting to you our response to your above-mentioned consultation.

Yours faithfully

Appleby Windsor Ltd

We refer to the recent published consultation on the new capital gains tax (CGT) rule for non-resident owners of UK residential property.

We set out below our response to the proposals.

EXECUTIVE SUMMARY:

A. London property market will become less attractive to foreign investors as a result of the proposals as alternative markets are available. The rate of foreign investment into UK property will decrease as the market becomes less attractive.

B. On the other hand, UK prime property prices will increase as the owners will delay offering properties for sale resulting in a decrease in property stock available for sale.

C. Foreign investment monies will divert to other markets e.g. Hong Kong and Dubai.

D. Any gains arising from increased CGT will be offset against lower revenues from Stamp Duty Land Tax (SDLT) as the volume of sales decreases as owners defer selling to avoid triggering CGT.

A. UK PROPERTY MARKET FOR NON-RESIDENTS

In essence, it is clear the vast majority of people to be affected by the proposed new CGT will be in Central London as this is the place where most non-residents invest in real estate. The reasons for investment are varied and include safe haven status, ease of transacting and no capital gains tax upon sale. This is a very important market for the UK and enhances the UK's position as one of the top three markets in the world (others are New York and Hong Kong) according to the Wealth Report published by Knight Frank estate agents (http://my.knightfrank.co.uk/research-reports/the-wealth-report.aspx).

B. IMPACT ON UK PROPERTY PRICES

If the proposals are implemented, we believe there will a dramatic decrease in the number of properties available for sale (in order to avoid triggering CGT) which will result in increased property prices and scarcity.

Interestingly, prices will go up whilst foreign money flowing in will slow down as the market becomes less attractive (as discussed below in the Hong Kong section).

C. INTERNATIONAL COMPARISON OF CAPITAL GAINS TAX ON PROPERTY

One of the reasons given for introducing the capital gains tax is that this will bring the UK into line with other countries. This is partially correct. However, the logic is skewed. If presenting an argument for tax fairness the logic is fine. If presenting an argument for competitiveness, there are other options available internationally for such foreign investment monies including Hong Kong and Dubai.

We appreciate that an international comparison was included in the consultation document. However, we wish to emphasize that Hong Kong, a more important jurisdiction for such comparison, in our opinion, was omitted bearing in mind that the intention is to target non-resident property owners in the UK.

We will just discuss Hong Kong to illustrate the point of competitiveness.

LONDON VS HONG KONG PROPERTY MARKET

Based on global comparisons for real estate investment, Hong Kong is as important market as London (again see the Wealth Report) and growing in importance in recognition to the rise of the Chinese economy.

In our view it is a direct competitor to the UK for foreign investment in real estate as it too has no capital gains tax regime for non-residents.

Assuming the proposed CGT regime is introduced we believe investment monies will be diverted from the UK to Hong Kong, making the UK property market less competitive and less attractive.

D. REDUCTION IN STAMP DUTY FROM PROPERTY SALES AND LOW CAPITAL INCREMENTAL GAINS

The introduction of CGT for non-residents will change the behaviour of such individuals when deciding to transfer UK property as this is the trigger point for CGT.

Assuming no CGT roll over relief is available for non-UK residents, this will deter non-UK resident landlords from selling which will result in reduction in SDLT due to a decrease in the number of property sales. This will clearly offset the additional CGT that will be collected as a result of these proposals.

CONCLUSION:

Based on the above points, we do not believe that this will be good for the property market as targeted towards foreign investment nor for the Treasury in terms of tax collected for the reasons detailed above.