



HM Revenue
& Customs

Annual Tax on Enveloped Dwellings (ATED): Reducing the Administrative Burden for Business

Summary of Responses
December 2014

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1. Introduction

- 1.1 The Annual Tax on Enveloped Dwellings (ATED) is a tax charged on a company, partnership (with a corporate member) or collective investment scheme that owns UK residential property valued at more than £2m.
- 1.2 Those within ATED are required to submit a return for every property in which they have a beneficial interest, whether there is an ATED liability to pay or they are claiming one of a number of reliefs which may reduce the tax to zero. Additional returns must be submitted during the year where properties are acquired or where more tax becomes due because of a change of circumstances. In some instances, this can lead to the submission of multiple returns, particularly for those businesses with large property portfolios, or for those who have properties regularly coming into and out of ATED during the year.
- 1.3 At Budget 2014 the Government announced that the entry valuation threshold for ATED would be lowered from £2m to £500,000. Recognising the additional administrative burden on businesses that hold residential property over £500,000, in particular those entitled to claim reliefs, the Government also announced consultation on ways to simplify the administration of ATED.
- 1.4 The Government published the consultation document: “Annual Tax on Enveloped Dwellings (ATED): Reducing the Administrative Burden for Business” on 21 July 2014. The consultation closed on 15 September 2014.
- 1.5 Two options were set out in the consultation document which sought to offer the greatest potential to reduce the administrative burden for genuine businesses, without increasing compliance risks or resulting in fundamental changes to the basis of the tax.
- 1.6 The consultation received 22 written responses from a range of respondents including property businesses, property investors, representative bodies and advisers. During the course of the consultation, HMRC held a number of meetings with interested parties (including, for example, property developers, representative bodies) to discuss the options. Feedback from these meetings and subsequent written responses has been considered as part of the consultation exercise.
- 1.7 The Government wishes to thank those who responded to the consultation document and recognises the time and effort that went into the comments and contributions.
- 1.8 This document summarises the responses received and explains HMRC’s further proposals on this subject.
- 1.9 In addition to this consultation, HMRC is in the process of developing a new and more robust on-line filing/payment system for ATED which will enable

ATED customers to more easily complete their ATED transactions with HMRC. The system will respond to many of the concerns raised by customers around the current on-line system, for example the inability to save the return prior to submission; the lack of acknowledgement of receipt of a return and/or payment. HMRC is aiming to introduce this new IT system during 2015 and will be engaging with customers, agents and advisers to help inform its development during December 2014.

Options proposed

1.10 The consultation suggested two options to reduce the administrative burden whilst not creating compliance risks for HMRC. It also invited suggestions for other ways in which these aims could be achieved.

- Option 1 proposed that those eligible to claim reliefs should continue to file their return at the start of the tax year, as now, but, instead of having to file multiple relief returns during the year when they buy or sell properties, they file a balancing return after the end of the tax year. The balancing return would notify HMRC of all the properties that came within ATED during the year. This was intended to respond to the concerns raised by businesses not only by reducing the number of returns they currently have to file, but also by giving them more time to provide the information to HMRC. This option would mean that HMRC would continue to obtain information about residential properties held in companies.
- Option 2 proposed the introduction of a “status” regime for those businesses who hold properties eligible for a relief. Businesses would have to fulfil certain conditions to be granted “status”, for example that they file a UK Corporation Tax return. Once granted, an ATED return would not be required annually for properties eligible to a relief. Instead, the information could either be provided to an alternative filing date or be required on request from HMRC. Status would have to be reviewed periodically to ensure that the conditions continued to be met. Again this option was intended to respond to business concerns about the administrative burden, whilst still ensuring that HMRC can obtain the information about residential properties held in companies.

Other issues covered in the consultation were:

1.11 The date at which new dwellings or dwellings produced from other dwellings come within the charge to ATED.

1.12 Communicating the changes announced at Budget 2014.

2. Summary of responses

General comments and summary of responses

- 2.1 Respondents welcomed the opportunity to comment on the detail of the proposals. Respondents were positive about the proposals to reduce the administrative burden ATED placed on genuine businesses required to file a return to claim a relief.
- 2.2 The general consensus was that the number of returns required and the information requirements of complying with the ATED regime should be kept to a minimum where no ATED liability arises.
- 2.3 Respondents said that gathering information for inclusion in the ATED return was an onerous task, particularly for businesses with a large number of properties. Keeping track of the constant changes across large property portfolios could be extremely burdensome.
- 2.4 Most respondents preferred option 2 because it significantly reduced the need to monitor and report details of relievable properties on multiple returns. However, they didn't think it met all their requirements; for example, there were concerns that any application process to apply for exempt status could in itself be onerous and subject to dispute.

Summary of responses to Option 1: retain the current filing date but allow those customers who are eligible to claim a relief from ATED for more than one property and who do not have an ATED liability, to submit a supplementary return after the end of the chargeable period.

The consultation document posed the following questions in relation to option 1

Question 1: What, if any, problems do you see with this approach?

Question 2: Should this option be adopted, are you content that the statement or balancing return should be submitted by 30 April in the next chargeable period?

Question 3: Do you agree that only those claiming the same relief for multiple properties should be included in this option?

- 2.5 Most respondents did not consider that option 1 offered much of a reduction in burden. Many acknowledged that whilst it went some way towards reducing the administrative burden it didn't go far enough. There were concerns that there would still be a requirement to provide individual property information on a return where no tax was due. There were also concerns that the work required in collating the necessary data to complete the return would remain the same, particularly in relation to the requirement to provide a valuation for all relievable properties.
- 2.6 Some respondents commented that submitting a supplementary or balancing return listing relievable properties held during the chargeable period within 30 days of the end of the chargeable period would not give them sufficient time to collate the necessary data, especially where property portfolios changed towards the end of the chargeable period.
- 2.7 Others suggested that properties that qualify for different reliefs should be included within the same return and it should be possible to indicate on the return where more than one type relief is being claimed.
- 2.8 Some respondents suggested that the Government change the filing date so that ATED returns are prepared and submitted at the end of the chargeable period and not at the beginning. This would allow for an accurate return to be prepared for the chargeable period without the need for amendments for acquisitions and disposal during the year, and that doing so would reduce the cost for compliance for both the taxpayer and the Government.

Summary of responses to Option 2: Introduce a “status” regime for those entitled to claim a relief.

The consultation document posed the following questions in relation to option 2

Question 4: What, if any, problems do you see with this approach?

Question 5: What criteria do you suggest are adopted in order for customers to apply for and be granted exempt status?

Question 6: Do you agree that continued entitlement to the status should be confirmed periodically and if so, how frequently?

Question 7: Which of all the options do you prefer and why?

- 2.9 Almost all respondents expressed a preference for Option 2 as they generally felt it had the potential to reduce the compliance burden that ATED places upon businesses - provided that the criteria for meeting exempt status were clear, logical and proportionate. They commented that this option would benefit businesses with large property portfolios and those which had properties coming into and out of ATED during the chargeable period. Property developers said that complying with the 90 day filing deadline for newly built and renovated properties could be challenging as there can be a delay in finalising the date at which the property comes within the charge to Council Tax. This option would help alleviate those concerns.
- 2.10 It was also highlighted that if the exemption only operates where multiple properties are held, then a reduction to one property in the portfolio could see businesses shifting between exempt and non-exempt status. The law would therefore need to clarify whether exempt status is lost if existing properties cease to be eligible for the reliefs and/or new properties are acquired which are not eligible for reliefs. Concern was also expressed that the absence of an annual return could put tax at risk.
- 2.11 Respondents suggested that the Government make the criteria for meeting ‘exempt’ status clear, logical and proportionate, to avoid an application process that is burdensome and subject to dispute.
- 2.12 Some questioned the benefit to HMRC in continuing to keep a full record of all properties within the ATED where no tax is due.
- 2.13 There was support for a simplified exempt status regime for those customers who already have a relationship with HMRC; e.g. through the corporation tax or non-resident landlord scheme. It was recommended that to be granted exempt status companies should submit a qualifying declaration.
- 2.14 Several respondents were unclear what the terminology ‘exempt status’ would mean in practice and thought it could be misinterpreted to mean ‘do nothing’. They suggested that it be renamed, for example to ‘relieved status’.

- 2.15 Other respondents suggested that it would be helpful if groups of companies are allowed to submit a single return confirming the ATED status of all group members under a single declaration.
- 2.16 In relation to the periodic renewal of exempt status there were mixed views on the timescales. Most respondents preferred five years with an obligation on the taxpayer to notify HMRC of any changes in circumstances removing the eligibility for relief. Some thought that as long as the process for confirming exempt status was relatively simple they didn't think it would be too onerous to re-confirm their status periodically or even annually.

The Government response:

The government recognises the concerns expressed in relation to each option i.e. that option 1 does not go far enough to reduce the administrative burden and option 2 would mean the introduction of a process under which exempt status would have to be granted. This alone would be burdensome not only for taxpayers and their agents, but for HMRC and could be subject to dispute. For smaller businesses with fewer relievable properties this process could outweigh the benefits.

The Government has listened to the views put forward by respondents and, taking into account the future capabilities of HMRC's risk profiling tools and the new on-line filing system to be introduced during 2015, has developed a proposal which takes the positive elements from both options 1 and 2. The Government proposes that this change comes into effect for the chargeable period beginning 1 April 2015.

The proposal

Draft legislation is included in Finance Bill 2015 introducing a new class of ATED Return – the “Relief Declaration Return”.

For each type of relief being claimed the chargeable person will be required to submit a Relief Declaration Return for the chargeable period in respect of one or more relievable properties. The return will include details of the chargeable person and the type of relief being claimed. No details will be required of the individual properties or the number of properties eligible for the particular relief. Where a property is acquired in-year which also qualifies for the same type of relief the existing return will be treated as also having been made in respect of that newly acquired property.

An ATED return will continue to be required, as now, in respect of any property which doesn't qualify or ceases to qualify for a relief; i.e. where any tax is due.

The overall result of this proposal is that businesses who hold properties eligible to a relief will generally only be required to deliver one return at the start of the year for all properties covered by that relief instead of, as now, multiple returns; i.e. one for each such property.

This proposal offers a considerable reduction in the administrative burden beyond that which could have been achieved by either of the two original options. It also avoids the need for businesses to provide HMRC with a valuation for properties eligible for relief.

It will not only apply to those businesses with large property portfolios but also to businesses who may only hold one relievable property within ATED and so responds more positively to the needs of smaller businesses than either of the original options. It therefore responds to the particular concerns of smaller businesses, such as those in the farming community, as well as to the concerns of larger businesses.

This proposals means that HMRC will continue to receive a return from businesses holding properties within ATED and can continue to assure compliance with the regime. This is important because:

- chargeable persons holding properties will be required to properly consider whether the property is eligible for a relief and make a declaration to HMRC to that effect,
- HMRC will receive the necessary information (e.g. the name of the chargeable person and type of relief being claimed) within the return to check the validity of any claim to a relief and to establish whether a return has been made by chargeable persons holding enveloped properties,
- the existence of a return means that the compliance regime underpinning returns will also apply to a Relief Declaration Return; for example, the ability to enquire into any such return and/or seek access to the necessary records in support of that return.

Taking into account the capabilities of the new on-line filing system to be introduced during 2015 (as outlined in paragraph 1.9 above) this measure offers the significant reduction in the administrative burden that businesses desire whilst providing HMRC with the necessary information to assure compliance and to check the validity of any claim to a relief.

In addition to the changes in filing obligations and information requirements outlined above, the Government proposes to introduce a special transitional rule for the chargeable period beginning 1 April 2015 meaning that Relief Declaration Returns can be filed by 1 October 2015 instead of the normal filing date of 30 April 2015.

This approach should enable HMRC to synchronise the new filing obligations for relief properties with the introduction of the new IT system and avoid the potential to have 2 different sets of filing obligations in one year. It will also align with the transitional filing date for properties worth more than £1m but less than £2m which come within the scope of ATED for the first time next year.

Annex A sets out a series of short examples demonstrating out how the proposal is intended to work in practice.

Annex B sets out a summary of the ATED filing obligations, including the filing obligations for the new Relief Declaration Return.

Summary of responses to additional questions

Valuation dates for newly constructed properties/dwellings produced from other dwellings.

Question 8: Is there an alternative date or trigger which could be adopted and would provide certainty and consistency in the case of newly constructed dwellings or dwellings produced from other dwellings?

2.17 The consultation document also sought comments on an alternative valuation date that could be used for newly constructed dwellings and dwellings produced from other dwellings coming into ATED.

In both these circumstances the valuation date now used is the earliest of:

- The day on which the dwelling is deemed to come into existence for Council Tax purposes; or
- The day on which the dwelling was first occupied.

2.18 This valuation date is then used as the trigger date for filing an ATED Return.

2.19 HMRC had been made aware that in some cases there is a delay in the Local Authority notifying the chargeable person of the date the property is deemed to come into existence for Council Tax purposes.

2.20 Respondents did make some suggestions for alternative valuation dates, for example, the date of 'practical completion' issued in a certificate by a quantity surveyor; the Council of Mortgage Lenders (CML) Cover Note issued by the NHBC.

The Government response:

The administrative burden reduction proposal set out above largely resolves this issue because it significantly reduces the requirement to file additional returns notifying HMRC of properties acquired in-year. The Government does not therefore intend to make a change to the legislation at this stage. However, HMRC will continue to monitor the position.

Where the chargeable person has been unable to file a return on time because of circumstances beyond their control, they *may* have a reasonable excuse in which case that late filing penalties will not arise.

Communicating the Budget 2014 changes.

Question 9: Do you have any suggestions as to how to ensure that the changes announced at Budget 14 are communicated to those who may be affected?

- 2.21 The consultation document also sought suggestions on how HMRC might better communicate the changes announced at Budget 2014 to those affected to ensure they were fully aware of their ATED obligations. Given ATED is a relatively new tax there were concerns that there may be a lack of awareness by those potentially affected, particularly when the thresholds are reduced.
- 2.22 Respondents made a number of helpful suggestions including using information from other HMRC tax returns (for example stamp duty land tax and/or non-resident landlord returns); channelling communications through Local Authorities; using Land Registry data.

The Government response:

HMRC will take this suggestions into consideration when it launches its communications campaign in late 2014.

3. Next steps

Draft legislation was published on 10 December 2014. There are 8 weeks for interested parties to comment on the draft legislation. The Government intends to legislate for these changes in Finance Bill 2015.

Any comments on the issues set out in this response document, in particular on the proposal at chapter 3 above or on the draft legislation can be sent to ated.technicalqueries@hmrc.gsi.gov.uk

Annex A: Examples of how proposal will work in practice

Example 1 (Business holding properties eligible to a relief)

On 1 April 2016 a company holds 8 properties that are eligible for property developer relief.

The company is required to file a Property Developer Relief Declaration Return by 30 April 2016 stating simply that it holds properties that are eligible to property developer relief.

The company then acquires a further 5 properties during the 2016/17 chargeable period that are also assessed as eligible to property developer relief.

The company is not required to file a further return in relation to those 5 properties as the relief declaration return already filed will be treated as a return in relation to those additional 5 properties.

The company later acquires 2 properties in the same chargeable period that are eligible to property rental relief.

A Property Rental Relief Declaration Return is now required in respect of those 2 properties within 30 days of the date of acquisition.

Example 2 (Liability property becomes eligible to a relief)

The chargeable person holds a property that is liable to ATED on 1 April 2015.

A return is filed and payment is made by 30 April 2015.

During the chargeable period that property becomes eligible to property rental relief.

The chargeable person may amend their normal ATED return claiming a repayment and stating within that return the reason for the repayment for example, "property now eligible to property rental relief". An amendment may be made any time up to 12 months of the end of a chargeable period

Example 3 (application of transitional rule)

On 1 April 2015 a company holds 20 properties that are eligible to property Rental relief.

The company is required to file a Property Rental Relief Declaration Return by 1 October 2015, instead of the normal filing date of 30 April 2015, stating simply that it holds properties that are eligible to property rental relief.

During the chargeable period, and before 1 October 2015, one of those properties is no longer eligible to property rental relief because a non-qualifying individual occupies the property. Tax is now due in respect of that property.

The company is now required to submit an ATED return in respect of that property within 30 days of the event which gave rise to the tax liability. That return will set out that a claim to a relief was due for part of the chargeable period.

The Property Rental Relief Declaration Return in respect of the remaining 19 properties can be made by 1 October 2015.

Annex B: Summary of ATED Filing Dates

Return	Circumstances	Filing Date
ATED Return (there is a liability to pay)	Chargeable person is within ATED on the first day of a chargeable period and has tax to pay.	30 April falling in the chargeable period
	There has been an in-year acquisition of a single-dwelling interest and there is tax to pay	30 days from the date of acquisition/transaction
	There has been an in-year acquisition of a newly constructed single-dwelling interest or dwellings are produced from other dwellings and there is tax to pay.	90 days from the earliest date on which the dwelling is deemed to come into existence for Council Tax purposes or the day on which the dwelling is first occupied.
Amendment of ATED Return	Where a repayment is due (e.g. dwelling is sold/demolished; relief can now be claimed) or where certain information contained within the original return is incorrect.	At any time up to 12 months of the end of a chargeable period. If the original return was filed on or after 1 January following the end of the chargeable period to which the amendment relates the filing date is 3 months from the date that return was filed.
Relief Declaration Return (zero liability for chargeable period)	Chargeable person is within ATED on the first day of the chargeable period and holds a property/ies eligible to a relief with no tax to pay.	30 April falling in the chargeable period
	There has been an acquisition of a single dwelling interest which is eligible to the same type of relief already claimed in a previous relief declaration return for the chargeable period and there is no tax to pay.	No action required
	There has been an acquisition of a single dwelling interest which is eligible to a different type of relief not previously claimed in a relief declaration return for the chargeable period and there is no tax to pay.	30 or 90 days from the date of acquisition
Return of Adjusted Amount (otherwise known as a Further Return)	Required where additional tax is due and either <ul style="list-style-type: none"> An event occurs during the chargeable period which gives rise to an additional tax liability; An event occurs after the end of the chargeable period which gives rise to an additional tax liability. 	30 days from the start of the next chargeable period i.e. 30 April. Within 30 days of the date on which the event occurred which gave rise to that additional tax liability.

<p>Special rule for 2015/16 for customers falling within new £1-£2m band and those filing a Relief Declaration Return</p>	<p>Chargeable person holds a single-dwelling interest which falls within the new £1m to £2m band for the chargeable period 1 April 2015 to 31 March 2016.</p> <p>Chargeable person who holds a single-dwelling interest of any value that is eligible to a relief and where there is no tax to pay.</p>	<p>Filing date for return 1 October 2015 Payment date 31 October 2015 Thereafter normal filing/payment dates apply.</p>
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Annex C: List of stakeholders consulted

Barratts PLC

British Land Company

British Property Federation

Burges Salmon

Cadogan

Chartered Institute of Taxation (CIOT)

Clifford Chance

Council for Licensed conveyancers

Deloittes

Ernst & Young

FTI Consulting

Grosvenor

Hunters Solicitors

KPMG

Law Society

National Landlords Association

Rawlinson & Hunter

Smith & Williamson

Stephenson Harwood

Taylor Wimpey PLC