

Explanatory Note

Clause 54: ATED: properties occupied by certain employees etc

Summary

1. This measure introduces new relief from ATED where a property (a single-dwelling interest) is occupied either by an employee of a qualifying property rental business or where one of the flats in a building is occupied by a caretaker as living accommodation in connection with his employment by the tenants' management company.

Details of the clause

2. Subsection (1) amends Part 3 of Finance Act 2013.
3. Subsections (2) to (5) amend section 145 of Finance Act 2013 so that relief is not only available to an employee of a qualifying trade, but also to an employee of a qualifying property rental business.
4. Subsection (6) amends section 146 of Finance Act 2013 and amends the definition of a "qualifying employee" and "qualifying partner" to include an employee/partner of a qualifying property rental business.
5. Subsection (7) inserts a new section 147A into Finance Act 2013 to provide relief where a flat is occupied by a caretaker employed by a tenant run management company.
6. New section 147A(1) provides that relief is available for any day in a chargeable period where a single-dwelling interest is a flat and the conditions in section 147A(2) are met.
7. New section 147A(2) sets out the conditions that must apply, which are :
 - the management company holds the single-dwelling interest (i.e. the flat) for the purposes of making it available as caretaker accommodation;
 - the premises containing the flat also consist of two or more other flats;
 - the tenants of at least two of the other flats in the premises are members of the management company;
 - the management company owns the freehold of the premises;
 - the management company is not carrying on a trade or property rental business.

8. New section 147A(3) provides that for the purposes of section 147A(2), the flat is made available "as a caretaker accommodation" if it is made available to an individual for use as living accommodation in connection with that individual's employment by the company as caretaker of the premises.
9. New section 147A(4) provides that 'premises' means the whole or part of the building which contains the flat.
10. Subsections (8) to (10) make consequential amendments to sections 116(6), 117(5) and 132(3) of Finance Act 2013 inserting appropriate references to the new reliefs for employees of a qualifying property rental business and caretaker flats owned by a tenant run management company.
11. Subsection (11) amends section 159A of Finance Act 2013 (relief declaration returns) so that relief code 6 also applies to new section 147A - caretaker flat owned by a tenant owned management company.
12. The amendments made by this section have effect for chargeable periods beginning on or after 1 April 2016.

Background note

13. ATED is due where a company, a partnership with at least one company member, or a collective investment scheme owns UK residential property (a single-dwelling interest) valued at more than £1m (more than £500,000 w.e.f. 1 April 2016). The amount of tax charged is calculated using a banding system based on the value of the property. There are a number of reliefs available which must be claimed in an annual return. Reliefs can reduce the annual charge to nil in part or in whole.
14. Currently relief is available where a property is occupied by an employee or partner of a qualifying trade, but no relief is available where a property is occupied by an employee of a qualifying property rental business. This measure introduces new legislation so that relief will also be available for certain employees or partners of a qualifying property rental business. A qualifying property rental business is one run on a commercial basis and with a view to profit.
15. In addition, this measure also introduces a new relief where a tenant owned management company provides living accommodation to a caretaker employed to manage and maintain the building (e.g. a block of flats).
16. Clause 51 introduces similar reliefs in relation to the 15% higher rate of Stamp Duty Land Tax.
17. If you have any questions about this change, or comments on the legislation, please contact Philippa Staples on 03000 585508 (email: stamptaxes.budget&financebill@hmrc.gsi.gov.uk).