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Briefing document

Reporting UK residential property taxes

Introduction
Owners of UK residential property can incur a variety of tax charges, and may have related reporting requirements. In this note we have summarised the tax position and reporting requirements in relation to the Annual Tax on Enveloped Dwellings, rental income received by non-UK resident landlords and the tax payable on disposal of a UK residential property. The tax and reporting position varies depending on the profile of the person(s) who owns the property, the property's value and the use to which the property is put.

We can assist you with understanding the tax position and compliance with these reporting responsibilities. Other taxes and related reporting requirements may apply, in addition to those set out in this note.

The extent to which non-UK residents are subject to taxation will be broadened from April 2019, to include gains on disposal of non-residential UK property and gains on certain disposals of assets that, broadly, derive at least 75% of their value from UK land, including both residential and non-residential property, (e.g. on disposal of shares in a company which derives at least 75% of its value from UK land). In this note, we only comment on UK residential property which is owned directly.

Further changes will be made from April 2020. Please contact us should you wish to discuss the forthcoming changes. The changes are particularly pertinent to non-UK resident corporate landlords.

Annual Tax on Enveloped Dwellings (ATED)
ATED is a tax charge, payable every year in advance, which applies annually to 'high-value' UK residential properties owned by non-natural persons, which includes companies and foreign equivalents. ATED is **not** payable where trustees own property directly, nor is it payable by individuals who own property personally. It applies regardless of where the non-natural person that owns the property is resident.

ATED applies to properties worth above £500,000. The amount of ATED payable depends on the value band into which the property falls. For the five years commencing on 1 April 2018, the value of a property for ATED purposes is the property's value on 1 April 2017, or on purchase, if later. Revaluations are required every five years. Revaluations may be required more frequently if a 'substantial' acquisition or disposal of an interest in the property occurs. This, broadly, relates to an acquisition or disposal of an interest in the property for £40,000 or more, or a transfer of an interest worth this amount, if the transfer occurs by way of gift.

Relief from ATED is available in some cases, including for qualifying property rental or development businesses.

An ATED return(s) must be submitted annually in respect of properties within the scope of ATED. Where relief is available, it must be claimed annually. ATED returns must generally be filed and any tax due paid by 30 April at the beginning of the ATED period (1 April – 31 March) for properties that are already owned on 1 April. In addition, a further or amended ATED return may need to be filed if the ATED position changes. The deadline for doing so may be as short as 30 days from the event that triggered the additional reporting requirement.

For disposals before 6 April 2019, companies that have paid ATED incur a higher rate of tax on property gains attributable to periods in which ATED has been payable than would otherwise apply (ATED-related capital gains tax - see below). This higher rate will be abolished with effect for disposals made after 5 April 2019.

Non-Resident Landlords (NRL) scheme
The NRL scheme may apply where a property is let by a person whose usual place of abode is outside the UK. This often, but not always, corresponds to being non-UK resident for tax purposes. It can apply to individuals, trusts and companies that let property, regardless of whether or not ATED is payable.

If the NRL scheme applies, 20% income tax should be deducted at source by the tenant or letting agent. The collecting tenant or agent may deduct certain expenses they have paid on the landlord's behalf from the gross rent before calculating the tax due. However, the landlord may instead be able to register with HMRC under the NRL scheme to receive rents gross. Annual tax returns must then be completed to declare the tax due.

Returns are generally due by the 31 January following the end of the tax year (which is 5 April). The filing deadline is 31 October if returns are filed on paper instead of online.

Tax on property gains
Tax is payable on most gains realised on disposal of UK residential property. The exact position varies depending on the circumstances involved. Broadly:

- **Individuals**, regardless of residence, pay 18% or 28% Capital Gains Tax (CGT) on gains realised in excess of the annual exemption (£12,000 for 2019/20).
- **Trustees**, regardless of residence, pay 28% CGT on gains realised in excess of the trustees' annual exemption (£6,000 for 2019/20).
- **Non-UK resident individuals and trustees** are usually only taxable on the uplift in value of UK residential properties from 5 April 2015.
- Gains realised by **individuals** or **trustees** may be reduced, potentially to nil, where a property is used as an individual's **main residence**, including as the main residence of a trust beneficiary.
- **Companies**, regardless of residence, that dispose of a property before 6 April 2019 on which ATED has been paid pay 28% ATED-related CGT on the gain attributable to the period for which the ATED was paid. The scope of ATED has been gradually widened, as a result of which there are various different rebasing dates.
- **UK resident companies** pay 19% corporation tax on any gain which is not ATED-related, (see above) and on the entire gain for disposals after 5 April 2019, when ATED-related CGT will have been abolished.
- **Most non-UK resident companies** pay 20% CGT on gains made on disposal before 6 April 2019, to the extent the gain is not ATED-related (see above). The 20% CGT charge typically applies to the uplift in the property's value from 5 April 2015, after excluding any of the gain which is ATED-related. From 6 April 2019, 19% corporate tax will apply instead.
- Any gain realised by **non-UK resident trusts or companies** which is not taxable under one of the above provisions may be taxable on UK resident company shareholders or trust settlors or beneficiaries personally.

Reporting requirements on disposal of UK residential property
Clearly, the tax position on disposal of UK residential property is complex. Various reporting requirements may apply, notably:

- **All non-UK residents** must normally file a return within **30 days** of disposal of a UK residential property.
- **Individuals and trustees** may also need to complete a self-assessment tax return by the 31 January following the end of the tax year of disposal (or 31 October if filing on paper).
- **UK resident companies** may need to include the disposal on their corporate tax return.
- ATED-related capital gains summaries must be completed by **companies within the scope of ATED-related CGT** by the 31 January following the end of the tax year of disposal.

How can we help?
We can assist with understanding the tax position of UK residential property and compliance with reporting requirements. In particular:

- We can advise on whether or not a property is within the scope of ATED or the NRL scheme and prepare annual returns on an ongoing basis and, for the NRL scheme, prepare applications to receive rents gross.
- On disposal we can assist you with understanding how any gain would be calculated and taxed and with preparation of the required return(s).
- While in this note we have focussed on the tax position for properties which are already owned, it is essential that advice is taken prior to purchasing a property and any reporting requirements complied with. Notably, companies may need to file an ATED return within 30 days of acquisition of a UK residential property.

Find out more…
This note reflects the law in force as at 7 March 2019. Please be aware that it does not cover all aspects of this subject. To find out more about any aspect of the above, please discuss with your usual Deloitte contact. If you do not have a usual contact, please contact Michelle Robinson (michellerobinson@deloitte.co.uk).

For further information visit our website at www.deloitte.co.uk.