Michelmores

Annual Tax on Enveloped Dwellings

Summary

The Annual Tax on Enveloped Dwellings ('ATED') is designed to limit the benefit of holding UK residential property through a corporate structure. This has traditionally been a tax planning technique used widely in the past by individuals and offshore trusts. ATED is a relatively detailed tax and its effects will depend on individual circumstances. This note sets out an overview of ATED and the ATED capital gains tax charge.

With effect from 1 April 2013, ATED applies to all UK residential property which has a market value above £2 million and which is owned by a 'non-natural person' (see section 2 below).

From 1 April 2015 ATED will be extended to include residential properties with a market value above £1m. This will be extended to properties with a market value above £500,000 from 1 April 2016.

From 6 April 2013 capital gains tax has been charged on certain gains arising on the disposal of UK residential properties which fall within ATED. The gains that will be subject to the tax are only gains that arise after 6 April 2013. This is a departure from the long standing position that:

a. companies only pay corporation tax (currently at 20% or 21% depending on the company's revenue); and

b. that capital gains tax is only charged on UK residents (the ATED related capital gains tax is charged on a company whether it is UK resident or not).

Who does ATED (and the ATED capital gains tax) apply to?

ATED applies to 'non-natural persons' which include:

- companies;
- partnerships which have a corporate member; and
- collective investment schemes such as unit trusts or OEICs.

ATED does not apply to trustees (including a corporate trustee), or where a property is held through a corporate nominee.

For more information or if you would like specific advice please contact:

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The charge

The charge to ATED is based on the market value of the property and is payable annually on 31 April. The charge will depend on the value of the individual property as follows:

Taxable value	Annual charge
over £500,000 up to £1 million	£3,500 (applicable form 1 April 2016)
over £1 million up to £2 million	£7,000 (applicable from 1 April 2015)
over £2 million up to £5 million	£15,400
over £5 million up to £10 million	£35,900
over £10 million up to £20 million	£71,850
over £20 million	£143,750

Property value

The market value of the property is used to determine the charge to ATED. The valuation date is either 1 April 2012 (if the property was owned at that date) or, if later, the date on which the property was acquired. The property must then be revalued on 1 April 2017 and on every subsequent 5 year anniversary.

Reliefs

There are a number of exemptions and reliefs from ATED. These include reliefs in relation to property rental businesses, property developers, property traders and financial institutions which acquire dwellings in the course of lending gifts. The rules in relation to these can be quite complicated. Please let us know if you would like further information in relation to these exemptions.

ATED capital gains tax charge

The ATED capital gains charge will only apply to entities that are subject to ATED. Where a UK residential property with a market value above £2 million is disposed of and ATED was chargeable for some or all of the period it was held, then a proportion of any gains realised will be subject to the ATED capital gains tax charge.

ATED related gains are taxed at 28% while any non ATED related gains will continue to potentially be charged to corporation tax or capital gains tax depending on whether the property is owned by a corporation, or an individual, or a trust company.

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