

The resident

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UK RESIDENTIAL PROPERTY TAXES FOR NON-DOMS: BREXIT REVIEW

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With regards to UK residential property taxes, what is the current position for the non-resident or non-domiciled owner considering their future post-Brexit?

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The result of the recent EU referendum has caused many international people to reflect on their connections with London and the UK. Of course, as with any change, some will see it as a threat, whilst others will consider it an opportunity. In the immediate aftermath, property prices seem to have dipped and Sterling has also lost value, which could add incentives to buy. For those that already own property and also work here, they may well be waiting to see what happens to their businesses before thinking how to proceed.

Residential property in London has been a popular choice for non-UK domiciled or non-UK resident individuals looking for an investment option or a place to come and enjoy what London has to offer. The UK tax treatment has traditionally been very beneficial, but in more recent times, the UK government has implemented several measures to limit those benefits.

At this time of change it is worth reviewing the present position for non-UK domiciled ('non-doms') or non-UK resident owners of UK residential property.

UK Inheritance tax (IHT)

IHT is charged on UK assets up to a maximum rate of 40%. Currently many non-doms own UK residential property through a (non-UK) company (either directly or through a structure such as a trust) with the aim of not being liable to

IHT on the property. However, in the 2015 Summer Budget, new rules were announced that, from April 2017, will allow HMRC to look through such structures so that IHT will apply as though the property was held personally.

The effects will be wide-ranging. Many will therefore consider changing or collapsing the current property-owning structure they have in place so as to simplify matters and remove the associated professional fees. There will also be a need to understand the corresponding tax and succession implications of such actions.



Inheritance tax is charged on UK assets up to a maximum rate of 40%

Non-Residents Capital Gains Tax (CGT)

Capital Gains Tax is a tax on any gain that is made when selling an asset. Historically only those resident in the UK were subject to CGT. However, from 6 April 2015, all non-residents disposing of UK residential property have been subject to CGT on any gain made since 5 April 2015. CGT on residential property is charged at either 18% or 28% for individuals (depending on the size of the gain and income of the owner), and 28% for trustees.

A relief from CGT, known as the 'main residence relief', may be available. One point to note is that a property that has been a main residence at some point will always benefit from the full main residence relief (of 100%) in the final 18 months of ownership. Those non-residents considering selling a property which either is or has been their main residence, and who sell the property before 5 October 2016, will do so free of CGT. Sales after that time will also receive some benefit in these circumstances.

However, a separate tax return is required whenever a non-resident disposes of a residential property interest, whether a gain arises or not. There are only limited exceptions to this rule. The return must be submitted within 30 days of the sale.

Stamp Duty Land Tax (SDLT) – additional 3% rate

SDLT is a tax that the purchaser of UK property pays and is calculated as a percentage of the purchase price up to a maximum rate of 12%. Since 1 April 2016, an additional 3% SDLT charge now applies to purchases of UK properties that are second properties, i.e. the maximum rate in these circumstances is now 15%.

Properties outside the UK are taken into consideration when deciding whether a property is a 'second property' or not. So any person owning property abroad will be subject to the additional charge on a purchase here. As spouses and civil partners are treated as a single unit, a property held in the name of one spouse will give rise to the additional SDLT charge if the other spouse buys a property. Trustees of a discretionary trust purchasing property will always be subject to the additional charge.



Stamp Duty Land Tax is calculated as a percentage of the purchase price up to a maximum rate of 15%

Annual Tax on Enveloped Dwellings (ATED)

This was introduced in April 2013 and subjects all companies (and certain other ‘non-natural persons’) purchasing or owning UK residential property to an annual charge and reporting requirements. The size of the annual charge depends on the value of the property held, with a maximum current charge of £218,200.

In addition, if a non-resident company owning UK residential property disposes of that property then there will be a CGT charge on any gain on the value of the property since April 2013.

With the recent falls in value in property some may see this as an opportunity to remove any ownership structure so as to not pay the annual ATED charge and suffer only a limited or no CGT charge.

For further information on any of the above, contact **Andrew Godfrey** and **Christopher Salomons** at russell-cooke.co.uk

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