

## BUDGET 2016 – PROPERTY TAX ISSUES

### In a nutshell

The Chancellor's Budget highlighted a number of property tax changes. Some of these measures have already been announced but others are new.

- The Chancellor has continued to treat residential property less favourably than commercial property, with the Additional Stamp Duty Land Tax (SDLT) of 3% representing a significant additional cost for developers and investors in this sector.
- Buy to let owners face a potentially prohibitive hike in tax due to the proposed reduction of tax relief for interest payments.
- The system for charging SDLT on residential property will now be adopted for commercial property, increasing the tax charge where the overall purchase price is slightly in excess of £1 million.
- Commercial property owners will benefit from an 8% drop in Capital Gains Tax.
- Property developers and traders using offshore structures to minimise UK tax are likely to lose that advantage as new legislation aims to ensure that transactions in UK land will always be subject to UK tax

The note below identifies the key changes to property tax in the recent budget, highlights their implications for owners and investors in both the residential and commercial property sectors and recommends prudent actions to be taken in response.

### 1. Residential Property

The Government is currently targeting residential property as a means to increase tax revenue. While this is not news, the recent budget has supplied more details on the principle tool it plans to deploy to achieve this, namely the Additional Stamp Duty Land Tax (SDLT).

#### SDLT on residential property

For completions on or after 1 April, the Additional SDLT will add 3% to the cost of purchasing an additional residential property by an individual or any residential property by a company. There is a minimum limit of £40,000 – not low enough to include the vast majority of property transactions in the UK. Commercial and mixed-use properties are not affected. Companies already paying 15%, under the usual rules, may not have to pay the additional 3%.

It was suggested last year that there might be an exemption for purchasers of 15 or more residential dwellings, if these were purchased at the same time or if the owner had already accumulated this number. However, this exemption appears to have been dropped. The only relief available will be the traditional relief for purchasers of 6 or more dwellings in a single transaction. In that case, they can either opt for multiple dwellings relief, where the additional rate will apply, or for tax at non-residential property rates. The latter may well be a more attractive option in some cases.

In summary, SDLT represents an additional cost for property developers or investors. Its likely impact will be a rise in subsequent sale prices or rental payments as developers and investors seek to recover this additional burden from their clients.

#### Interest relief on buy to let

While there have been a number of U-turns in the Budget, the way tax relief is given for interest payments by individuals with buy to let properties was not one of them. Announced last year and due to come into force in April 2017, the full deduction for interest payments will be replaced by a far more limited tax credit relief. This represents a potentially major increase in tax for many buy to let owners. In some cases, tax may exceed the actual rental profit.

It is very important for individual buy to let owners to make sure they fully understand the impact this change could have on their rental income and their ability to finance their investments. Companies are not affected by this change so incorporation could be one solution but there are a number of tax hurdles to overcome to achieve that.

## 2. Commercial Property

### SDLT on commercial property

On 17 March 2016, the system for charging SDLT on commercial property changed. Tax is now calculated in the same way as it is for residential property (if not at the same rates). A banding system has been introduced so that is payable only on the consideration that falls in each band.

	Freehold	Lease rentals
On the first £0-£150,000	0%	0%
Next £100,000	2%	1%
£250,000 - £5m	5%	1%
Over £5m	5%	2%

Where contracts have been exchanged but not completed by 17 March 2016, purchasers should be able to choose between the old and new systems. Where purchase consideration is just over £1 million or higher, then the SDLT charge is likely to be higher than under the old system.

### Capital Gains Tax

Individual investors in commercial property will be interested in the proposed reduction in CGT rates outlined in the budget. From 6 April 2016, the maximum rate of CGT falls from 28% to 20%. This will be available for commercial property owners only. If currently looking at selling a property it may be better to delay sale till after 5 April to benefit from reduced CGT rates.

### Property Development – anti avoidance

Historically it has been possible to use offshore structures to minimise UK tax on property development and trading in UK land. These structures often deployed the Double Tax Treaties with the Channel Isles and the Isle of Man. There are now proposals to close those structures so that the development of and trading in UK land will always be subject to UK tax regardless of where the developer/trader is resident. Any offshore structures should now be reviewed to see what the commercial impact of this change may be.

## 3. Conclusion and Recommendations

The Chancellor has continued to treat residential property less favourably than other forms of property investment. In response to the changes outlined above, we recommend the following actions:

- Review financing costs and consider the impact of changes in interest relief on residential buy to let portfolios held by individuals.
- Factor in additional SDLT costs for purchasing residential property or consider multiple purchases (6 or more) where it may be beneficial to opt for non-commercial rates of SDLT.
- Consider whether commercial/mixed use property becomes more attractive as a result of the changes



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- Consider delaying individuals thinking of selling a commercial property till after 5 April 2016 to benefit from reduced CGT rates.