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Annual Tax on Enveloped Dwellings - ATED

Overview & Background to the ATED

The annual tax on enveloped dwellings (ATED) was introduced in the Finance Act 2013 and applies from 1 April 2013.

High value UK residential properties that are owned by 'non-natural' entities (see below) could be subject to the ATED, which was introduced with a view to curbing the avoidance of stamp duty land tax (SDLT) through the practice of selling shares in a company owning a UK property, rather than the property itself.

The non-natural entity will have to pay the annual tax where the value of the residential property is (currently) valued at over £500,000.

The tax payable is based on a banded rate depending on how much higher than £500,00, the property is valued and is charged annually.

Meaning of Non-Natural Entity for the Purposes of the ATED

In this context, the term 'non-natural entities' refers to:

- *companies,*

- *partnerships where at least one member is a company (ie a corporate partner), and*

- *collective investment vehicles, such as unit trusts or open-ended investment companies (OEICs)*

Care should be taken in trust situations as ATED will not apply where the non-natural entity is acting as a bare-trustee for the beneficial owner (and the beneficial owner is a natural person such as an individual), or where the non-natural entity is the trustee of a discretionary trust.

Exemptions from the ATED

Exemptions from the annual tax for enveloped dwellings might apply if the property is :-

- *Let to a third party on a commercial basis*

- *Open to the public for at least 28 days per annum*

- *Part of a property trading business*

- *Part of a property developers trade*

- *For the use of employees of the company, for the company's commercial business*

- *A farmhouse, if it is occupied by a qualifying farm worker*

- *A dwelling acquired by a financial institution in the course of lending*

- *Owned by a provider of social housing.*

Other Issues – ATED Related Capital Gains and Losses

It is important to note that where a property is subject to the annual tax on enveloped dwellings, all or part of the gain arising on the disposal may be treated as an ATED related gain.

The rules bring ATED related gains into the charge for UK capital gains tax and applies to both UK resident and non-UK resident companies, corporate partners and collective investment vehicles.

Restructuring

If a taxpayer faces an ATED liability on an ongoing basis and/or ATED related gains then it could be worth considering a restructuring of the property's ownership – although appropriate tax advice should be taken to ensure that the restructuring is itself tax efficient.

Should you have any queries, please do not hesitate to contact us

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