



Autumn Statement – Changes for Residential Property

The main measure in the Autumn Statement directly relevant to the property world is the radical revamp of residential SDLT: this change is effective from midnight last night.

Residential SDLT changes

The Chancellor has announced a long-overdue restructuring of stamp duty land tax in relation to residential property. Ever since the introduction of the tax, a "slab" system of rates had been in place, meaning that each time a rate threshold was crossed, the entirety of the purchase price in question would be subject to the higher rate rather than just the amount by which the threshold was exceeded. Around the thresholds this led to very large increases in the tax burden as a result of only very small increases in price, and the resulting distortion of the market meant that effecting sales for prices just above the thresholds was extremely difficult.

The new system will employ marginal rates, so each higher rate will apply only to the price paid to the extent it exceeds the threshold in question. The distortive sudden leaps in tax cost are therefore avoided. However, inevitably, the rates involved are rather higher than was previously the case in order to keep the cost of the measure under control. Possibly not coincidentally the new structure of the tax is extremely similar to that of the Land and Buildings Transaction Tax to be introduced in Scotland next year under its devolved powers (and the top rate is identical).

The new rates are as follows:

£0-£125,000	0%
£125,001-£250,000	2%
£250,001-£925,000	5%
£925,001-£1,500,000	10%
Over £1,500,000	12%

This amounts overall to a very large tax cut, costed in total at £800m per annum. All purchases of residential property under £937,500 will now attract less SDLT than before. Also through a quirk of the maths, purchases between £1m and £1.125m will also attract less tax going forward. In total around 98% of transactions will attract less duty than previously.

Where a buyer exchanged contracts prior to midnight last night but completes later, they would have been able to choose whichever regime should apply to them and so take advantage of whichever delivers the lower SDLT cost.

There is no change to the rule that where six or more residential properties are acquired as part of the same transaction, they are deemed for SDLT purposes to be non-residential.

Despite the Chancellor's entirely fair criticism of the old "slab" rate system it remains in place for commercial property, although a much greater proportion of such property falls straight into the top rate band than was the case for residential, making the distortions much less significant. However we must hope for a similar reform in commercial SDLT rates in due course.

CGT for non-residents

The Government has published an update on its thinking in relation to the previously announced imposition of CGT on all sales of UK residential property by offshore residents. This measure will be introduced in next year's Finance Bill.

The key new decision is that corporates will be subject to the new tax at the corporation tax rate (20% from April) rather than the individual capital gains tax rate of 28%. This contrasts with the ATED-related capital gains tax charge referred to below, which was set at the higher rate.

ATED

ATED – the Annual Tax on Enveloped Dwellings – imposes an annual tax charge on the owners of residential property which is owned by a corporate (or a partnership with at least one corporate member). It was introduced as a deterrent against individuals holding their homes via corporates with a view to an eventual stamp duty land tax free sale, but does (broadly) not apply to properties held for commercial exploitation. It has proved highly controversial for a number of reasons, and is currently the subject of an HMRC consultation on how to improve its mechanics. Yesterday saw an increase in the tax rate on £2,000,000+ properties of 50% more than the rate of inflation with effect from next April.

The ATED-related capital gains tax charge – levied at 28% on gains on the sales of properties within the ATED regime – will remain notwithstanding the forthcoming imposition of charges on all gains realised on the sale of UK residential property (see above). This decision was not expected: one would have thought that it would be sufficient that tax would be charged, and that an 8% rate differential would not have a material extra deterrent effect to weigh against the very significant simplification benefit of a single charge.

The ATED-related stamp duty land tax charge of 15% on the acquisition of a property within the ATED regime remains in place, although with the new 12% top rate in place it no longer appears quite as penal relative to the normal rates as was previously the case. It remains to be seen whether this will be adjusted in future.

If you would like to discuss any of these changes please contact Simon Yates in our tax department, or your usual real estate contact.

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