BRIEFING NOTE

November 2017

ROOKS RIDER SOLICITORS

Budget 2017 Update

This is a summary of some of the main measures announced by the Chancellor of the Exchequer on 22 November which will have particular relevance to our clients.

We will be producing more detailed Briefing Notes to focus in more detail on some of these issues in due course.

Property Taxes

A surprise announcement in the Budget is the extension of Capital Gains Tax to disposals of all types of immovable UK property by non-residents (individuals, companies, trusts and personal representatives) for gains accruing on or after April 2019.

- As a result of this measure all types of non-UK resident (whether individuals or entities including funds) will be subject to UK tax on gains realised on interests in UK commercial property as well as on interests in UK residential property where they were previously excluded from the Non-Resident Capital Gains Tax charge; and

- All non-residents will be taxed in the UK if they realise a gain on the disposal of an interest in a "property rich" entity and their interest in that entity is 25 per cent or more (or has been so within the previous five years). For these purposes a "property rich" entity will mean one which derives 75 per cent or more of its gross asset value from UK land. There will be rules to capture gains on disposals of entities held in a related structure.

The proposals, however, include rebasing provisions to rebase properties at April 2019 so that only gains accruing after this date will be chargeable.

The new rules are subject to a consultation which closes on 16 February 2018 and will take effect with these basic features from April 2019.

An anti-forestalling measure is also scheduled to take effect from 22 November 2017 to prevent non-residents seeking to exploit provisions in double tax treaties to avoid the new measures.

The new rules will particularly impact on non-resident property investors, collective investment schemes and trustees of non-resident trusts owning UK commercial property either directly or indirectly through non-resident companies.

It has also been confirmed that income received from UK property by non-UK resident companies will be chargeable to Corporation Tax rather than Income Tax from April 2020. This will result in a small reduction in the rate of tax applied from 20% (Income Tax) to a proposed rate of 17% by April 2020 (Corporation Tax) but the impact will in many instances increase the UK tax arising on property income received by non-resident companies due to the restrictions on interest deductions and loss relief under the Corporation Tax rules. It has also been confirmed that capital gains of non-resident companies will also be brought into the charge for Corporation Tax from that date.

First Time Buyers

A key announcement was the removal of Stamp Duty Land Tax (SDLT) for first time buyers of a main residence costing up to £300,000 and a reduction in the SDLT payable by such buyers of properties costing between £300,000 and £500,000. To be a first time buyer the purchaser must never have owned any interest in a residential property anywhere in the world and intend to occupy the property as their main residence. Where there are joint purchasers, both must qualify as first time buyers.

Relief from “higher rate” SDLT

The “higher rate” of SDLT (adding an additional 3%) for purchasers with an interest in more than one property remains with some relaxations effective immediately. This includes preventing the charge applying in certain unintended situations (for example in cases of separation or divorce where one party buys another property following a divorce or exchanges property with a spouse or civil partner).

The government has also confirmed its intention to reduce the time for delivering SDLT returns and payment from 30 days to 14 days for transactions after 1 March 2019.

2018/2019 Annual Tax on Enveloped Dwellings (ATED) Rates

Companies liable to the ATED charge on residential properties valued at more than £500,000 will, as expected, see an increase to the rate charged from 1 April 2018 based on the rise in the Consumer Price Index (CPI). For 2018/19 the increase will be 3% in line with the September 2017 CPI.

The chargeable amounts payable for 2018/2019 will therefore be as follows.

Property Value	**Charge**
Over £500,000 but not more than £1m	£3,600
Over £1m up to £2m	£7,250
Over £2m up to £5m	£24,250
Over £5m up to £10m	£56,550
Over £10m up to £20m	£113,400
Over £20m	£226,950

Rates and Allowances

The income tax personal allowance was increased from £11,500 to £11,850 for 2018/19 and the higher rate threshold is to increase to £46,350 (up from £45,000 in 2017/2018). The Capital Gains Tax annual exemption is to increase by £400 to £11,700 for individuals and personal representatives and £5,850 for most trustees in 2018/2019. The inheritance tax nil rate band remains at £325,000 and will continue at this amount until at least 2020/2021.

Non-Domiciliaries/Non-UK Trusts

No new measures were announced affecting non-domiciliaries, since most of the changes to their taxation which were first announced in July 2015 have been implemented with effect from 6 April 2017 in the Finance (No. 2) Act 2017 which received Royal Assent on 16 November.

There is some further tightening up of the anti-avoidance provisions in relation to non-UK trusts which had previously been announced. These changes (including the so-called anti-conduit Rule) will take effect from 6 April 2018 and therefore some individuals and their trustees may need to consider whether any action needs to be taken before the changes become law.

Offshore Avoidance/Evasion

The initiative to tackle offshore Tax Avoidance continues, particularly in relation to offshore structures. The time limitation for HMRC to assess instances of offshore non-compliance will be extended to at least 12 years in all cases, including instances where any omission or error by the taxpayer was not deliberate. This will be the subject of a consultation in Spring 2018.

If you have any concerns or queries, please contact a member of the Rooks Rider Solicitors' Wealth Planning Team.

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