SQUIRE PATTON BOGGS

UK Autumn Budget 2017
Real Estate

Real estate was widely predicted to feature heavily in Philip Hammond's second Budget and those predictions were proved correct as the Chancellor unveiled the government's plan to "fix the broken housing market". Comprising a number of measures representing a total £44 billion of support over the next five years, key parts of the government's package included various financial incentives to boost investment in house building alongside regulatory changes to increase the land available for building. Inevitably, a number of tax measures were also announced. The main changes, some expected and some certainly not, are outlined in this alert.

Non-resident Investors

At present, only gains on residential property are caught by UK tax where the property is owned by someone who is not tax resident in the UK. The Chancellor has now announced plans to extend that rule so that tax arises on capital gains realised by non-residents on disposals of non-residential property, with companies paying corporation tax and individuals paying capital gains tax. It is intended that non-UK collective investment schemes will also be caught by the charge. This will bring the UK into line with many other countries that already tax non-resident on domestic real estate gains in this way.

The intention is that this new charge will apply from April 2019, but will only tax increases in value after that date (so existing accrued value should continue to be untaxed). In addition, the new charge will apply to disposals of shares in "property-rich" companies. This charge will apply to residential and non-residential property-owning companies where 75% or more of the company's gross value derives from UK land and the investor has at least a 25% interest. Anti-avoidance measures have been put in place with immediate effect to block attempts to circumvent the new rules.

Under the current rules for taxing gains on residential property, there is an obligation on the seller to report the gain and pay any tax due within 30 days of completing a sale. This is to be extended to non-residential property, although companies that are already subject to corporation tax will be able to pay any tax within the normal self-assessment timescales. In addition, advisers working on the transaction will be required to report it to HMRC if they are not satisfied the seller has reported it – something the government admits needs to be "refined and targeted through careful consultation".

To complete what will be major changes to the way non-residents are taxed on UK real estate investments, the Chancellor has confirmed plans announced in the 2016 Autumn Statement to make non-resident landlord companies subject to corporation tax rather than income tax on rental income. The proposed date for the switch is April 2020 and draft legislation has been promised for summer 2018. The rate of corporation tax is due to reduce to 17% in 2020 (compared to 20% income tax on non-residents), but companies will have to negotiate the complexities of the corporate interest restriction and other anti-avoidance rules that do not apply to income tax. Detailed rules will also be needed for companies as they transition from income tax to corporation tax.

Construction Industry

Although it remains firmly in the government's line of sight, for now at least, it appears that the government has listened to representations by the construction industry. A range of measures that had been being considered to address perceived fraud in the industry are now not being introduced. Two targeted changes are, however, on the horizon instead.

First, a technical consultation was launched alongside the Budget with a view to introducing a VAT "reverse charge" (essentially requiring the recipient to account for VAT rather than the supplier) with effect from 1 October 2019. How this will apply to ongoing projects at that time is not yet clear and so the government's proposals for transitional rules will be examined closely.

Second, the existing "security deposit" legislation is to be extended to include corporation tax and construction industry scheme deductions. Clearly, the current system of withholdings for construction industry scheme payments is not considered by the government to be fully fit-for-purpose. With effect from April 2019, HMRC will be empowered to ask for a deposit on account of tax from those businesses that are considered more risky due, for example, to directors of the business having had previous business failures or persistent non-compliance. A rigorous adherence to compliance processes and record keeping will inevitably continue to vitally important for businesses operating in this industry.

Stamp Duty Land Tax (SDLT)

One headline grabbing announcement was an increase in the relief from SDLT for first-time buyers of residential property. The increased relief is available immediately. A key criticism of the relief in the past has been that it was only available for properties costing up to £250,000. Now the relief will be available for properties costing no more than £500,000, albeit it will be capped so that first-time buyers will pay no SDLT on the first £300,000 of the purchase price and 5% on the excess. First time purchasers of property costing more than £500,000 will not be entitled to any relief and the normal SDLT rates will apply.

Although the pre-Budget rumours were that the rate of the SDLT surcharge for second homes was likely to rise, changes here were actually welcome and designed to deal with perceived unfairness in the way the surcharge operates. Changes announced (subject to an inevitable anti-avoidance rule) include granting relief where a:

- Court order on divorce prevents someone from disposing of a property interest
- Spouse or civil partner buys property from another spouse or civil partner
- Deputy buys property for a child subject to the Court of Protection
- Purchaser adds to their interest in their current main residence

Finally, in other good SDLT news, the government confirmed that the deadline for filing and paying SDLT will be reduced from 30 days to just 14 days, but the new deadlines will now only take effect from March 2019. This defers the introduction of a measure that was originally anticipated to be introduced in April 2018.

Annual Tax On Enveloped Dwellings (ATED)

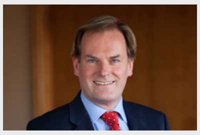
The annual chargeable amounts for ATED will rise by 3% from April 2018. This is an expected change and simply reflects the way the charges track inflation (as measured by the Consumer Prices Index (CPI)).

The property value bands remain unchanged. The new ATED chargeable amounts are:

Property Value	Annual chargeable amounts for the 2017 to 2018 chargeable period	Annual chargeable amounts for the 2018 to 2019 chargeable period
£500,001 to £1 million	£3,500	£3,600
£1,000,001 to £2 million	£7,050	£7,250
£2,000,001 to £5 million	£23,550	£24,250
£5,000,001 to £10 million	£54,950	£56,550
£10,000,001 to £20 million	£110,100	£113,400
£20,000,001 and over	£220,350	£226,950

If you would like any more details on these, or any of the announcements made by the Chancellor in the Autumn Budget, please contact your usual Squire Patton Boggs contact.

Contacts



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