TURCAN CONNELL

Briefing Note

Investing in UK Property – UK Tax Overview

There have been a few changes announced over the last year regarding the taxation of property income which are of relevance to anyone owning, or contemplating ownership of, UK residential property. These changes have been summarised as follows:

Land and Buildings Transaction Tax – Additional Dwelling Supplement

On 1st April 2016, the Land and Buildings Transaction Tax Additional Dwellings Supplement (ADS) became payable on the purchase of an additional dwelling in Scotland and on the purchase of all dwellings by companies and other bodies.

The ADS levies an additional LBTT charge of 3% on the total consideration for the property, and must be paid in addition to the normal rates of LBTT which are due within 30 days of the date of completion of the purchase. The rules on when the ADS is payable are not straightforward and advice would be required on a case by case basis. There are differing rules applicable to individuals, trusts, partnerships and companies.

Individuals will be subject to the ADS if they already own (or are treated as owning) another dwelling anywhere in the world with a value of at least £40,000 (unless buying for a business which will always attract the ADS).

Individuals can be exempt from this charge if they are buying a new home to replace an existing main residence. To qualify, the individual must effectively have sold their existing residence no later than 30 days after buying their new home. Those who own a second home who do not sell their previous home in time will be liable for the ADS at the time of purchase. The ADS can be reclaimed if they do sell their previous home within 18 months.

Changes to Capital Gains Tax Rates – Exclusion for Residential Property

The 2016 Budget announced a reduction on the headline capital gains tax rates to 10% for basic rate taxpayers or 20% for higher or additional rate taxpayers.

There were some carve outs from these changes: a disposal of residential property will continue to attract capital gains tax at the previous rates (being 18% for a basic rate taxpayer and 28% for higher or additional rate taxpayers), subject to the availability or the principal private residence relief and/or letting relief.

Non-Resident Capital Gains Tax Charge

From 6th April 2015, the UK extended the scope of its capital gains tax legislation to disposals of UK residential property. These changes will apply to any non-UK resident owner (including individuals, trustees and companies).

If affected by these changes a Non Resident Capital Gains Tax Return has to be completed and filed with HMRC within 30 days of the date of disposal. This return has to be filed regardless of whether any tax is due. The tax due must also be assessed and paid in this time period.

HMRC offer three methods to calculate the tax due and you may choose whichever result you like, as follows:

1. Using the market value at 5th April 2015 as your cost base
2. Calculate the gain over the period and determine the proportion after 5th April 2015
3. Use the original acquisition cost to calculate the gain

Transactions in Land – Anti Avoidance Rules

HMRC intend to introduce broad anti avoidance legislation, effective for disposals on or after 5th July 2016. This anti-avoidance is designed to make profits from certain property disposals subject to income tax or corporation tax rather than capital gains tax, if one of the main purposes in acquiring the land was to make a profit. This could significantly increase the tax payable on the disposal of an investment property. HMRC have said that property investors that buy a property to let or to generate property income and some years later sell the property will be subject to capital gains on the disposal - but it is clear that care should be taken where an investor is making a disposal of a property that has been developed (or might be sold under a contract that would allow them to benefit from future development).

Restriction on the deduction of interest from rental income for income tax purposes

Currently, a landlord's interest and finance charges are relieved at their marginal rate of tax (where the property is owned personally or via a trust or partnership). From 2020/21, these deductions will only qualify for tax relief at the basic rate of tax, which is currently 20%. To allow landlords time to adjust, the new rules will be phased in gradually with transitional rules applying for the tax years 2017/18 to 2019/20. The new restrictions will not apply to interest on loans used to acquire property qualifying as "furnished holiday accommodation".

Property Income Allowance

From April 2017 there will be a £1,000 allowance in relation to property income. This will mean that taxpayers receiving up to £1,000 of income will pay no tax on that income. If the income is more than this amount, there is a choice between claiming the allowance as a deduction or the actual expenses incurred. This decision would need to be made on a case by case basis.

Replacement of Domestic Items Relief

From April 2016 no deduction is available against your rental income for the wear and tear allowance. The wear and tear allowance broadly equated to a deduction of 10% of your rental income and covers the replacement of items such as furniture and furnishings. A new tax relief called Replacement of Domestic Items will be introduced and this will be given when items are renewed. No relief will be available for the initial cost of the asset and the new replacement relief will covers costs such as furnishings, appliances and kitchenware provided in the property for the use of the tenants. Care needs to be taken if there is an element of improvement in the replacement asset as relief will not be available for the element of cost that relates to the improvement.

There are detailed rules governing all of these changes and property investors should consider taking tax advice in relation to their property income and prior to any transaction.

Please note that this briefing note is intended as a short summary of investing in UK property. No responsibility can be accepted for any action taken in reliance on this note and specialist advice should be taken in every case. Turcan Connell would be happy to provide such advice.