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PROPERTY LAW BULLETIN – AUTUMN STATEMENT 2013 (19TH DECEMBER 2013)

Many changes are to be made to the tax landscape following the Autumn Statement 2013 and the Overview of Legislation in Draft and the Draft Clauses to the Finance Bill 2014 of 10th December 2013.

This Tax Bulletin looks at some of the changes which will affect the property world.

The new CGT charge on Non-Residents

The government will "introduce CGT on *future gains* made by *non-residents* disposing of UK *residential property* from April 2015."

The reference to future gains indicates some sort of rebasing relief will be available maybe as at 6th April 2015.

The reference to non-residents is likely to cover individuals, companies and trusts and any other recognisable entities such as stiftungs and foundations and partnerships provided they are not resident in the UK

A non-UK domiciled individual *who is resident in the UK* would not be within the new charge but he is in any event within the ambit of the present CGT regime.

If the property qualifies as the individuals principal private residence the gain may avoid the new charge but this may be difficult to achieve if the individual is not resident in the UK.

Example

Mr X is not resident in the UK and not domiciled or deemed domiciled in the UK. He owns a house in the UK which his daughter resides in: she is resident in the UK. If Mr X dies IHT may be in point. Under the present laws if he sells the property CGT will not be in point. If he sells the property after 5th April 2015 he will need to consider the new regime.

The reference to residential properties may mean reliefs will be available for land traders in such properties and the letting of such properties to strangers. Commercial and industrial properties would be outside the scope of the new regime.

The annual tax on enveloped dwellings regime in FA 2013 s94 et seq and its CGT counterpart (in TCGA 1992 Schedule 4ZZA) will probably continue largely unaffected by this new regime.

Truncated Private Residence Relief

When determining the extent of the principal private residence relief for CGT the taxpayer is deemed to occupy a property for the last 3 years of ownership even though he may have moved to another property. This period is considered too generous and is to be reduced to 18 months from April 2014.

Self-employment

Members of LLPs who work on terms that are tantamount to employment terms (i.e. salaried partners) will be taxed as employees from 6/4/14.

Charity joint-land purchase

If a charity buys land jointly with a non-charity the charity SDLT relief is not available. From the time the Finance Bill 2014 becomes law the relief is to be available (for the share of the property which the charity buys).

Relief for investment in social enterprises

The government will introduce a new tax relief for equity and certain debt investments in social enterprises with effect from April 2014. Organisations such as charities, community interest companies or community benefit societies will be eligible.

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