CAPITAL TAXES & OFFSHORE ISSUES 1

KEY POINTS

OUR THOUGHTS

Inheritance Tax

The freeze on the nil rate band has been extended so that it remains at £325,000 until 2017/18.

It seems to us that the freeze has been extended in order for this Government to implement other reforms to Inheritance Tax, such as the domicile elections mentioned below. This follows the rule of a tax neutral Budget.

Inheritance Tax (Non-Domicile)

From 6 April 2013 the current exemption threshold on spousal transfers to a non-domicile will increase from £55,000 to the nil rate band amount of £325,000.

This is a welcome increase as the original threshold had not changed since its original introduction almost 30 years ago. However, the impact of this will be somewhat overshadowed by domicile election (next point).

Inheritance Tax (Domicile election)

From 6 April 2013 non-domiciled individuals with a UK domiciled spouse will be able to make an election to be UK domiciled, such that any inter-spousal transfers will be completely free of any UK Inheritance Tax. Elections following a death must be made within two years of that death.

This announcement came somewhat as a surprise, and is very welcome to the non-dom community in the UK. It is particularly helpful for those couples where one is UK domiciled and the other non-domiciled and who intend on being long term resident in the UK for up to 20 years. Perhaps even more surprising is the concession that if a spouse makes the election and then leaves the UK for three complete tax years, that election lapses! This may provide great planning opportunities if you are affected.

Inheritance Tax

For deaths on or after the date the Finance Bill 2013 receives Royal Assent :

- A deduction for a loan will only be allowed to the extent it is repaid after death.
- No deduction will be allowed where the loan was used to purchase excluded property.
- Where the loan was used to purchase property qualifying for a relief (BPR) the deduction will be matched with those assets (in effect diluting the benefit of the relief).

Quite rightly, amounts owing at the date of death are treated as a deduction from the value of the deceased's assets before calculating any Inheritance Tax. This legislation aims to prevent abuse of this rule, such as aggressive schemes that created artificial liabilities which were never in fact settled. However we feel it to be a little bit far reaching. Yes, the abuse and schemes needed to be stopped but this may also penalise families purchasing farms and businesses with the help of bank borrowings. This is not really consistent with "a Budget for those who aspire to ... start their own business; a Budget for those who want to save for their retirement and provide for their children"

~~Annual Residential Property Tax (ARPT)~~ is now Annual Tax on Enveloped Dwellings (ATED)

The annual charge formally known as the ARPT announced in the 2012 Budget has been renamed and has become the Annual Tax on Enveloped Dwellings, and will be payable by non-natural persons (typically companies) holding residential property with a value exceeding £2m with effect from 1 April 2013.

The charge ranges from £15,000 per annum for properties worth between £2m and £5m to £140,000 for properties worth more than £20m. The scope has been reduced as a result of consultation and there are now exemptions including ones for commercial rental businesses and property development, such that properties made available to family members are the most likely to be affected.