

## ANNUAL TAX ON ENVELOPED DWELLINGS ("ATED")

Previously called Annual Residential Property Tax, the Annual tax on Enveloped Dwellings, ATED is a tax payable by companies that own high value residential property (a "dwelling"). It came into effect from 1 April 2013. Changes introduced in Budget 2014 extended the scope so that dwellings worth more than £500k are to be affected.

Companies (and certain other corporate entities) holding high value residential property are liable to 15% SDLT on acquisition, yearly ATED charges and CGT at 28% on the disposal of the property. Currently, high value property is defined as property worth more than £2 million.

### WHAT IS ATED?

Most residential properties "dwellings" are owned directly by individuals but in some cases a company, a partnership with a corporate member or other collective investment vehicle, may own a dwelling. In these cases the dwelling is said to be 'enveloped' because the ownership sits within a corporate 'wrapper' or 'envelope'. ATED is an annual tax payable by companies that own a relevant property, defined as a dwelling.

The 15% SDLT charge will apply to transactions where the effective date (normally the date of completion) is on or after 20 March 2014; however, the ATED new charge will be phased in.

- From 1 April 2015, where a property is worth between £1 million and £2 million, an ATED charge of £7,000 per year will apply. In addition, CGT on the ATED related gains will apply from this date.
- From 1 April 2016, where a property is worth between £500,000 and £1 million, an ATED charge of £3,500 will apply. In addition, CGT on the ATED related gains will apply from this date.

### DEFINITION OF DWELLING:

ATED applies to residential properties "dwellings" that are physically located in the UK. A dwelling may be all or part of a residential or mixed-use property and includes properties 'capable of being a dwelling'. Sometimes a dwelling is part of a

larger mixed-use property and has parts that are not used for residential purposes. Only the residential part would have ATED payable on it and in this case the residential part will need to be valued to work out which band of ATED it falls into.



A dwelling includes gardens and grounds and any building within them, unless that building is being used for a purpose covered by a relief.

### RELIEFS:

Although there are reliefs that might lead to you not having to pay any ATED, there will however still be a compliance burden as annual returns will need to be submitted to claim relief. A dwelling might get relief from ATED if it is:

Let to a third party on a commercial basis and isn't, at any time, occupied (or available for occupation) by anyone connected with the owner

Open to the public for at least 28 days per annum, if part of a property is occupied as a dwelling in connection with running the property as a commercial business open to the public, the whole property is treated as one dwelling and any relief will apply to the whole property.

Part of a property trading business and isn't, at any time, occupied (or available for occupation) by anyone connected with the owner



Part of a property developers trade where the dwelling is acquired as part of a property development business, the property was purchased with the intention to re-develop and sell it on and it isn't at any time, occupied (or available for occupation) by anyone connected with the owner.

For the use of employees of the company, for the company's commercial business and where the employee does not have an interest (directly or indirectly) in the company of more than 10%. The employee's duties must not include services for any present or future occupation of the property by someone connected with the company, the relief is also available where a partner in a partnership does not have an interest of more than 10% in the partnership

A farmhouse, if it is occupied by a qualifying farm worker who farms the associated farmland, a former long-serving farm worker or their surviving spouse or civil partner

A dwelling acquired by a financial institution in the course of lending

Owned by a provider of social housing

#### ACTIONS:

In relation to future purchases, alternative property holding structures will need to be considered.

In relation to existing structures, there is a window of opportunity to de-envelope before the new ATED charge applies, but great care needs to be taken not to trigger further tax charges on de-enveloping.

Perhaps the biggest concern here is the slippery slope of extending the rules to properties worth more than £500,000. Particularly in London and the South East, it is difficult to categorise a £500,000 property as 'high value'.