



ICAEW TAX REPRESENTATION

ANNUAL TAX ON ENVELOPED DWELLINGS: REDUCING THE ADMINISTRATIVE BURDEN FOR BUSINESS

ICAEW welcomes the opportunity to comment on the consultation paper [Annual tax on enveloped dwellings \(ATED\): reducing the administrative burden for business](#) published by HM Revenue & Customs on 22 July 2014.

This response of 16 September 2014 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

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MAJOR POINTS

Introduction

1. We welcome the opportunity to comment on the proposals in HMRC's consultation document of 22 July 2014.
2. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
3. On 10 September 2014 we attended a meeting with HMRC jointly with other professional bodies in which we were able to put forward some key comments and concerns and discuss aspects of the consultation document.

Key point summary

4. We reiterate the view expressed in previous representations regarding ATED that the introduction of a brand new tax to counter perceived abuse of a different tax is not the most efficient way of dealing with the issue.
5. Considering ATED in the round, not just this consultation of administrative simplification, the legislation fails at least six of our Ten Tenets for a Better Tax System listed in Appendix 1. The tax is not simple (number 2), it is not easy to collect (4), it is not constant (6), was not subject to proper consultation in terms of the reduction in the limit (7), it is not fair and reasonable (9) and it is not competitive (10).
6. There have been several changes to the taxation of property in recent years with more in the pipeline. It would be preferable to look again at the taxation of property and introduce a new comprehensive regime rather than the multiple piecemeal approaches adopted. Dealing with the crossover of the different taxes adds to the complexity and makes it difficult for taxpayers to understand their liability.
7. We are pleased that HMRC has listened to earlier comments about the administrative burden on businesses and increased professional costs to deal with ATED but without the introduction of improvements in the software for reporting ATED there will still be additional unnecessary costs for those affected by ATED. For example, without a save facility for a completed form it is necessary for each form to be prepared twice, once to print and have approved by the appropriate responsible official of the business and a second time when it is actually submitted. In addition to the actual input time there is a requirement to have input from a senior person on each occasion to check and approve. This is a costly waste of time. We understand that efforts are being made to improve the software.

General comments

8. It is essential both from the taxpayers' perspective and HMRC that simplification and reduction of the administrative burden is in place before ATED is extended to lower value properties.
9. The consultation document refers to application for exempt status which is confusing as the application is in fact for relief.
10. If the process could be centralised in a group such that the top company could file on behalf of all its subsidiaries, the top company could also take responsibility for any ATED liability. Bank criteria often means that properties have to be ring-fenced in individual companies leading to multiple subsidiaries but the top company sees the business as one entity and wants to run it as such.
11. Increasing all deadlines to 90 days where there are mid-year changes would assist compliance particularly given the drop to residential property worth more than £500,000. Many of the extra companies brought in will find it very difficult to cope with the 30 days deadlines.

12. The rules for Certificates of Tax Deposit should be extended to allow them to be used for ATED.
13. Further simplification could be achieved by exempting widely held companies from ATED. This would take them outside the tax altogether and so they would not have to be concerned with claiming exemptions. It is unlikely this would lead to significant tax loss as in most cases one of the reliefs would apply. This approach would be in line with the Government decision on CGT & non-residents.
14. Any increase in the value of a property as a result of adapting it for disabled individuals should be excluded in determining the property valuation for ATED.
15. There was no consultation about dropping the ATED valuations limits to £1 million from 6 April 2015 and £500,000 from 6 April 2016. The administrative burdens on lower valued properties are disproportionately high and we expect that a higher percentage of lower valued properties will be able to claim relief. As such we question whether the decision to extend ATED to lower valued properties makes economic sense.
16. Reducing the threshold to £500,000 will increase the number of valuation check requests and additional resources will be needed to deal with this.
17. It is necessary to review the reliefs to ensure they are all fit for purpose. With so many more properties coming into ATED it is very important the reliefs are right; if HMRC are minded to review the reliefs we are happy to assist with the review.
18. With the decrease in the ATED threshold there is a concern for property management companies that own the freehold reversions of flats occupied for residential purposes. It is quite possible freehold reversions could be worth in excess of £500,000. Individuals should not have to go to the expense of arranging new leases early just to depress the value of the freehold to take the management company out of ATED.
19. The compliance costs shown in the impact statement appear too low.

RESPONSES TO CONSULTATION QUESTIONS

Questions on option 1

Q1: What, if any, problems do you see with this approach?

20. This option would not make any significant savings to the annual workload.

Q2: Should this option be adopted are you content that the statement or balancing return should be submitted by the 30 April in the next chargeable period?

21. We do not think this option should be adopted.

Q3: Do you agree that only those claiming the same relief for multiple properties should be included in this option?

22. We do not think this option should be adopted.

Questions on option 2

Q4: What, if any, problems do you see with this approach?

23. No additional problems to those caused by ATED alone. We have made further suggestions for simplification above.

Q5: What criteria do you suggest are adopted in order for customers to apply for and be granted exempt status?

24. The criteria should be simple and easy to administer.
25. Where the owner of the residential property is submitting returns to HMRC and so has a HMRC reference number such as a corporation tax return or a non-resident landlord return they should be eligible to apply for exempt status.
26. For a new entity if there is a delay in issuing a HMRC reference number it should be possible to make the application for relief and have it accepted pending the issue of the reference number.

Q6: Do you agree that continued entitlement to the status should be confirmed periodically and if so, how frequently?

27. Continued entitlement to the exempt status could be left in place until the potential taxpayer notifies a change, similar to individuals and trustees who are not issued self assessment returns annually but are under an obligation to notify chargeability. HMRC could issue returns on a random basis to require confirmation of eligibility.
28. Alternatively a question could be included on the corporation tax return asking those potentially in charge to confirm eligibility for relief or confirm that an ATED return has been filed.
29. If HMRC is concerned there will be a loss of revenue then a five year renewal of the claim to relief could be introduced.

Q7: Which of all the options do you prefer and why?

30. Our preferred approach is option 2 which is simpler and offers a greater reduction in the administrative burden.

Questions on other considerations

Q8: Is there an alternative date or trigger which could be adopted and would provide certainty and consistency in the case of newly constructed dwellings or dwellings produced from other dwellings?

31. Use of the liability to council tax seems an appropriate measure for when a dwelling comes into charge but even though the charge operates from that date the notification should be 90 days after the issue of the council tax liability notice with interest charged from that date as well. This will allow businesses time to notify after they have received notification of the liability and they will not be penalised for the tardiness of some council authorities.
32. Alternatively the NHBC certificate date or architect's certificate date could be used.

Q9: Do you have any suggestions as to how to ensure that the changes announced at Budget 14 are communicated to those who may be affected?

33. Information could be sent to potentially affected entities with any communication HMRC is already sending to those entities.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see icaew.com/en/technical/tax/tax-faculty/~media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)