



TAXREP 27/14 (ICAEW REPRESENTATION 64/14)

FINANCE BILL 2014: CLAUSES 103 & 104: ATED: REDUCTION IN THRESHOLD and CLAUSE 105: SDLT THRESHOLD FOR HIGHER RATE APPLYING TO CERTAIN TRANSACTIONS

ICAEW welcomes the opportunity to comment on the [Finance Bill](#) published on 27 March.

This briefing 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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SUMMARY OF MAIN POINTS

1. These clauses reduce the threshold for the application of the annual tax on enveloped dwellings (ATED) and the higher rate stamp duty land tax (SDLT) charge.

WHAT THE CLAUSES ARE INTENDED TO DO

2. Currently ATED applies to residential properties owned by non-natural persons (NNP), companies, partnerships with a company as a partner and collective investment vehicles, with a value in excess of £2 million. Clause 103 reduces the threshold to in excess of £1 million from 1 April 2015 and clause 104 reduces it to in excess of £500,000 from 1 April 2016. The same exemptions and reliefs will apply to these lower value properties.
3. Clause 105 introduces the higher rate of SDLT of 15% to properties acquired by a NNP on or after 20 March 2014 for consideration in excess of £500,000.

WHAT ICAEW IS CONCERNED ABOUT

4. Many more NNPs will be brought within the scope of ATED by the reduction in the threshold but many of these will qualify for an exemption. Under the current rules it is necessary to make a return in order to claim the relief and this will put a significant compliance burden on these relatively small companies. Landlords frequently use a company to own residential properties which are commercially let; they will be exempt from the charge but will have to report annually.
5. The ATED charge is applied using the “slab system” and is therefore inherently unfair at the margins; for example, a property valued at £500,000 will have no ATED charge whereas a property with a value of £500,001 will be charged £3,500.
6. We are disappointed that there are still no transitional provisions to allow a company to de-envelope the property without incurring excessive tax charges which is surprising given that the intention was to deter companies from owning residential properties.
7. We have previously expressed our concern that in our view it is perverse to introduce a new complex tax in order to combat a perceived avoidance of SDLT.
8. The 15% SDLT rate is penal and to apply it to properties with a value in excess of £500,000 purchased by a NNP seems unreasonable and a double tax charge as ATED will apply once the property is in the NNP.
9. It is likely that there will be more dependency on the pre return banding check as the owners of the lower value properties will not wish to pay for a RICS valuation and they are also less likely to use a professional agent to complete the returns. HM Revenue & Customs will need to provide additional resources for the valuations and the compliance.

RECOMMENDATIONS

10. The administration of the ATED charge needs to be simplified so as not to swamp small companies with unnecessary paperwork. We have attended a preliminary meeting with HM Revenue & Customs on the implementation of the new thresholds and we are pleased to note there is a desire to reduce the administrative burden.
11. Given these are punitive measures, we would like to see transitional provisions for existing structures to be reorganised or unwound without giving rise to further tax charges. The policy is to discourage ‘enveloping’ residential property valued at, ultimately, more than £500,000 but

there are no provisions for taxpayers to effectively 'de-envelop' existing arrangements.

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)