In the 2012 Budget, the Chancellor announced a package of measures to tackle perceived avoidance involving the acquisition and holding of “high value” residential property through corporate and other vehicles (termed “enveloping”). Acquisitions of such property by corporate purchasers were made immediately subject to a 15% rate of Stamp Duty Land Tax (SDLT) and plans were announced, both to introduce an annual levy where such property is owned by “non-natural persons” (now referred to as the Annual Tax on Enveloped Dwellings or “ATED”), and to extend the scope of Capital Gains Tax (CGT).

Consultation over the prospective measures (and easements to the penal SDLT rate) have resulted in various changes to the original proposals. This Briefing provides a condensed summary of the new regime and a discussion of what this all means in practical terms. If you would like further information we have prepared a detailed briefing on these changes, which will be accessible shortly from the news page of our website at www.rawlinson-hunter.com.

The measures now enacted in the 2013 Finance Act (FA 2013) penalise the acquisition, and/or retention of high value UK residential property by certain specified categories of “non-natural persons”. For these purposes:

- There is no distinction between resident and non-resident entities, and the term “non-natural person” includes:
  - companies and foreign equivalent entities (but not corporations sole);
  - partnerships where there is one or more corporate partner; and
  - collective investment vehicles where the property is held for the purposes of the scheme.
- “High value” refers to property with a value in excess of £2 million.
- “Residential property” means a dwelling occupied as a residence, but exemptions apply most particularly to third party lettings on commercial terms and property developers where the property is used for the business.
1. The provisions

FA 2012 introduced a 15% rate of SDLT to apply to acquisitions of high value residential property by certain non-natural persons (see section 2), unless a limited exemption for property developers applied. This is intended to be a penal rate, when compared to the general highest rate for residential property transactions of 7%, and so one which will discourage the purchase of such property by a company.

This rate has applied to relevant transfers on or after 21 March 2012. FA 2013 expands the range of reliefs (to correspond broadly with the reliefs from the ATED) but only with effect from the date of Royal Assent – 7th July 2013. FA 2013 has also enacted the ATED (effective from 1 April 2013), and the ATED-related CGT charge (effective from 6 April 2013).

Although the Government’s target may have been foreign corporate owners, UK companies are equally subject to all three measures.

The DOTAS (Disclosure of Tax Avoidance Schemes) Regulations have been extended to cover ATED schemes and the ATED Return contains a specific box for the scheme reference number to be provided where a taxpayer has used a scheme covered by the regulations to reduce the ATED charge.

The General Anti-Abuse Rule (GAAR), countering “abusive” planning entered into on or after 17 July 2013, can apply to transactions to avoid any or all of the relevant taxes.

2. Meaning of “non-natural person”

As explained, the new charges will only apply where the interest in the residential property is acquired or held, in whole or part, by or for a “non-natural person”. The meaning of this term is aligned for the purpose of each of the 15% SDLT rate, the ATED and the CGT extension.

Irrespective of residence, the term “non-natural person” includes:

- Companies and foreign equivalent entities. The definition of company does not include a corporation sole. There are also specific exclusions, so public bodies and bodies established for national purposes (such as the British Museum) are not regarded as companies for the purposes of the legislation (see section 4).

- Partnerships where there is one or more corporate partner.

- Collective investment vehicles where the property is held for the purposes of the scheme.

A company that owns property as a nominee of a natural person will not be within the charge to ATED.

Where a property is owned jointly by a non-natural person and a natural person (whether or not they are in partnership), the ATED charge will be due on the entire value, with the owners/partners being jointly responsible for the tax due.

CGT will only be due in cases where the ATED has been payable. In contrast to the ATED (where the full ATED charge is payable if one of the partners/joint owners in a non-natural person), when property is owned jointly or in partnership by a combination of natural and non-natural persons, only the part of any gain attributable to the non-natural persons is chargeable. However, in determining whether the property qualifies as a high value residential property, the standard threshold of £2 million will be reduced in line with the non-natural person’s interest in the property. For example, the threshold amount applicable to a non-natural person with a 25% interest would be £500,000.

Where the property is held by a partnership that for CGT purposes is seen as opaque (as foreign limited liability partnerships generally are) it would seem that the entire gain is subject to CGT, as there are no special look through provisions. However, a foreign limited liability partnership with only natural persons as partners will not be liable to CGT on the gain realised as the partnership will not be liable for ATED.

3. “High value residential property”

3.1 Overview

“High value residential property” means a property in the UK, valued at or disposed of for more than £2 million, which is:

- a building or part of a building that (i) is used or suitable for use as a single dwelling; or (ii) is in the process of being constructed or adapted for such use;

- land ancillary to a dwelling – such as a garden or grounds (including any building or structure on such lands);

- land that subsists, or is to subsist, for the benefit of a dwelling;
an interest in a building or part of a building to be constructed or converted to form a dwelling where, at the time the contract is “substantially performed”, such construction or adaptation is foreseen, even though work has not commenced. A dwelling can be part of a larger mixed-use property that is not entirely given over to residential use. Only the residential part will be subject to ATED and the ATED-related CGT charge. Generally where there is a building, such as a block of flats, which contains a number of dwellings, each one will be considered separately. However, where there is more than one single dwelling in a property (or dwellings in adjoining buildings), these will be combined if:

- there is internal access between the dwellings; and
- the dwellings are either owned by the same non-natural person, or one dwelling is owned by the non-natural person and another, or others, by persons connected with it.

There is also aggregation where there is common ownership and one dwelling stands within the garden or grounds of the other dwelling. Finally, for ATED valuation purposes, there is aggregation where multiple interests in a dwelling (for example the leasehold and freehold interest) are owned by either:

- the same non-natural person; or
- the non-natural person and persons connected to it. In this case, there is a de minimis disregard of interests of a value of £500,000 or less, if the connected person is an individual.

This will give rise to a practical problem, if one or more leasehold interests is/are worth in excess of £500,000, where a building is divided into multiple residences all of which are owned by way of leasehold interests, but with each leasehold owner having a share in the company owning the freehold interest in the building.

4. Reliefs from ATED and the ATED-related CGT charge

Neither the ATED, nor the ATED-related CGT charge, will apply if the property falls within one of the following categories of “relievable purpose”, and a claim for relief is made on the ATED annual return:

(a) Dwellings used by the owner in a property rental business or where such a property is being prepared for sale or demolition.

(b) Dwellings open to the public for at least 28 days per tax year (this can apply to a historic home or a guest house).

(c) Dwellings used by the owner for the purpose of a property development trade.

(d) Dwellings held by the owner as trading stock.

(e) Dwellings acquired by financial institutions in the course of lending.

(f) Dwellings used to provide employee accommodation.

(g) Farmhouses occupied by a “farm worker” or a “former long-serving farm worker” who is either engaged or was engaged in a farming trade carried on by the owner of the dwelling.

(h) Providers of social housing.

Each relief has a set of conditions that must be met if the owner is to be entitled to it. A breach of conditions will result in a loss of relief in the year when the breach occurs and, going forward, unless and until the dwelling is again used for a relievable purpose.

Relief will never be available under (a), (c), (d) and (e) where the dwelling is occupied by a non-qualifying person (broadly a person connected to the property owner). This will include an owner or participator in a close company and any close relatives. Paying a full commercial rent will not prevent relief being lost in these circumstances.

Where the dwelling stops (or starts) being used for a relievable purpose, apportionment will be available for the ATED, according to the number of days in the chargeable period during which the relievable purpose was carried on. However, where there is occupation by a “non-qualifying person”, there will be no relief, even where days would otherwise be disregarded (because, for example, there was an intention to use the property for a relievable purpose).

For CGT purposes, where relief has not applied throughout the period of ownership, any chargeable gain will be pro-rated between days where there was a relievable purpose (with that part of the gain not being ATED-related) and days where there was not a relievable purpose (with that part of the gain being ATED-related). Where the property is held at 5 April 2013, and there has been no election to opt out of rebasing (see below), the apportionment calculation only looks at usage in the period from 6 April 2013 to the date of disposal. Where the election is made, any apportionment is by reference to the period starting from the later of acquisition and 31 March 1982 and ending on the date of disposal.
5. Exemptions from ATED and the ATED-related CGT charge

There are four exemptions from the ATED (and thus from the extension to the CGT charge). These are:

- An exemption for charitable companies - the company is not deemed to meet the ownership condition for ATED to apply on any day (i) which is not an excluded day, and (ii) on which the interest in the dwelling is held by the company for qualifying charitable purposes.

- Exemptions that deem a company to fall outside the definition of a non-natural person:
  - No public body will be regarded as a company for the purposes of the ATED.
  - Certain bodies, established for national purposes will not be regarded as companies for the purposes of ATED: the Historic Buildings and Monuments Commission for England, the Trustees of the British Museum, the Trustees of the National Heritage Memorial Fund, and the Trustees of the Natural History Museum.

- An exemption for dwellings that have been granted conditional exemption from Inheritance Tax (IHT).

6. Reliefs/exemptions from the 15% SDLT rate

Exemptions for public bodies and bodies established for national purposes are already provided for under the SDLT code, as are reliefs for property acquired for charitable purposes and social housing. The first seven ATED/CGT reliefs listed in section 4 are new and have been incorporated into the SDLT legislation, but only with effect from 17 July 2013. This was done as follows:

- By replacing the original relief for property development companies with a wider relief for businesses of letting, trading in or redeveloping properties.

- Introducing additional reliefs for:
  - Trades involving making a dwelling available to the public.
  - Financial institutions acquiring dwellings in the course of lending.
  - Dwellings for occupation by certain employees etc.
  - Farmhouses.

The ATED/CGT exemption for dwellings conditionally exempted from IHT is not being added to the SDLT code.

In most cases, the conditions for the new SDLT reliefs are similar to those for the ATED, but there are differences. Most notably, the ATED reliefs for farmhouses, property rental, development and trading require the activity to be pursued by the owner of the interest in the property, but this is not a condition for SDLT relief.

For SDLT purposes, relief initially granted will be lost (meaning that additional SDLT will become payable) if, within three years of the original acquisition date, a prohibited action occurs.

Broadly, any relief will be lost if within three years there is a breach of any of the qualifying conditions. This claw-back provision will not apply where the breach of conditions is a result of an uncontrollable and unforeseen change in circumstances which prevents the property being used for the purposes intended.

In addition, where the 15% rate would have applied but for the relief for letting, trading or development businesses, occupation within three years by a non-qualifying individual (broadly, the owner and an individual/trust connected to the owner) will also result in the withdrawal of relief. Relief will be lost even if the non-qualifying individual pays a commercial rent for the right of occupation.

7. Annual Tax on Enveloped Dwellings (ATED)

The ATED is a charge levied on an interest in high value residential property (defined in section 3) where on one or more days during the chargeable period (which runs from 1 April to 31 March):

- the company, partnership or collective investment scheme entitled to the interest meets the ownership condition; and

- a relief or exemption does not apply (see sections 4 and 5).

The ownership condition is met:

- for a company, on any day on which it is entitled to the interest otherwise than as a member of a partnership or for the purposes of a collective investment scheme;

- for a partnership, on any day on which a corporate member of the partnership is entitled to the interest by virtue of being a member of the partnership; and

- for a collective investment scheme, on any day
on which the interest is held for the purposes of the scheme.

The ATED charge first comes into effect for the chargeable period from 1 April 2013 to 31 March 2014 and thereafter falls due annually.

The following bands and charges are proposed for the period from 1 April 2013 to 31 March 2014.

<table>
<thead>
<tr>
<th>Value of Property on relevant valuation date*</th>
<th>ATED charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than £2 million but not more than £5 million</td>
<td>£15,000</td>
</tr>
<tr>
<td>More than £5 million but not more than £10 million</td>
<td>£35,000</td>
</tr>
<tr>
<td>More than £10 million but not more than £20 million</td>
<td>£70,000</td>
</tr>
<tr>
<td>In excess of £20 million</td>
<td>£140,000</td>
</tr>
</tbody>
</table>

* For the period from 1 April 2013 to 31 March 2018 this is the later of 1 April 2012 (the first fixed valuation date, with fixed valuation dates being every five years) and the acquisition date.

The ATED charge, but not the bands, will be increased annually from 2014/15 by reference to the consumer price index.

The charge is pro-rated where property is acquired or disposed of during the tax year, and (as discussed in section 4) when a relief only applies for part of the tax year.

8. The ATED-related CGT charge

8.1 Overview

Gains subject to the extended CGT charge are referred to as ATED-related gains (to reflect the alignment between the two sets of provisions). In most cases, liability to the extended CGT charge will follow from liability to the ATED (though certain differences arise with the treatment of some partnerships as noted in 2 above).

The ATED-related CGT charge will be payable at the fixed rate of 28% by “non-natural persons” where:

- the gains results from the transfer of UK residential property for consideration exceeding the “threshold amount”; and
- the property has at any point during the ownership period been within the ATED charge.

The chargeable ATED-related gain is computed using the CGT principles applicable to individuals, trustees and personal representatives. In other words, there is no indexation relief.

Whilst the ATED-related CGT charge will apply on all qualifying disposals after 5 April 2013, automatic rebasing provisions mean that, unless the taxpayer opts out, CGT will only be payable on post 5 April 2013 gains.

There are special rules where the property has not always been residential or has been used for a relievable purpose (such that the ATED charge is not due for those days). As noted in 5 above, any chargeable gain is pro-rated according to usage after 5 April 2013, unless an election to opt out of rebasing has been made, in which case any apportionment will be by reference to the period starting from the later of acquisition and 31 March 1982 and ending on the date of disposal.

8.2 Definitions

The term “transfer” includes part disposals and the grant of an option.

Broadly, the “threshold amount” is £2 million unless:

- there are joint interests;
- the disposal is a part disposal; and
- the owner has made relevant related disposals.

Where one or more of the above applies, the threshold amount is a specified fraction of the standard £2 million figure.

8.3 General exemptions from CGT that also apply to ATED-related gains

Exemptions that apply for general purposes of the CGT legislation apply also for the ATED-related CGT charge. Therefore, the following will be exempt:

- Gains accruing to authorised unit trusts (AUTs), open-ended investment companies (OEICs), investment trusts, and venture capital trusts (VCTs).
- Gains accruing to unauthorised unit trusts provided certain conditions are met.
- Gains accruing to charities that meet the conditions for charitable exemption.
- Gains accruing to a registered pension scheme.

Since the ATED-related CGT charge has brought non-UK residents into the scope of UK CGT, this exemption is extended from 6 April 2013 to cover overseas pension schemes.

There is also a specific exemption from CGT on ATED-related gains accruing to an EEA UCITS, which is not an open-ended investment company or a unit trust scheme.
8.4 General exemptions from CGT that also apply to ATED-related gains

The ATED-related CGT charge will have priority over all existing provisions (both the CGT anti-avoidance legislation that can attribute gains to UK residents and, for UK resident companies, the Corporation Tax charge).

For gains which do not qualify as ATED-related gains, the existing provisions will apply as before. These provisions may tax:

- gains accrued prior to 6 April 2013; and
- any post 6 April 2013 gain not qualifying as ATED-related as a result of a relief applying, or the property not qualifying as residential throughout the ownership period.

The different provisions that may apply to different parts of the chargeable gains mean that working through the CGT ramifications of a disposal may be complex. This is particularly likely to be the case where the non-natural person is held within a non-resident trust, as anti-avoidance provisions may attribute the non-ATED related gain to:

- A settlor (where the trust is settlor interested and the settlor is UK domiciled).
- Capital distributions or beneficial use of trust property by a UK resident beneficiary. In such cases relief may be available for gains occurring before 5 April 2008, if the trustees have made the appropriate election and the individual to whom such gains are attributed is foreign domiciled.

9. Administration and payment

9.1 General exemptions from CGT that also apply to ATED-related gains

**Deadlines**

The first chargeable period for which the ATED is due is from 1 April 2013 to 31 March 2014. For this period, the deadline for the payment of the ATED will be 31 October 2013 and that for the submission of the ATED Return will be:

- 1 October 2013 where the non-natural person is subject to the ATED at 1 April 2013; and
- in all other cases either 1 October 2013 or 30 days after the person becomes chargeable, whichever is the later.

For chargeable periods thereafter, both the payment and the ATED Return will have to be submitted:

- by 30 April in the year where the individual is subject to the ATED at the beginning of the period; and
- otherwise, within 30 days of coming within the ATED charge.

**Pre return banding check**

From 1 June 2013 HMRC have offered a limited pre-return banding checking (“PRBC”) service so the ATED banding (rather than the actual valuation itself) can be agreed in advance of submitting the ATED Return. The service is only available where:

- the property does not qualify for full relief (see section 4); and
- the valuation obtained by the non-natural person is within 10% of one of the banding thresholds. Therefore, the valuation has to lie within one of the following bands:
  - £1.8 million - £2.2 million
  - £4.5 million - £5.5 million
  - £9 million - £11 million
  - £18 million - £22 million

The PRBC online application form is available from the HMRC website at [https://online.hmrc.gov.uk/shortforms/form/PRBC?dept-name=&sub-dept-name=&location=41&origin=http://www.hmrc.gov.uk](https://online.hmrc.gov.uk/shortforms/form/PRBC?dept-name=&sub-dept-name=&location=41&origin=http://www.hmrc.gov.uk) and can be submitted on behalf of the taxpayer by its agent. Upon receipt of the PRBC application form, HMRC will send an email response acknowledging receipt and provide a reference number. Whilst a response should be received within 30 working days of receiving the completed form, HMRC advises that any application should be submitted as soon as possible, in case further information is required before reaching a decision.

**The ATED form**

The ATED return can be submitted either on paper (accessible from [www.hmrc.gov.uk/ated/return-paper-version.pdf](http://www.hmrc.gov.uk/ated/return-paper-version.pdf)) or on-line (available to complete at [https://online.hmrc.gov.uk/shortforms/form/ATED?dept-name=&sub-dept-name=&location=41&origin=http://www.hmrc.gov.uk](https://online.hmrc.gov.uk/shortforms/form/ATED?dept-name=&sub-dept-name=&location=41&origin=http://www.hmrc.gov.uk)). It is a short form, which requires the following details:

- Information about the chargeable entity (company, collective investment vehicle; or partnership) which owns the UK residential property:
  - Business name.
  - Full correspondence address.
  - Telephone number and e-mail address (an agent’s details can be given here).
— Identification reference. Just one reference is required but what is to be used will depend on what identification references the entity has.

Where the chargeable person is a company:

• The HMRC Corporation Tax unique taxpayer reference (UTR) number should be provided where one has been issued.

• Where there is no HMRC Corporation Tax UTR one of the following should be used: the registration number allocated by the relevant Registrar of Companies where the company is incorporated (so for a BVI company the company registration number issued by the BVI Registry of Corporation Affairs); VAT registration number; or Employer PAYE reference.

If the chargeable person is not a company a UK tax reference should be provided if possible. This could be the self-assessment unique taxpayer reference number (UTR); the VAT registration number; or the Employer PAYE reference. Where the entity is a partnership or collective investment scheme, which does not have any identification reference, the instructions are to contact the Stamp Taxes helpline for a temporary reference number. Contact telephone numbers are available at: https://online.hmrc.gov.uk/information/help?helpcategory=shortform&helpid=ATEDBusinessID.

— The name and country of the body that has issued the identification reference and the type of reference provided.

• Information about the UK residential property

— For land in England and Wales, the HM Land Registry title number or the equivalents for land in Scotland and Northern Ireland.

— The full address.

— The date of acquisition (or the year if the property is not acquired in the chargeable period).

— The value at acquisition.

— The reference, if a PRBC was carried out.

— The value at the relevant valuation date (for the chargeable period to 31 March 2013 the later of 1 April 2012 and the date of acquisition). A precise value must be specified, not a range.

• Computation information:

— The start and end date for the chargeable period. Where the property is held throughout the year this will be 1 April 2013 and 31 March 2014. For a property acquired during the year, the start date will be the acquisition date, and for a property sold during the year, the end date will be the date of sale.

— The relief code where a claim for relief (as per section 4 above) is made. The codes are listed at: https://online.hmrc.gov.uk/information/help?helpcategory=shortform&helpid=ATEDReliefCode.

— The ATED liability.

• Agent details (name, full contact details, client reference number).

It should be noted that where one of the exemptions discussed in section 5 applies for the entire chargeable period the ATED is automatically not payable (unlike the ATED reliefs the exemption does not need to be claimed) and it is not necessary to submit an ATED form. If a return is requested details of the exemption applicable should be provided to HMRC.

Amended/further ATED forms

Where property is sold during the year, an amended ATED form can be submitted and a refund claimed. There are specific boxes on the return to complete to show that an amended return is being submitted and a refund claimed. Where a repayment is claimed bank details must be provided.

A further return must also be submitted where additional interests in high value UK residential property dwellings are acquired during the course of the year, or where the conditions for the reliefs are breached (in such cases a period of 90 days is given to file the additional return). There are specific boxes on the return to complete to show that a further return is being submitted.

Where a chargeable person has more than one relevant dwelling, separate ATED Returns will need to be completed for each dwelling where there is a liability to pay the ATED charge. Only one return is required where there is more than one dwelling, but no ATED charge because of claims to relief. In such cases one return can be submitted with the details for one property going on the ATED form and the details for the other property (or properties) being e-mailed to HMRC using the address and title reference specified (or provided on an additional information schedule where the return is submitted on paper).

HMRC powers

HMRC are given various information and enforcement powers, and can enquire into the
ATED Return. There are also penalty provisions for errors in returns, the failure to make returns, and for a failure to make ATED payments on time.

It is understood that where the ATED is paid in full HMRC is unlikely to enquire further about the ownership of the chargeable person. Where a relief has been claimed, the name of the beneficiaries of the ownership structure may be required in the course of an enquiry where, for example, HMRC want to confirm that a relief is not lost as the result of occupation by a ‘non-qualifying individual’ using the UK residential property.

9.2 Capital Gains Tax

The ATED-related CGT charge is an extension of the CGT regime meaning that the standard self-assessment reporting and payment deadlines will apply to ATED-related chargeable gains.

ATED-related chargeable gains and losses will have to be reported through the submission of an ATED-related chargeable gains form (it being understood that there will be one form for both UK residents and non-UK residents).

Tax will be payable by 31 January following the end of the tax year in which the disposal occurs. The charge comes in from tax year 2013/14 onwards, so the first payment deadline will be 31 January 2015.

10. Existing structures - what does all this mean for me?

The following are not caught by either ATED or the CGT extension:

- A trust which holds property either (i) directly; or (ii) through a nominee company. In such cases, there is no reason to consider these charges any further, as they will not apply.
- A company that uses the property it owns for a relievable purpose.

Where reliance is placed on a relievable purpose, it would be prudent to review the circumstances and ensure that the conditions with respect to the particular relief are fully understood, and care taken not to allow the relief to be inadvertently forfeited. Where property could be used for a relievable purpose it will be worth considering whether changes should be made to enable relief to be claimed.

Relief will not be available where a person connected to the owner uses the dwelling for personal occupation. For such structures there will be no single answer. It will be necessary to weigh up the IHT protection afforded by corporate ownership (and the costs of collapsing it – considering both direct and indirect taxes) against the ATED and the contingent CGT liability on future gains. Where there is debt finance and/or a connection with a UK resident individual the costs of collapsing the structure could be significant (though appropriate planning might be able to achieve a more efficient result).

Where it is thought preferable to collapse the structure, specialist advice should be taken to ensure both that:

- the consequences of actions taken are understood; and
- all possible steps are taken to mitigate the liability crystallised.

Some will have already considered reorganisations to avoid the additional charges. In the course of “de-enveloping”, loans or debts may have been put in place or (where the reorganisation has not yet been carried out) be envisaged. Where this is the case it will be important to consider whether restrictions introduced by FA 2013 to the deductibility for IHT purposes of certain loan liabilities (to be discussed in a separate briefing) will apply to the planning.

Considering everything in the round - particularly since the ATED-related gains charge is limited to post 5 April 2013 increases in value - it may be that retaining the IHT protection offered by a corporate envelope will prove the better option, even with the on-going ATED charge and the ATED-related CGT charge on sale. Retaining the corporate structure is likely to be particularly attractive for ultra-high value UK residential property because the absolute shelter from UK IHT will be so valuable.

11. New acquisitions - what structures may be appropriate?

11.1 Property acquired for a business purpose

If the high value UK residential property to be acquired is to be used for a relievable purpose (see section 4), and there is no reason to expect that its use will change and relief be restricted, acquisition through a company may be the best option (particularly since it restricts the tax rate on any rental income to the basic rate).

11.2 Property acquired for personal use

Where an individual is acquiring a residential property for his or her own use the better option may be to hold the property directly (even before the changes this was often felt to be the better advice for a UK resident’s principal home).
Buying as an individual will mean that neither the 15% rate of SDLT nor the ATED will apply. A non-resident is not subject to CGT and a UK resident may be in a position to claim main residence relief (advice should be taken where an individual has multiple residences). If confidentiality is important, it is still possible for the UK residential property to be acquired through a bare trust or using a company as a nominee.

There may be instances where IHT protection outweighs the combined cost of the enhanced SDLT, the ATED and potential CGT on future gains. In such cases, a corporate structure will continue to be preferable. However, in certain situations it may also be possible through basic measures (such as life insurance and/or borrowing), or through more complex planning, to protect from or mitigate exposure to IHT, while avoiding corporate ownership. The tax considerations can be very complex: for IHT alone there are two anti-avoidance codes - Gift with Reservation of Benefit and Pre-owned Asset Tax - to be considered, as well as the new FA 2013 legislation limiting the IHT deduction for certain loan liabilities.

Great care needs to be taken and it is important that all the taxes are considered. The aim must be to have a strategy that is efficient in the round, rather than mitigating one potential tax exposure whilst increasing others.

12. If affected seek specialist advice

Whilst the scope of the provisions has been significantly reduced, those affected will suffer additional costs and complexity. Because any restructuring will require careful consideration to ensure that other tax charges are not incurred, or increased, planning and reorganisation should not be attempted without specialist advice. If you have any concerns please get in touch with your usual Rawlinson & Hunter contact.