

TAX AND PROPERTY IN THE UK

A SUMMARY OF THE TAX RULES WHEN BUYING UK PROPERTY

DECEMBER 2009

UK RESIDENTS

INCOME TAX

- If you personally own a UK property which is rented out, the net rent will be subject to UK income tax. This can be at rates of up to 40% (50% from April 2010).
- The net rent is the gross rent less various deductible expenses such as management expenses, insurance, repairs and maintenance, the costs of finding new tenants and mortgage interest.
- Even if the property was bought for cash and a mortgage is taken out later, the interest on that mortgage is still deductible for tax purposes. This applies even if the mortgage is a non-UK mortgage.
- The proceeds of sale of a development property will be subject to income tax rather than capital gains tax where the property was developed or renovated and sold on for a quick profit.

CAPITAL GAINS TAX (CGT)

- A sale or gift of your property usually triggers CGT on the gain at 18%. This applies to investment properties and second homes.
- If you are non-UK domiciled, you may be able to avoid CGT altogether on the disposal of a second home or investment property by careful tax planning involving an offshore trust.
- If the property is your main residence, any gain on its sale is exempt from CGT.

INHERITANCE TAX

- The net value of your property after deducting any mortgage will be subject to IHT at 40% on your death although certain reliefs and exemptions may apply.
- Reliefs include the "Nil Rate Band", which effectively exempts the first £325,000. Gifts between spouses are also generally exempt.
- If you are non-UK domiciled then you can avoid IHT on the property by owning it through an offshore company. This is generally only a solution for properties that are not your main residence.

NON-UK RESIDENTS

INCOME TAX

- If you personally own a UK property which is rented out, the net rent will be subject to UK income tax. This can be at rates of up to 40% (50% from April 2010).
- If the property is owned through an offshore company then tax on the net rental income will be restricted to the basic rate (currently 20%).
- The net rent is the gross rent less various deductible expenses such as management expenses, insurance, repairs and maintenance, the costs of finding new tenants and mortgage interest.
- Even if the property was bought for cash and a mortgage is taken out later, the interest on that mortgage is still deductible for tax purposes. This applies even if the mortgage is a non-UK mortgage.
- The proceeds of sale of a development property will be subject to income tax rather than capital gains tax where the property was developed or renovated and sold on for a quick profit.
- The effective rate of income tax on the sale of a development property can, in certain circumstances, be reduced to just 10% if the property is owned by an offshore company and the shareholder is non-UK resident.

CAPITAL GAINS TAX (CGT)

- There will be no CGT on a sale or gift of your property at a gain.

INHERITANCE TAX (IHT)

- The net value of your property after deducting any mortgage will be subject to IHT at 40% on your death although certain reliefs and exemptions may apply.
- Reliefs include the "Nil Rate Band", which effectively exempts the first £325,000. Gifts between spouses are also generally exempt.
- If you are non-UK domiciled then you can avoid IHT on the property by owning it through an offshore company.

We would be pleased to advise on the most tax efficient structure for your property purchase.

For further information, please contact Andrew Goldstone, a partner in the Tax Department at Mishcon de Reya, on +44 207 440 7205 or e-mail andrew.goldstone@mishcon.com

IMPORTANT: This briefing note is only intended as a general statement of the law and no action should be taken in reliance on it without specific legal advice.