Autumn Statement 2014 - Property Tax Revolution

Carter Lemon Camerons LLP Solicitors tries to update clients and contacts on key issues which may be of relevance to them by way of decisions of court, new legislation and aspects of government policy. Once again, a UK government has chosen the "autumn statement" (often delivered in December but to call it a "winter statement" might sound depressing) in which to announce major property tax changes which could be looked back on as revolutionary if sensible and long awaited!

BACKGROUND to STAMP DUTY LAND TAX: This is the current incarnation of how the UK gets tax revenue from those who transact in property in this country and it had developed over the centuries since Stamp Duty first arrived - imposed on paper itself, mostly - to help finance the then War against France in 1694. It is charged when homes or commercial properties are bought at values over the nil rate thresholds and at a percentage of the whole value of the transaction, varying according to the total consideration payable under the deal. The rate can be 0% (where under the threshold or if exemptions apply - intragroup transactions, charitable entities buying core properties related to their charitable activity etc.) up through 1%, 2%, 3%, 4%, 5%, 7% and even 15% at top end transactions enveloping a residential property in a corporate wrapper!

THE AUTUMN STATEMENT ON STAMP DUTY LAND TAX:

Stamp Duty Land Tax is to be put onto modern footing (abolishing the clumsy "slab" system of calculation) but seemingly **only** on **residential property:** *"The property tax known as stamp duty will be completely reformed says the chancellor. And from midnight tonight: each tax rate (and there are new ones) will apply only to the particular slice of the selling price to which they apply, not the whole value of the property (as at the moment)."*

Stamp duty rates - Mr Osborne spelled out the new stamp duty rates.

- No tax on the first £125,000 paid
- 2% on the portion up to £250,000
- 5% up to £925,000
- 10% up to £1.5 million
- 12% on everything above that.

He said: *"As a result stamp duty will be cut for the 98% of homebuyers who pay it"*

Other Key Announcements from the Autumn Statement of the UK Government made 3 December 2014:

- Stubborn continuation of annual budget deficit - Office for Budget Responsibility confirms current year deficit is revised to a predicted £97bn+, more than £4bn higher than the OBR forecast in March 2014
- Despite this additional spending proposals for the future are confirmed in:
    - Flood defences
    - Road building
    - Health ("£1.2bn of fines on banks re foreign exchange trading scandal will go to GP practices")
    - Support to SME sector of UK businesses
- Affordable Home Building (state investment in residential property directly for first time in 50 years)
- As released publicly yesterday (http://www.bankofengland.co.uk/publications/Pages/news/2014/165.aspx) the Funding for Lending Scheme is to be extended but targeted now at business loans to the SME market as the mortgage lending and large corporate lending markets are no longer in the same need

- 25% tax on UK profits of multinationals which “otherwise move the money out of the UK to avoid UK tax”
- No reintroduction of the fuel tax escalator, despite weak petrol prices, tinkering with airport duty so flights of children pay less in future, bank tax changes intended to get £4bn more from that sector in coming years, and a Northern Sovereign Wealth fund to be set up pumped with income from shale gas receipts in the UK.

Rufus Ballaster of **Carter Lemon Camerons LLP Solicitors** comments:

“The aim to bring both SDLT and Business Rates into the 21st Century and to reduce the scope for ‘fun’ to be had juggling ownership vehicles, structure and funding in order to find the most tax efficient way to run a business or see a property project through its development or investment cycle is laudable. Having seen a number of highly publicised ‘revolutions’ in property taxation policy announced and not having had that rock the foundations of my or my client’s world over the decades, you will have to forgive me for an element of cynical intention to see the detail, think about the drafting input and to want to work with people to see what the changes will do for them rather than to announce a negative or positive feeling about today’s announcements on SDLT and Business Rates.

“The market will undoubtedly react to the SDLT change and should do so positively – it is better to have a progressive tax which does not have “spikes” of the nature SDLT had until the 04th of December 2014. Let’s not get overexcited though, on a £500,001 deal the tax will drop from £20,000 to £15,000 but on a £499,999 deal the tax will be identical at £14,999! Also, surely, if SDLT on residential property should work in that sensible rate per slice of value way, it should on commercial and mixed use property too?

“Being a small enterprise ourselves, we are acutely aware of the pressures on this important sector of the UK economy and being in a services industry here we also grasp how important it is for any government in the modern UK to try to enhance trading conditions so SME service sector businesses have the confidence to expand, to hire, to export. We hope the further allocations of Funding for Lending Scheme announced today will find their way to viable businesses – long established or new set ups – to ensure that what is ultimately needed can be appropriately nurtured. The UK economy needs sustained, modest, year on year growth so that tax revenues improve and no amount of political rhetoric of any colour will mask that basic reality. The economy is the big issue for this group of islands and the biggest worry of all must be the fragility of the recovery. Raised growth forecast for the UK economy to 3% for this year is promising – could we hit that and then lock in and do 3% growth year on year for long enough for it to make a real difference?

“Bashing foreign investors and pointing fingers at multinational corporate groups alleging neither type of investor in the UK is ‘paying its fair share of taxation’ is, sadly, popular with domestic voters (and neither foreign investors nor multinational corporations will have a say in the outcome of the 2015 General Election here in the UK) but may well be bad law if and when fully attempted and implemented. While the correct tax should be paid by both a domestic British taxpayer and by a non-British investor aiming to ‘do something’ in the UK, we should not fall into the trap of thinking that there is a legal or a moral obligation to organise ones finances so as to maximise the tax payable in every jurisdiction in which one has an investment or a trading presence. If - in the course of raising a few million or even billion pounds of tax by new regulations aimed to prevent profit being exported untaxed from the UK - we knock the UK’s position as a global financial centre of choice, the tax drop will far outweigh the tax take and will be looked back on as the nail in the coffin of the UK as a trusted place to do business which ‘punches above its weight’ internationally.”

For further information contact any member of our non-contentious Business/Commercial & Property teams:

Carter Lemon Camerons LLP Solicitors
www.cartercamerons.com

10 Aldersgate Street, London, EC1A 4HJ
(T) +44 (0) 20 7406 1000


Rufus Ballaster


Andrew Firman


Stuart Brennan


Justin Cumberlege


Chris Picardo


Prodromos Shakallis


James Norman


Sabrina Umrani