Annual Tax on Enveloped Dwellings (ATED)

The basics

The Annual Tax on Enveloped Dwellings (ATED) is a tax payable by companies etc on “high value” residential property (dwellings) located in the UK. It came into effect from 1 April 2013 and is rather like stamp duty land tax, except that it is payable each year.

Residential property is said to be 'enveloped' when it is owned by a company, a partnership with a corporate member or other collective investment vehicle, because the ownership sits within a corporate 'envelope'.

When first introduced ATED applied to residential property valued on 1 April 2012 or on later purchase at more than £2 million; the charge started at £15,000 and increased with the value of the property (see appendix).

From 1 April 2015 a new band has come into effect for properties with a value greater than £1 million but not more than £2 million, with an annual charge of £7,000.

From 1 April 2016 a further new band will come into effect for properties with a value greater than £500,000 but not more than £1 million, with a promised annual charge of £3,500

The charge is indexed annually.

There are reliefs that could reduce the tax to zero but you can only claim them if you complete and send in a return (see below).

Property valuation

For ATED the value of the dwelling to be used is its value:

- on 1 April 2012, if you owned your interest in the property at that date
- on each 1 April falling 5 years, or a multiple of 5 years, after 1 April 2012
- when you bought or acquired it, if that is a later date
- at the date of entry on the Council Tax Valuation Lists (or Northern Ireland Valuation List) or when it's occupied, whichever is the earliest, if the dwelling is a new property or an existing building that's been altered so that it is to be a dwelling if that is later than 1 April 2012

Valuations must be on an open-market willing buyer, willing seller basis. The value must be specific: an 'in the range of' valuation is not acceptable.

If a relief is being claimed then a valuation based on your best judgment will be acceptable.

Although a 1 April 2012 valuation will decide which ATED band the property will fall into for five years, this could change if the property is developed or falls outside of ATED completely, or moves back in again (for example, it becomes a non-residential property and then residential again). ‘Developed’ in this sense does not encompass repairs but may include extensive renovation.

If HMRC challenge a valuation and find that it's wrong, the person responsible for paying ATED may have to pay penalties as well as the increased ATED payable, plus interest for late payment.

What is a dwelling?

A dwelling may be all or part of a residential or mixed-use property and includes properties 'capable of being a dwelling'.   Sometimes a dwelling is part of a larger, mixed-use property that has parts not used for residential purposes. Only the residential part would have ATED payable on it. The residential part will need to be valued to work out which ATED band it falls into.

A dwelling includes gardens and grounds and any building within them, unless that building is being used for a purpose covered by a relief (see the 'reliefs' part of this guide).

If a property consists of a number of self-contained flats, each flat will usually be valued separately.

If there's more than one dwelling in a property and they're owned by a company or person connected with the company, they are added together and looked at as a single dwelling where there is internal access between the two. Two dwellings in adjoining buildings with internal access between them are also treated as one dwelling for ATED.
Hotels, guest houses, boarding school accommodation, hospitals, student halls of residence, military accommodation, care homes and prisons are not deemed to be dwellings, so don't come under ATED.

Tax returns

You should have made an ATED Tax Return for your property by in respect of the tax year 2013/14 by 1 October 2013 and for the tax year 2014/15 by 30 April 2014 if all of the following apply:

- it's a dwelling
- it's situated in the UK
- it was valued at more than £2 million on 1 April 2012, or at acquisition if later
- it's owned, completely or partly, by a company, a partnership where one of the partners is a company, or a 'collective investment vehicle' - for example, a unit trust or an open ended investment company

For future years ATED returns and, if applicable, payments must generally be made by 30 April at the beginning of each ATED period, which starts on 1 April.

However, for 2015/16 the date has once again been put back to 1 October for properties valued at between £1 million and £2 million and for all properties used in businesses where relief from ATED is to be claimed.

If your dwelling first falls within ATED on a date after 1 April in an ATED period, then the return and payment are due within 30 days where purchased or 90 days where the dwelling is newly built.

If you don't complete and send HM Revenue & Customs (HMRC) a return or payment, or you send it late or make a mistake on it, you may have to pay a penalty and interest.   A late filing penalty will still apply even if there is a relief that reduces the liability to nil.

There are, however, a number of exemptions from the tax, most significantly, charitable companies using the dwelling for charitable purposes, which mean you may not have to file a return.

Reliefs

A dwelling may get complete relief from ATED and no tax is payable if it is:

- let to a third party on a commercial basis and isn't, at any time, occupied (or available for occupation) by anyone connected with the owner
- part of a property trading business and isn't, at any time, occupied (or available for occupation) by anyone connected with the owner
- part of a property developers trade where the dwelling is acquired as part of a property development business the property was purchased with the intention to re-develop and sell it on and isn't, at any time, occupied (or available for occupation) by anyone connected with the owner
- for the use of employees of the company, for the company's commercial business and where the employee does not have an interest (directly or indirectly) in the company of more than 10%, the employee's duties must not include services for any present or future occupation of the property by someone connected with the company, the relief is also available where a partner in a partnership does not have an interest of more than 10% in the partnership
- open to the public for at least 28 days per annum, if part of a property is occupied as a dwelling in connection with running the property as a commercial business open to the public, the whole property is treated as one dwelling and any relief will apply to the whole property
- a farmhouse, if it is occupied by a qualifying farm worker who farms the associated farmland, a former long-serving farm worker or their surviving spouse or civil partner
- a dwelling acquired by a financial institution in the course of lending
- owned by a provider of social housing

A separate return is required for each property claiming a different relief.

You should also notify HMRC of a change of circumstances which may result in a repayment of tax already paid for the year or further tax being due.

Capital Gains Tax (CGT) and ATED

Properties subject to ATED and for which no relief is available are also subject to capital gains tax (CGT) on disposal.

CGT is charged only on chargeable gains which are 'ATED-related gains'. Normally, gains attributable to periods after 5 April 201**3** are ATED-related gains. Where a 'single-dwelling interest' was held on that date, the gain or loss on disposal is apportioned to the periods before and after that date. This means that overseas-resident companies are not subject to CGT on gains accrued before 6 April 2013.

The rate of capital gains tax on chargeable gains that are ATED-related is 28%.

Administrative burden

The government recognises that the structure of ATED can create some administrative burdens for genuine property rental, trading and development companies. From 2015/16 it has therefore introduced simplifications to ATED administration to reduce compliance burdens for genuine businesses.

Our help

While every care has been taken in the compilation of these notes they cannot be exhaustive. If you believe that you company could be subject to ATED, we strongly recommend that you seek our professional advice and administrative help in dealing with your UK tax obligations. We charge only an additional £60 per company per annum to prepare and submit ATED returns for our corporate landlord clients.

Appendix: Annual chargeable amounts

The annual chargeable amounts for ATED are increased each year in line with the Consumer Prices Index (CPI).

Chargeable amounts for the first three periods

Property value	Annual chargeable amount 2013/14	Annual chargeable amount 2014/15	Annual chargeable amount 2015/16*
More than £1 million but not more than £2 million	n/a	n/a	£7,000
More than £2 million but not more than £5 million	£15,000	£15,400	£23,350
More than £5 million but not more than£10 million	£35,000	£35,900	£54,450
More than £10 million but not more than £20 million	£70,000	£71,850	£109,050
More than £20 million	£140,000	£143,750	£218,200

* increased by 50% above CPI for properties valued at more than £2 million

IMPORTANT NOTE: The comments above describe the position under current legislation, and of course, are subject to change if legislation changes.

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