

## ANNUAL TAX ON ENVELOPED DWELLINGS

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21 September 2015

The Annual Tax on Enveloped Dwellings (ATED) charge is part of a package of tax measures to tackle perceived stamp duty land tax avoidance and ensure that owners of “enveloped” high-value UK residential property pay their fair share of tax.

If a property qualifies for a relief from the ATED charge, this relief must be claimed by submitting a Return to HMRC. Eight new Returns have been released to enable reliefs to be claimed more easily.



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In March 2012 the Government increased stamp duty land tax (SDLT) charges where a non-natural person, such as a company, acquires an interest in high value UK residential property. This was a response to perceived loss of SDLT revenue on future changes in ownership of such “enveloped” properties, as shares in the owning company can be transferred with no SDLT charges.

In 2013 the Government introduced the new ATED charge aiming to ensure the owners of high value residential property pay their fair share of tax and to tackle avoidance. Those who held a UK residential property in a corporate “envelope” would either take it out, ensuring that the onward sale of the property would be subject to SDLT and a fair share of tax would be paid; or, if they wished to continue to hold the property within the envelope, they would have to pay an annual charge.

ATED related capital gains tax was also introduced and this can lead to additional UK tax charges on disposal of such property.

### Ownership

The ATED charge applies where high-value UK residential property is owned completely or partly by:

- A company
- A partnership where one of the partners is a company
- A collective investment scheme - for example a unit trust or an open ended investment vehicle

ATED charges affect both UK resident and non-UK resident companies. Trusts and individuals are not subject to ATED charges.

## Property

The charges apply to high value UK residential property which is, or is intended to be, a "dwelling". A dwelling extends to include garden, grounds and other land that is or is intended to be occupied or enjoyed with the building itself.

Various types of property are not regarded as dwellings, for example hotels, prisons, hospitals, children's homes, school houses for pupils and homes providing care for those who need it in old age.

ATED charges are determined by a banding system currently depending on the property's value at 1 April 2012 or the date of acquisition if later. Charges for the 2015/16 period (1 April 2015 to 31 March 2016) are:

| Property Value (as at 1 April 2012 or at acquisition if later) | Annual Tax on Enveloped Dwellings (ATED) Charge |
|--|---|
| Up to £1 million   | Nil   |
| £1,000,001 to £2,000,000                                       | £7,000  |
| £2,000,001 to £5,000,000                                       | £23,350   |
| £5,000,001 to £10,000,000                                      | £54,450   |
| £10,000,001 to £20,000,000                                     | £109,050  |
| £20,000,001 and above  | £218,200  |

From 1 April 2016 a further band comes in for properties with a value greater than £500,000 but not more than £1 million, with an ATED charge of £3,500. Many more companies will be affected by this new band and will need to review their tax position well in advance.

## ATED returns and payments

The ATED return and the tax payment are usually due by 30 April in the ATED period i.e. for 2015/16

the deadline was 30 April 2015 and the deadline for 2016/17 will be 30 April 2016.

However for this year only, the 2015/16 ATED return for a dwelling in the band between £1,000,001 and £2,000,000 is due by 1 October 2015 and the tax payment needs to be made by 31 October 2015.

## Reliefs

ATED is not intended to apply where a property is genuinely used for commercial business purposes. A property may qualify for relief from ATED where it is:

1. 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
2. open to the public for at least 28 days a year
3. being developed for resale by a property developer
4. owned by a property trader as the stock of the business for the sole purpose of resale
5. repossessed by a financial institution as a result of its business of lending money
6. being used by a trading business to provide living accommodation to certain qualifying employees
7. a farmhouse occupied by a farm worker or a former long-serving farm worker
8. owned by a registered provider of social housing

Relief from ATED must be formally claimed by submitting the appropriate Return. Eight new ATED Relief Declaration Returns, one for each Relief, were released by HMRC on 24 August 2015 and the filing deadline is 1 October 2015.

## Summary

Companies should review their tax exposure on UK residential property to establish if property should be extracted or retained in the "envelope" structure.

If property qualifies for relief from the ATED charge the relief must be claimed by submitting the appropriate Return to HMRC.

## CONTACT US

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For further information and advice relating to ATED and tax compliance matters in general, please contact us.



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