



**High earners leaving the UK**

**How to avoid the UK 4% Stamp Duty Land Tax exit charge**

David Anderson solicitor and chartered tax adviser at Sykes Anderson LLP Solicitors and Chartered Tax Advisers.

Many high earners and non domiciled people planning to leave the UK because of their increased UK tax burden, are discovering as part of their exit tax planning that they are being asked to pay an unexpected “exit tax” in the form of the UK’s 4 % Stamp Duty Land Tax (“SDLT”) on their main residence. This is on the basis that they retain their UK residence as an investment property through an offshore company for a period of time whilst they relocate abroad keeping their options open. A strategy which is becoming prevalent is to retain a London former main residence for a couple of years and to sell it in the run up to the London 2012 Olympics.

Many tax advisers overlook the SDLT charge when advising clients and this cost only becomes apparent at a later stage. With proper SDLT planning at the outset this SDLT cost may well be avoided.

**Main residence into offshore company – avoid IHT**

In most cases the UK main residence is owned in personal names. Any assets owned by UK domiciled individuals or any UK based assets owned by anyone (i.e. regardless of domicile) are subject to UK inheritance tax. As long as they retain direct personal ownership of the UK property, it will fall within the scope of UK inheritance tax. This will be the case even if and when they lose their UK domicile. If however the property is owned by an offshore company, on death the shares in the company will be bequeathed (not the property) and as the shares are outside the UK no property is in the UK and no tax is paid if the deceased was not UK domiciled at the date of death.

**Offshore company owner - no liability to make personal UK tax return for rents**

A further consequence is that you will remain personally liable to UK tax on any rental income requiring you personally to make annual UK tax returns. This will also make it harder to show that you have become non UK resident as you still have clear ties with the UK.

## **Usually sell not gift to offshore company**

Normally the best approach is to transfer the property to an offshore company prior to leaving the UK by way of a sale. This is usually better than gifting it to a company as a

20% UK Inheritance Tax charge will arise straight away on gifts but not on sale. This can go up to 40% if there is a death within a number of years thereafter. Usually the offshore company is left owing the money to the individual seller and no money changes hands.

## **4% stamp duty sting**

The key issue is that a sale transfer deed needs to be executed and presented to HM Land Registry and the necessary formalities for Stamp Duty Land Tax are gone through on the basis of a sale. If you do not do this you have a gift and an immediate 20% and possibly 40% Inheritance Tax exposure. The problem is that this sale usually results in a 4% stamp duty land tax which has to be paid. In many cases involving a move abroad this 4 % SDLT charge can be legally avoided without resorting to artificial stamp duty schemes which in most cases rely on not submitting a SDLT return to the UK Revenue and are high risk.

The straightforward way in which SDLT may be avoided in some international moves involves making a full SDLT return with full disclosure to the Inland Revenue, though it is very surprising that many international tax advisers and conveyancing solicitors are totally unaware of this simple planning route. After 9 months the UK Revenue cannot raise any query as full disclosure has been made. If disclosure is not made the UK Revenue has 21 years in which to claim any tax.

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David Anderson  
Solicitor and Chartered Tax Adviser  
Sykes **Anderson** LLP  
9 Devonshire Square  
London EC2M 4YF  
Telephone 020 3178 3770  
**[david.anderson@sykesanderson.com](mailto:david.anderson@sykesanderson.com)**  
**[www.sykesanderson.com](http://www.sykesanderson.com)**