

## Tax Circular

### Planning Gain Uplift – Time to Move Offshore?

Individuals looking to develop UK land may wish to consider using an offshore company to minimise the tax liability on any subsequent planning uplift.

#### Background

UK tax resident and domiciled individuals traditionally acquire and carry out the development of UK land through a UK company. However, once planning permission has been obtained and the land has been sold with the benefit of such permission, the trading profits will be subject to UK corporation tax and any extraction of such profits by the individual shareholder will be liable to a second tax charge (the double tax trap).

#### Using an Overseas Company

An alternative structure would involve incorporating an overseas company which is tax resident within the EU to purchase the UK land and generate the planning uplift. The UK land can then be sold to a UK purchaser to carry out the development.

#### Tax Advantages

The profits made by the overseas company should be taxed at local corporation tax rates. These rates will be significantly lower than those which apply in the UK and a number of European jurisdictions offer a zero rate of corporation tax. The net profits can then be reinvested into a subsequent real estate project. Alternatively, the individual may extract the net profits by way of dividend at a time when he is non-UK tax resident or, where he maintains his UK tax residence, liquidate the overseas company and be subject to tax at the favourable UK capital gains tax rate.

#### Can this be challenged by HM Revenue & Customs?

It is always open for HM Revenue & Customs to challenge or at least enquire into various arrangements and structures. However, provided the overseas company is correctly structured and maintains its tax residence outside the UK, but within the EU, any attack by HMRC is likely to be viewed as discriminatory under EU law.

#### What Next?

If you wish to discuss how to structure your development projects in a tax efficient manner or any other ways to mitigate your property taxes in more detail, please contact David Irwin or David Salisbury on contact telephone number 020 7242 3191.

**This article should not be relied upon as a substitute for legal advice as to any particular matter.  
If you would like specific advice please contact the persons stated above.**

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