

# New UK Tax Legislation



New Quadrant  
PARTNERS



# Areas

---

- Long-term residents
- Returning UK doms
- Offshore trusts
- UK residential property



# Residence

---

- Statutory Residence Test
- Advice before come to UK

# Domicile

---

- 3 types:
  - origin
  - dependency
  - choice

# Inheritance Tax (“IHT”)

---

- UK domiciled
- Non-UK domiciled
- Deemed domicile
- 40%
- Various exemptions and reliefs
- Spouse election



# Long-term Residents

## Deemed domicile

---

- Currently: IHT only
  - 17/20 tax years
  - 3 calendar years
  
- From 6 April 2017:
  - all taxes
  - 15/20 tax years



# Deemed domicile: planning

---

- Offshore trust?
- CGT rebasing: 5 April 2017
- Mixed accounts: cleansing



# Returning UK Dom

# Returning UK dom

---

- Born in UK
- UK domicile of original
- Acquire domicile of choice
- Treated as UK domiciled on return
- Existing structures
- 1 out of 2 years grace period

## Returning UK dom: example

---

- H born in UK to UK domiciled parents
- H goes to SA
- H marries W (SA domiciled)
- Stay in SA 10 years and create offshore trust
- H & W return to UK
- H UK domiciled for all taxes
- IHT on worldwide estate
- No full spouse exemption
- Trust becomes subject to IHT regime
- H pay tax on income and gains in trust

# Offshore Trusts

# Timeline

---

- Summer budget: 8 July 2015
- Consultation: 30 September 2015
- Further consultation: 19 August 2016
- HMRC meeting: 19 September 2016
- STEP response: 20 October 2016
- Autumn statement: 28 November 2016
- In force: 6 April 2017!
- STEP: please defer to 2018

# Further Consultation Paper: 19 August 2016

---

- Trusts protected unless benefit received
- Calculation of income/gains required
- Review now if UK resident settlor or beneficiaries



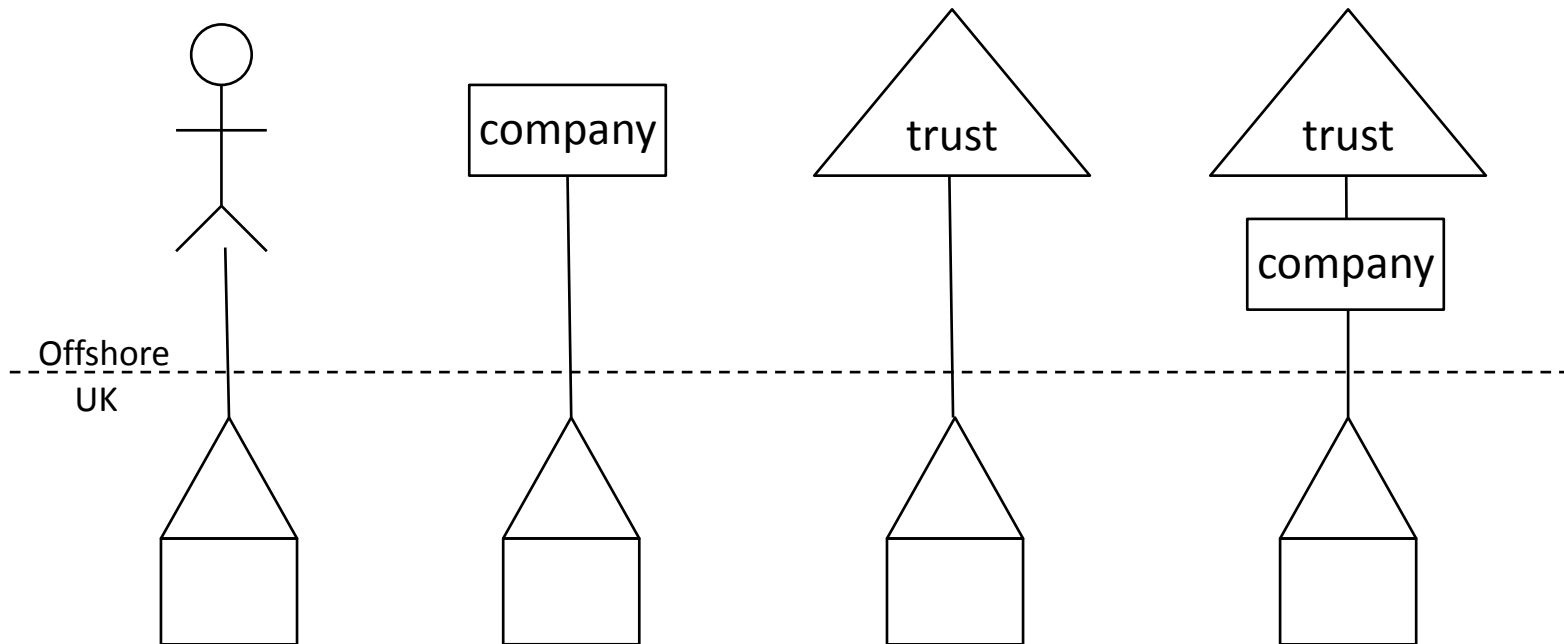
# UK Residential Property



New Quadrant  
PARTNERS



# Main options for owning residential property



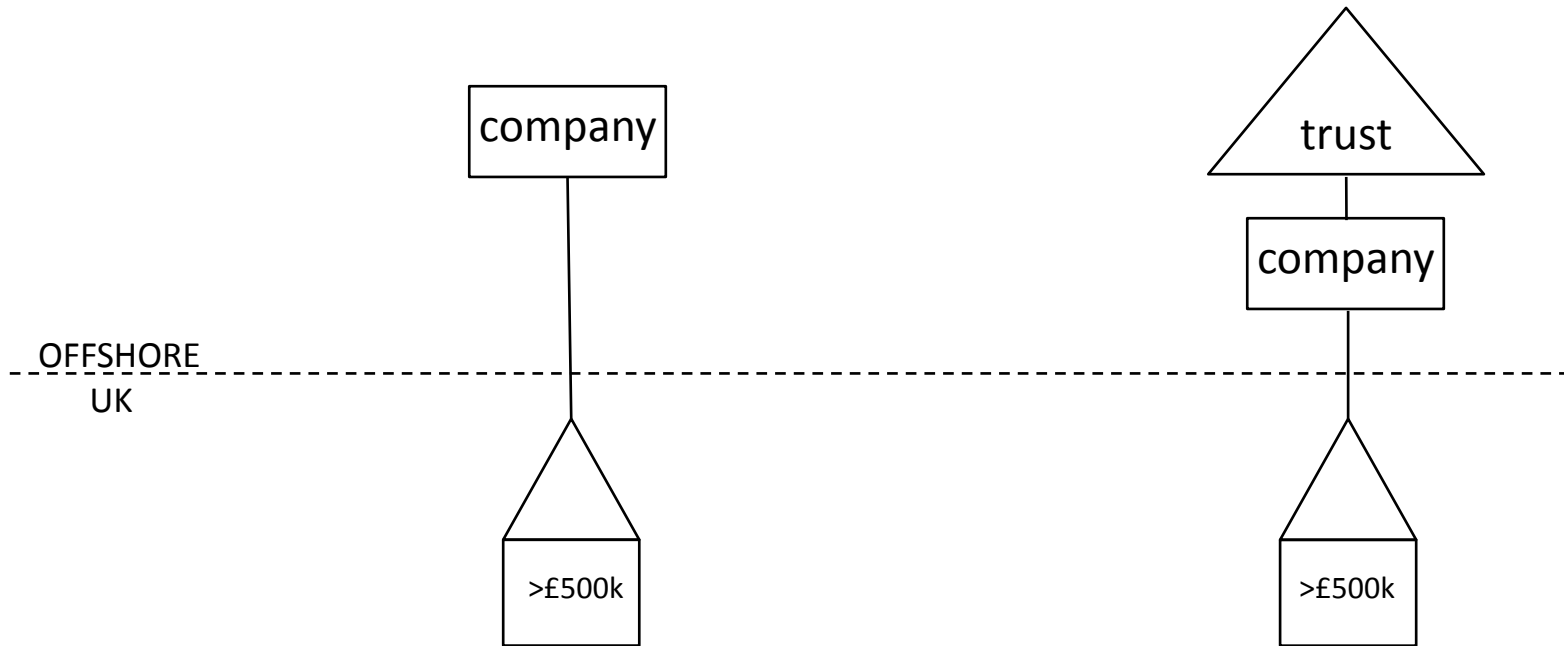
# Annual Tax on Enveloped Properties (“ATED”)

- From 1 April 2013
- Residential property
- “Non-natural” persons (e.g. companies)
- Exemptions (e.g. rent to third parties)
- Valuation 1 April 2012



# ATED

---



## ATED rates

---

- Rates for 1 April 2016 to 31 March 2017
  - £500,000 to £1m: £3,500
  - £1m to £2m: £7,000
  - £2m to £5m: £23,350
  - £5m to £10m: £54,450
  - £10m to £20m: £109,050
  - >£20m: £218,200
- File and pay charge by 30<sup>th</sup> April for the year ahead

## ATED-related CGT

---

- Applies if ATED applies
- Gains from 5 April 2013 at 28%
- Relief if rented



# Stamp Duty Land Tax (“SDLT”) - residential

---

- From December 2014:
  - Up to £125k: 0%
  - £125k to £250k: 2%
  - £250k to £925k: 5%
  - £925k to £1.5m: 10%
  - Over £1.5m: 12%
- Company: over £500k = 15% (unless e.g. rented)
- Claw back

## New Higher rates for additional residential properties

- From 1 April 2016: New higher 3% SDLT on the purchase of additional residential property:
  - Up to £40k: 0%
  - 0 to £125k: 3%
  - £125k to £250k: 5%
  - £250k to £925k: 8%
  - £925k to £1.5m 13%
  - Over £1.5m: 15%
- Affects domestic and foreign purchasers.

# CGT for non-residents

---

- From 6 April 2015
- Rebasing
- Individuals: 28%
- Trustees: 28%
- Companies: 20%
- No relief for rental business
- Overlap with ATED-related CGT





# Restriction on mortgage interest relief

---

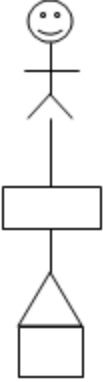
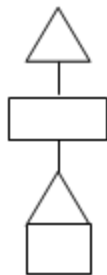
- From April 2017
- Tax relief for loan interest payments restricted to 20%
- Relief restricted gradually:
  - 2017/2018: 75%
  - 2018/2019: 50%
  - 2019/2020: 25%
  - 2020/2021: 20%
- Not apply to companies

# New Inheritance Tax (“IHT”)

---

- From 6 April 2017
- Close companies and similar structures
- “Chargeable event”
- Valuation:
  - shares in company
  - to extent attributable to residential property
  - “directly or indirectly”

# New IHT: potential tax

		<b>CHARGEABLE EVENT</b>	<b>IHT</b>
<b>I N D I V I D U A L</b>		Death	40%
		Gift into trust	20% to 40%
		Death with 7 years	40% (tapered)
		Gift where GROB with 7 years of death	40%
<b>T R U S T</b>		10 year anniversary	Up to 6%
		Trust distribution	Up to 6%

## New IHT: liability and accountability

---

- Property cannot be sold until IHT paid
- New liability on legal owner
  - “any directors of the company”
- No draft legislation



## New IHT: outstanding issues

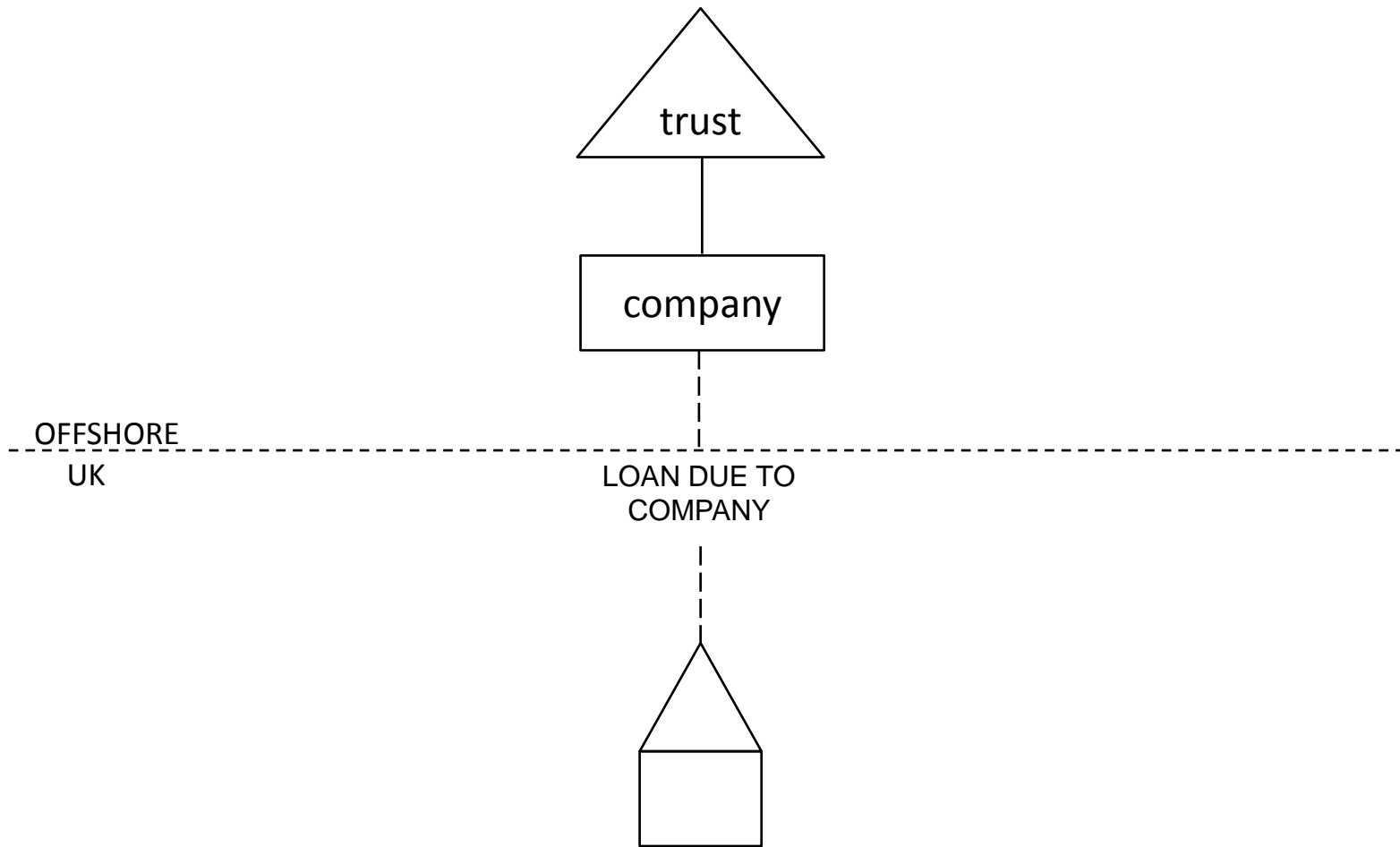
---

- 2 versions of draft legislation!
- “Close” company not used in draft legislation
- Give away shares now and die within 7 years?
- No draft legislation on debts/loans
- Targeted Anti-Abuse Rule too wide
- De-enveloping relief please!



# Connected party loans

---

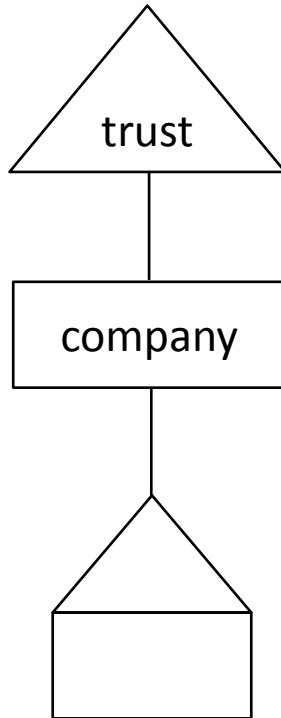


# Factors to consider

---

- Advice may change depending on factors:
  - Long or short hold
  - Price
  - Rented?
  - Age and health of owner(s)/IHT Insurance Cover
  - How funded
  - Confidentiality?
  - De-enveloping relief?

# Occupied: not rented



Current Position	
ICT	No tax
CGT	No tax until disposal
IHT	No tax
ATED	Will apply

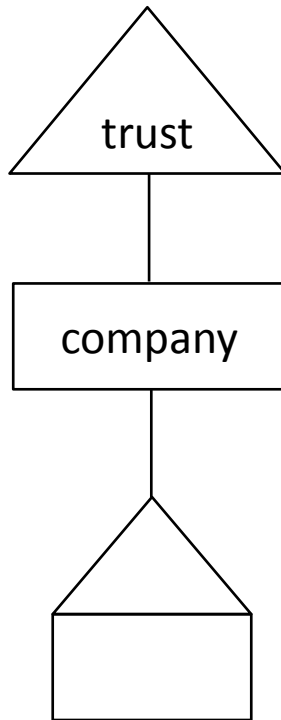
From April 2017	
ICT	No tax
CGT	No tax until disposal
IHT	<ul style="list-style-type: none"><li>• 40% on death of settlor</li><li>• 6% every 10 years</li><li>• Exit charges</li></ul>
ATED	Will apply

## What to do:

- Act now. Transfer must be before April 2017
- Distribution and liquidation of Offco
- Short term tax liability, long term savings



# Rented Properties



Current Position	
ICT	20% on rental income
CGT	20% post 2016 gains on disposal
IHT	No tax
ATED	Relief claimed
From April 2017	
ICT	20% on rental income
CGT	20% post 2016 gains on disposal
IHT	40% on Settlor's death & up to 6% every 10 years & on exit
ATED	Relief claimed

## What to do:

- Act now. Review structures ASAP
- Potentially maintain structure: ICT and CGT saving and SDLT on liquidation
- Deal with IHT exposure: gifts, Wills and life insurance

# Buying property: non-dom

---

- Direct
- Company
- Trust alone
- Other
- Commercial property
- Property fund



# Occupation

---

- Direct
  - Lower rates of SDLT
  - No ATED charge
  - Simplicity
- Look to reduce IHT
- Confidentiality? (UK corporate nominee)

# Rental

---

- Company?
  - SDLT neutral
  - ATED relief
  - CGT 20% (not 28%)
  - IHT neutral (if no trust)
  - IT 20% (not up to 45%)
  - Interest relief
- UK company? CT 17% in 2020
- Development property

# Commercial Property

---

- SDLT: lower rates
- ATED: none
- ATED-related CGT: none
- Non-resident CGT: none
- IHT: none
- ICT: 20% if in offco (UK company?)

# Property Fund

---

- Rather than own bricks and mortar
- SDLT: lower rates? (depends on nature of portfolio)
- No CGT or IHT

# Summary

---

- Advice before coming to the UK
- Review offshore trusts now
- Review UK residential property structures now
- Advice before buy UK residential property



# NON-UK DOMICILED NON-UK RESIDENTS OWNING UK RESIDENTIAL PROPERTY OVERVIEW



Tax	Personal	Company		Trust	UK Company	
		Let	Not Let		Let	Not Let
SDLT	Up to 12%	Up to 12%	15%	Up to 12%	Up to 12%	15%
ATED (from 1/4/13)	X	X	Up to £218,200	X	X	Up to £218,200
ATED-related CGT (from 5/4/13)	X	X	28%	X	X	28%
Non-resident CGT (from 6/4/15)	Up to 28%	20%	X	28%	X	X
IHT	40%	40%	40%	-40% on settlor's death (if settlor interested) -6% every 10 years	40%	40%
IT (CT for UK Co)	Up to 45% if let	20%	X	45% if let	20% 2016 19% 2017 17% 2020	X







**Jonathan Colclough**  
**[jonathan.colclough@nqpltd.com](mailto:jonathan.colclough@nqpltd.com)**

**New Quadrant Partners Ltd**  
**22 Chancery Lane**  
**London WC2A 1LS**

**Tel: 020 7430 7150**  
**Fax: 020 7160 5280**

