



HM Revenue
& Customs

Annual Tax on Enveloped Dwellings (ATED): Reducing the Administrative Burden for Business

Consultation document

Publication date: 22 July 2014

Closing date for comments: 16 September
2014

Subject of this consultation:	We are consulting on ways to reduce the administrative burden for businesses within ATED.
Scope of this consultation:	We wish to assist genuine commercial businesses which are entitled to claim ATED reliefs, meet their filing obligations in a way which reduces the administrative burden. We have set out two options but would consider others that are raised.
Who should read this:	This should be read by those currently within the charge to ATED (including those who are eligible to claim reliefs under sections 133 to 150 of the Finance Act 2013), those who are likely to fall within the regime in the future, ATED practitioners and representative bodies.
Duration:	This consultation will run for eight weeks from the date of publication. We feel eight weeks is sufficient given the small number of customers affected and having already held informal discussions.
Lead official:	The lead official is Joyce Boutabba of HM Revenue and Customs (HMRC).
How to respond or enquire about this consultation:	<p>Please send responses to:</p> <p>ATED Reducing the Administrative Burden for Business Consultation HM Revenue & Customs ATED Policy Room 3C/20 100 Parliament Street London SW1A 2BQ</p> <p>Or email</p> <p>ated.consultation@hmrc.gsi.gov.uk</p> <p>Please direct any enquiries about the content or scope of the consultation or requests for hard copies to ated.consultation@hmrc.gsi.gov.uk.</p>
Additional ways to be involved:	We would be pleased to meet with interested parties. If you would like to make your response in person then please let us know.
After the consultation:	We will consider the responses to this consultation, following which a response document will be published in the Autumn.
Getting to this stage:	We have taken account of all representations made to us during the first year of ATED.
Previous engagement:	We have held informal discussions with ATED businesses, practitioners and representative bodies in the weeks leading up to this consultation.

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1. Introduction

Policy context

- 1.1 The Annual Tax on Enveloped Dwellings (ATED) is a tax charged on a company, partnership (with a corporate member) or collective investment scheme that owns UK residential property valued at more than £2m.
- 1.2 It was part of package of measures announced at Budget 2012 to ensure that individuals and companies pay their fair share of tax on UK residential property.
- 1.3 The Treasury published a consultation document “Ensuring the fair taxation of residential property transactions” on 31 May 2012 which considered:
 - a charge on residential properties valued over £2m held in corporate structures or other similar entities,
 - capital gains tax on disposals of such properties and
 - the 15% rate of Stamp Duty Land Tax.
- 1.4 Following that consultation, legislation was included in Finance Act 2013 introducing the Annual Tax on Enveloped Dwellings which came into force on 1 April 2013.
- 1.5 At Budget 2014 the Chancellor announced a lowering of the ATED valuation threshold from £2 million to £500,000. Legislation was introduced in Finance Bill 2014. From 1 April 2015 a new band will come into effect for properties with a value greater than £1 million but not more than £2 million, with an annual charge in 2015/16 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 an annual charge in 2016/17 of £3,500.
- 1.6 There will be a special rule for the first year of the £1 million to £2 million band, requiring returns to be filed by 1 October 2015 and payment by 31 October 2015 instead of the normal filing/payment date of 30 April 2015. This extra time will help smooth the administration of the tax, particularly in view of the potential for further changes to the administration of the regime as a result of this consultation.
- 1.7 We recognise the additional administrative burden on genuine businesses that hold residential properties worth more than £500,000 and are keen to limit this burden, especially for those entitled to claim reliefs.
- 1.8 The proposals in this consultation take into account representations made to us during the first year of ATED and also the feedback received from informal discussions with ATED businesses, practitioners and representative bodies.
- 1.9 The consultation suggests two proposals to amend the current filing requirements and reduce the number of returns genuine businesses have to submit in order to claim a relief. However, at this stage the government has an open mind about what may be the best approach. This includes whether there

are other options that might better achieve the aim described above and the policy objectives set out elsewhere in this document.

1.10 HMRC intend to evaluate the options and approaches suggested against a set of clear criteria:

- Impact on the administration burden
- Impact on compliance risk
- Impact on HMRC resources
- Impact on available IT
- Fairness across ATED customer base

How to contribute to the discussion

1.11 HMRC is seeking views from interested parties in response to the questions set out in this paper. In particular, we welcome comments from those entitled to claim relief.

1.12 If you wish to contribute your views or have any questions about this paper, please contact ated.consultation@hmrc.gsi.gov.uk. Please send comments by 16 September 2014.

1.13 This consultation will be open for 8 weeks which we feel is sufficient given the small number of customers affected and having already held informal discussions. We will publish the response to this consultation in the autumn.

2. Background

How ATED works

- 2.1 Most residential properties (dwellings) are owned directly by individuals. But in some cases a dwelling may be owned by a company, a partnership with a corporate member or a collective investment scheme. These are known as “non-natural persons”. In these circumstances the dwelling is said to be 'enveloped' because the ownership sits within a corporate 'wrapper' or 'envelope'.
- 2.2 The government was concerned that many properties were being enveloped for the avoidance of SDLT and introduced a package of measures to address this concern. The aim of these measures is to discourage enveloping, to encourage the de-enveloping of property and to ensure that those who continue to hold property in this way pay a fair share of tax.
- 2.3 ATED is charged on non-natural persons owning high value residential property (a dwelling) in a chargeable period. It came into effect from 1 April 2013 and is payable each year. The chargeable period (or tax year) runs from 1 April to 31 March, with returns and payment being due by 30 April in the chargeable period. Annex B provides a summary of the time limits for filing ATED returns.
- 2.4 In the first year of ATED, transitional arrangements were put in place with a filing date of 1 October 2013 and a payment date of 30 October 2013.
- 2.5 An ATED Tax Return must be completed where all of the following apply:
- there is a UK residential property (a “single-dwelling interest”);
 - it is valued at more than £2 million on 1 April 2012, or at acquisition if later, and
 - it is owned, wholly or partly, by a company, a partnership where one of the partners is a company, or a collective investment scheme - for example, a unit trust or an open-ended investment company.
- 2.6 There are a number of reliefs available which can reduce the tax to zero but these can only be claimed by way of a return. The reliefs are for:
- 1) property rental businesses (including preparation for sale, demolition and conversion);
 - 2) dwellings opened to the public;
 - 3) property developers (including exchange of dwellings interests);
 - 4) property traders carrying on a property trading business;
 - 5) financial institutions acquiring dwellings in the course of lending;
 - 6) dwellings used for trade purposes (occupation by qualifying employees and partners);
 - 7) farmhouses (occupation for the purposes of carrying on a trade of farming) and
 - 8) providers of social housing.

- 2.7 There are also a number of exemptions from the tax, most significantly for charitable companies using the dwelling for charitable purposes, where a return may not have to be filed.
- 2.8 The amount of ATED is worked out using a banding system, based on the value of the property. The amounts are increased each year in line with the previous September's Consumer Prices Index. Annex C provides details of the current bandings.

Filing requirements

- 2.9 Where a chargeable person is within ATED on the first day of a chargeable period, they are required to file a return on or before 30 April in the chargeable period.
- 2.10 A person's circumstances can change during the year. This results in the submission of an amended return (e.g. when a repayment is due) or a Return of Adjusted Chargeable Amount (required when additional tax is due).
- 2.11 Where a single- dwelling interest is acquired during the chargeable period, a return is due 30 days after the date of acquisition.
- 2.12 If the dwelling is newly constructed or is produced from another dwelling, a return is due 90 days from the earliest of:
- the date it comes into existence for Council Tax purposes, or
 - the date it is first occupied.
- 2.13 Where there has been a change of circumstances, for example where the dwelling has been disposed of or a relief is now due, an amended return can be submitted. This can be submitted at any point within 12 months of the end of the chargeable period to which it relates or, in the event of the original return having been filed late, 3 months after the date of submission.
- 2.14 Where additional tax becomes due as a result of an event occurring during the chargeable period, a Return of Adjusted Chargeable Amount (a further return) must be filed within 30 days from the start of the next chargeable period. If the event giving rise to the additional tax liability occurs *after* the end of the chargeable period, the time limit for filing a return is within 30 days of the date of the event. A summary of the ATED filing obligations is at Annex B.
- 2.15 Work is currently under way to improve the IT system for ATED customers. The new system will significantly improve the customer experience and reduce customers' costs as well as their administrative burden. This is in response to the repeated concerns raised by externals.

3. The results of the Informal Consultations

- 3.1 HMRC has held several informal meetings with external stakeholders to canvass views on the burden imposed by ATED administration. It was clear from these meetings that those who manage large property portfolios have the largest administrative burden.
- 3.2 Where a business has a number of properties, it is required to submit returns for each of those properties in order to claim relief which reduces the ATED charge to zero.
- 3.3 In the case of those who are claiming relief under code 1 (property rental businesses) this could lead to the submission of multiple returns on an annual basis for the same properties. Following representations from this sector in advance of the introduction of ATED, HMRC allowed and continues to allow these companies to submit one return annually and provide a list of properties to which the same relief code applies. The list must include full details of those properties and must be submitted by the return filing date.
- 3.4 Whilst this reduces the administrative burden, submission of this information at the beginning of the year means that there is an increased possibility of having to submit an amended return or new return within the chargeable period to reflect any changes in the property portfolio.
- 3.5 Those claiming relief under codes 3 and 4 (property developers and traders) are required to submit a return within 30 days for existing residential properties and 90 in the case of newly built or renovated properties. If they acquire and dispose of numerous properties throughout the chargeable period, they are required to submit multiple returns.
- 3.6 Many property developers find the 90 day filing deadline for newly built and renovated properties challenging as there can be a delay in finalising the date at which the property comes within the charge to Council Tax and thus ATED (see section 5 of this document, where this is discussed further).
- 3.7 The constant turnover of properties can also mean that returns have to be submitted for a period of as little as a few days, before the sale of the property triggers the need for an amended return.
- 3.8 This paper sets out two proposals which seek to reduce the administrative burden for genuine businesses without increasing compliance risks for HMRC. We invite comment on these proposals and welcome other suggestions which meet the criteria of reducing the administrative burden without negative impact on compliance or which involve changing the scope of the tax.

4. Options for this consultation

Option 1: retain the current filing date but allow those customers who are eligible to claim a relief from ATED for more than one property and who do not have an ATED liability, to submit a supplementary return after the end of the chargeable period.

- 4.1 Under this option, those claiming the same relief for more than one property would be required to submit a single return in respect of those properties by, for example, 30 April in the chargeable period to confirm their continued entitlement to a relief that reduces their ATED liability to nil.
- 4.2 The intention of this approach is to remove the need to submit a separate return for each property within the charge at the start of the chargeable period. This should reduce the administration burden considerably while ensuring that the annual requirement to file a return by 30 April in the chargeable period is adhered to for all customers. It would also provide additional time for customers to establish the correct valuation date at which a property comes within the ATED charge (see section 5 of this document).
- 4.3 Unlike currently, no return would be required when a relievable property is acquired or disposed of during a chargeable period until the end of the chargeable period, when a statement or balancing return would be required listing those relievable properties held during the chargeable period. The statement or balancing return would need to be submitted by a specified date, for example 30 April, in the next chargeable period. This would cut down the number of returns to submit during a year to a maximum of two – at the start of the year and at the end of the year.
- 4.4 Customers would still be required to keep a record of all those properties acquired and disposed of during the chargeable period but this would be a normal part of their business accounting.
- 4.5 HMRC would retain the right to request full details of all properties within the charge to ATED during a chargeable period for compliance purposes. Any failure to notify an ATED liability or the provision of incorrect information may give rise to a penalty and interest.
- 4.6 HMRC proposes that this option should only apply to those holding more than one property. For those customers who claim a relief for single properties, the requirement to submit a return at the beginning of the chargeable period and a statement at the end of the chargeable period would increase their administrative burden so this approach is not felt to be relevant or appropriate.

Question 1: What, if any, problems do you see with this approach?

Question 2: Should this option be adopted, are you content that the statement or balancing return should be submitted by the 30 April in the next chargeable period?

Question 3: Do you agree that only those claiming the same relief for multiple properties should be included in this option?

Option 2: Introduce a “status” regime for those entitled to claim a relief

- 4.7 Under this option, those who are entitled to claim a relief which reduces their ATED liability to nil could apply to HMRC for “exempt status”. Being granted exempt status would mean that an ATED return would not be required annually but a confirmation of status would be required at various intervals. This could be annually or longer (e.g. every 3 or 5 years).
- 4.8 Customers would still be required to keep a full record of all those properties within the charge to ATED and inform HMRC of any changes which would affect their status.
- 4.9 HMRC would have the power to request details of all properties within the charge to ATED during a chargeable period for compliance purposes. Any failure to notify a charge to ATED or the submission of incorrect information may give rise to a penalty and interest.
- 4.10 HMRC would have the ability to withdraw the facility in cases of non-compliance.
- 4.11 There would be objective criteria for making an application to HMRC for exempt status to avoid disputes and ensure that the process does not become onerous and unwieldy. Criteria could include, for example, the applicant already submitting a Corporation Tax or Non Resident Landlord return.
- 4.12 This criteria would apply equally to all those business customers who are entitled to claim a relief to avoid unfair treatment.

Question 4: What, if any, problems do you see with this approach?

Question 5: What criteria do you suggest are adopted in order for customers to apply for and be granted exempt status?

Question 6: Do you agree that continued entitlement to the status should be confirmed periodically and if so, how frequently?

Question 7: Which of the two options do you prefer and why?

5. Other considerations

The date at which new dwellings or dwellings produced from other dwellings come within the charge to ATED

- 5.1 During the course of our informal discussions a number of stakeholders raised the difficulty of identifying the date at which a newly built or renovated property comes within the charge to ATED. Currently the date adopted is the earlier of:-
- the date the property comes within the charge to Council Tax (or, in Northern Ireland, Rates) and
 - the date it is first occupied.
- 5.2 An ATED return must be submitted within 90 days of this date and failure to do so may result in a penalty. In many instances a property is disposed of prior to occupation so customers have to use the Council Tax date.
- 5.3 HMRC are aware that there may be a delay in establishing the date at which the property comes within the charge to Council Tax and for this reason some customers are being charged a penalty for the late submission of a return.
- 5.4 It is also acknowledged that the date at which a property comes within the charge to Council Tax may vary depending on the Local Authority into which the property falls.
- 5.5 Whilst this mainly affects those businesses trading in property and the impact may be negated by a change to the filing requirements, it is recognised that other ATED customers may be similarly affected.
- 5.6 HMRC would therefore be willing to consider the adoption of an alternative date to establish when a property comes within the charge to ATED.

Question 8: Is there an alternative date or trigger which could be adopted and would provide certainty and consistency in the case of newly constructed dwellings or dwellings produced from other dwellings?

Communicating the changes announced at Budget 2014

- 5.7 With the reduction in the thresholds it is envisaged that a further 36,000 non-natural persons will come within the charge to ATED and HMRC are keen to ensure that these customers are aware of their filing obligations.

Question 9: Do you have any suggestions as to how to ensure that the changes announced at Budget 14 are communicated to those who may be affected?

6. Assessment of Impacts for ATED, ATED-related CGT and SDLT at 15%

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19
	+35	+70	+90	+80	+90
	These figures are set out in Table 2.1 of the Budget and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside the Budget.				
Economic impact	The measure is not expected to have any significant economic impacts.				
Impact on individuals and households	<p>Individuals who are the beneficial owners of companies/properties subject to ATED will be directly affected by the charge. Approximately 12,000 individuals are estimated to be indirectly affected by this measure through their interests in NNPs that purchase UK residential property, such as companies, partnerships including company members, and collective investment schemes.</p> <p>For ATED purposes, these bodies will need to value their residential property every five years, complete an annual return and pay the correct amount of ATED.</p>				
Equalities impacts	These changes are not expected to have an impact on any protected equality group.				
Impact on business including civil society organisations	<p>Businesses purchasing residential property costing between £500,000 and £2 million are already within the scope of SDLT, and the 15 per cent higher rate will be administered through the current SDLT regime. The SDLT measure should therefore give rise to negligible additional administrative burdens.</p> <p>Unincorporated businesses will be unaffected by this measure and will have no self assessment requirement. Most corporate businesses do not buy, hold or sell residential property worth over £500,000 and will be similarly unaffected.</p> <p>ATED impacts on businesses holding residential property. An estimated 9,000 corporate businesses that do buy or hold residential properties worth more than £500,000 will be able to claim relief against the charges, but most will incur an additional administrative burden through having to file a return within the prescribed time limits, or through amending a return. For ATED purposes they will not be required to accurately value residential properties eligible for relief.</p> <p>The Government will consult on possible options to simplify the administration of ATED, especially for property businesses eligible for reliefs.</p> <p>The measure should not significantly impact on charities as these are exempt under the current legislation.</p> <p>Estimates of compliance costs are shown in the table below, including an estimate of total costs for a five year period at present value.</p>				

	Cost	Time Period (yrs)
Compliance Costs		
One-off Costs	Negligible	N/A
Average Annual Costs	£2.5m	5 years
Total Costs (PV)	£11.2m	N/A
Compliance Benefits		
One-off Benefit	N/A	N/A
Average Annual Benefit	N/A	N/A
Total Benefit (PV)	N/A	N/A
Net Benefit (NPV)	-£11.2m	N/A
Impact on Administrative Burden (included in Net Benefit)		
Increase	Decrease	Net Impact
£0.3m	£0m	£0.3m
Operational impact (£m) (HMRC or other)	<p>The change to the SDLT regime will not require changes to HMRC systems and any additional compliance work arising will be resourced according to risk.</p> <p>Processing additional ATED returns will require IT systems changes and additional staff resource. Additional compliance work will be resourced according to risk.</p>	
Other impacts	Other impacts have been considered and none have been identified.	

7. Summary of Consultation Questions

Questions on option 1

Question 1: What, if any, problems do you see with this approach?

Question 2: Should this option be adopted are you content that the statement or balancing return should be submitted by the 30 April in the next chargeable period?

Question 3: Do you agree that only those claiming the same relief for multiple properties should be included in this option?

Questions on option 2

Question 4: What, if any, problems do you see with this approach?

Question 5: What criteria do you suggest are adopted in order for customers to apply for and be granted exempt status?

Question 6: Do you agree that continued entitlement to the status should be confirmed periodically and if so, how frequently?

Question 7: Which of all the options do you prefer and why?

Questions on other considerations

Question 8: Is there an alternative date or trigger which could be adopted and would provide certainty and consistency in the case of newly constructed dwellings or dwellings produced from other dwellings?

Question 9: Do you have any suggestions as to how to ensure that the changes announced at Budget 14 are communicated to those who may be affected?

8. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

How to respond

A summary of the questions in this consultation is included at chapter 7.

Responses should be sent by 16 September 2014, by e-mail to ated.consultation@hmrc.gsi.gov.uk or by post to:

ATED Reducing the Administrative Burden for Business Consultation
HM Revenue & Customs
ATED Policy Team
Room 3C/20
100 Parliament Street
London SW1A 2BQ

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC Inside Government](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles. [If you wish to explain your choice of consultation period, this is the place. Also, if you are holding additional meetings or using alternative means of engaging, please mention this here].

The Consultation Principles are available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

Olly Toop, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.

Annex A: List of stakeholders involved in the informal discussions

Barratts PLC

British Land Company

British Property Federation

Burges Salmon

Cadogan

Chartered Institute of Taxation (CIOT)

Clifford Chance

Council for Licensed conveyancers

Deloittes

Ernst & Young

FTI Consulting

Grosvenor

Hunters Solicitors

KPMG

Law Society

National Landlords Association

Rawlinson & Hunter

Smith & Williamson

Stephenson Harwood

Taylor Wimpey PLC

Annex B: Summary of ATED filing dates

ATED Chargeable period runs from 1 April to 31 March

Return	Circumstances	Filing Date (Payment date = filing date)
ATED Return	<p>Chargeable person is within ATED on the first day of a chargeable period</p> <p>There has been an acquisition of a single-dwelling interest</p> <p>There has been an acquisition of a newly constructed single-dwelling interest or dwellings are produced from other dwellings.</p>	<p>30 April falling in the chargeable period</p> <p>30 days after the date of acquisition/transaction</p> <p>90 days from the earliest date on which the dwelling is deemed to come into existence for Council Tax purposes or the day on which the dwelling is first occupied.</p>
Amendment of ATED Return	<p>Where a repayment is due (e.g. dwelling is sold/demolished; relief can now be claimed) or where certain information contained within the original return was incorrect.</p> <p>Note: taxpayer must tick the amended return box and, where appropriate, the repayment box on the ATED return.</p>	<p>At any point within 12 months of the end of a chargeable period.</p> <p>If the original return was filed or after 1 January following the end of the chargeable period to which the amendment relates the filing date is 3 months from the date that return was filed.</p>
Return of Adjusted Amount (otherwise known as a Further Return)	<p>Required where additional tax is due and either</p> <ul style="list-style-type: none"> An event occurs during the chargeable period which gives rise to an additional tax liability; An event occurs after the end of the chargeable period which gives rise to an additional tax liability. <p>Note: taxpayer must tick the Further Return box on the ATED Return</p>	<p>30 days from the start of the next chargeable period i.e. 30 April.</p> <p>Within 30 days of the date on which the event occurred which gave rise to that additional tax liability.</p>

Annex C: ATED Bands and Annual Charges

Property value	Annual chargeable amount 2013 to 14
More than £2 million but not more than £5 million	£15,000
More than £5 million but not more than £10 million	£35,000
More than £10 million but not more than £20 million	£70,000
More than £20 million	£140,000

These were increased for the chargeable period 1 April 2014 to 31 March 2015 as follows:

Property value	Annual chargeable amount 2014 to 15
More than £2 million but not more than £5 million	£15,400
More than £5 million but not more than £10 million	£35,900
More than £10 million but not more than £20 million	£71,850
More than £20 million	£143,750