



# Property seminar

## Looking to the future: Property trends and Brexit

27 June 2018

# Agenda

- Introductions – a bit about BKL
- The state of the sector – according to Ian Marcus
  - Questions for Ian
- Planning for the future – tax implications of succession planning
- Tax implications of Brexit / Labour Government
  - Questions for BKL

# Property and BKL

- Largest single industry sector in our client base
- 25% of our practice are property clients
- More than 30 people in our property team
- Over 230 years of collective experience
- Who we help:
  - Overseas investors; property investment companies; commercial and residential property developers; construction industry; businesses which own or lease property; estates and landowners
- How we help:
  - Property investment, development and trading; tax planning and structures; back office support; funding; VAT; service audits and more

# Estate planning – investment

- Inheritance Tax
  - Make a lifetime gift
  - No immediate inheritance tax charge
  - Survive seven years
- What's the problem?

# Estate planning – property investment

- Capital Gains Tax
  - Gift is a disposal (like a sale)
  - Treated as made at market value
- Stamp Duty Land Tax
  - No SDLT if no consideration
  - **But** if donee takes over the mortgage

# Estate planning – trading assets

- Trading businesses
- Shares in trading companies
- Inheritance Tax
  - Business Property Relief
  - 100% or 50% relief
- Capital Gains Tax
  - Donor and donee can elect to “hold over” the gain

# Remortgage

- Remortgage and give away the cash
- Doesn't have to be third-party mortgage
- Could borrow from friend or family
  
- Simple!
- Increase in property value still in estate
- Donor has to service the mortgage
- Lifetime mortgages

# Nil rate band trusts

- Transfer to a discretionary trust for adult children
- Immediate Inheritance Tax charge
  - Property less than nil rate band £325,000
  - Or £650,000 for a married couple
- Property > nil rate bands
  - Sell for excess
  - £700,000 property – sell to trust for £50,000
  - SDLT



# Nil rate band trusts

- Normally settlor can't have any interest
  - PPR (no gain)
- Retention of part of the income
  - Own 50% outright; 50% in trust
  - Not for owner occupation
- 10 year anniversary charge
  - Distribute property immediately before
  - Holdover relief not available

# Reinvest in EIS shares

- An idea for property investment companies with cash
  - Company pays a dividend to shareholder
  - Shareholder invests cash in EIS shares
  - 30% EIS income tax relief on shares
  - Shareholder gifts shares to children
  - Gain rolled over into EIS investment
  - Can repeat annually
- Assumes happy to make EIS investment
- Only up to limits of EIS reliefs

# Freezer share planning

- Convert ordinary shares in property investment company to two classes:
  - A shares entitlement to fixed capital / income
  - B shares entitled to anything over the fixed
- Gift B shares to children
- B shares must have low value at date of gift
- Deals with upside but not current value
- Only if growth in value more than fixed value

# Family Investment Companies

- Set up a company owned by children
- Parents lend money to the company
  - Can be interest-free (repayable on demand)
  - Parents can have a share giving voting control
- Company buys investments / property
- Growth in value outside estate
- Loan to company still in parents' estate
  - Give away loan

# Incorporation

- Personally owned property investment portfolio
- Freezer planning doesn't work
- How to get portfolio into a company?
- Capital Gains Tax Incorporation Relief
  - Portfolio must be a business
  - Larger portfolios / actively managed

# Incorporation

- Plusses of company ownership
  - Lower Corporation Tax
  - Avoids impact of buy-to-let interest rules
- Minuses of company ownership
  - Tax on dividends
  - Tax on sale
  - Inheritance Tax?

# Incorporation

- X owns property worth £1m
  - X dies – Inheritance Tax 40% = £400,000
  - Children sell property – CGT £nil
- 10 years before he dies, X transfers property to company – when value = £200,000
- X dies when property value = £1m
  - Inheritance Tax = approx £400,000
  - Company sells property – gain = £800k; tax £152k
  - More tax on distribution

# Non-UK domiciles

- Previously
  - Own UK property via a non-UK company
  - Non-UK company outside estate
- From April 2017
  - All residential property within Inheritance Tax
  - Commercial remains outside (for now?)



# Brexit and tax

- Possible immediate impacts
  - Import VAT and Customs duties
  - Corporate tax – intra-EU tax free dividends, interest and royalties
- Longer term impacts
  - Non-discrimination tax legislation
    - Transfer pricing; corporate interest

# Brexit and tax

- UK residents owning property in EU states
  - Some states impose higher property taxes (eg CGT rates) on non-EU residents
  - Will UK residents be protected going forward?
- Changes to property VAT system / rates
  - At present, boxed in by EU rules
  - Could in theory completely revamp?

# Labour Government and tax

- ?
- Last election manifesto
- Corporation tax rate – 26%
  - Profits < £300,000 21%
- Income Tax
  - £80,000+ 45%
  - £123,000+ 50%
- Says affects only top 5% of earners
- Caution buy-to let landlords' interest

# Planning for Labour Government

- Offshore Company Property Levy
  - Sale of property by offshore trusts – 15%
- Reform of Council Tax and Business Rates
  - Land Value Tax – levy based on value of property
  - Wealth tax?
- Infrastructure
  - 1m new homes
  - Prioritise brownfield sites
  - Spending on infrastructure and transport projects
  - Reintroduction of rent controls

# Planning for Labour Government

- Emigrate
- Extract money from companies now?
- Bring forward income or gains where possible?
- Estate planning – bring forward?

# Thank you



**Myfanwy Neville**

Partner and Head of Property  
myfanwy.neville@bkl.co.uk



**Andrew Levene**

Senior Property Tax Adviser  
andrew.levene@bkl.co.uk



**Jason Appel**

Partner  
jason.appel@bkl.co.uk