

Property acquisition by non-Irish resident persons

Finally, it is worthwhile mentioning one other category of recent enquiries, who are non-resident asset purchasers looking to Ireland. There are some significant tax issues for this category to consider. The structuring of a transaction may depend on whether the property being acquired is in turn going to be rented out. Notably any income on an Irish situate property is considered Irish source income and therefore within the charge to tax regardless of the residence of the owner. If the property is held directly by an individual, the tax rate can be up to 41% depending on the level of income earned.

Alternatively, if an Irish resident company is to acquire the property, consideration must be given to the possibility of a close company surcharge which can arise where a company is under the control of five or fewer persons with the surcharge being an additional tax charge of 20%, applying to the undistributed rental income being income undistributed by the company within 18 months of its year end. Income within an Irish resident company will be taxed at 25% so as a result of this and the potential surcharge, using an Irish resident company may not be tax effective.

Investing in Irish real estate by using a non-resident company is also possible, as the standard rate of income tax at 20% applies, but this will be further dependent on the tax treatment of such a company where such company is tax resident. No close company surcharge arises where there is a non-resident company. An Irish held property is within the charge to Capital Gains Tax (**CGT**) on account of the fact it is an Irish situate asset. Prospective non-resident investors will be pleased to note an exemption from CGT in respect of Irish property purchased before 31 December 2013. If a property is acquired during this period and held for at least seven years the capital gains related to that seven year holding period, will be fully relieved from Irish CGT. Where property is held for longer than seven years the relief from CGT allowed is the proportion that seven years bears to the total period of ownership.

Finally, consideration should also be given to Irish Capital Acquisitions Tax (**CAT**). It can apply where the disponent or donee of a gift or inheritance is Irish resident or Irish ordinarily resident or where the subject of the gift or inheritance is Irish situate assets. Again holding an Irish property directly brings that property within the charge to CAT. However where property is held through a non-resident company, the shareholders of which are non-Irish domiciled, a gift or inheritance of shares in that company will be exempt from CAT in those circumstances.