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For Indian HNWI's there is no escaping UK's inheritance tax

LUBNA KABLY, TNN | Aug 12, 2015, 08.33 AM IST

MUMBAI: Rich Indians who have invested in residential properties in the United Kingdom (UK) will now have to deal with the issue of inheritance tax, from which their heirs are unlikely to escape.

United Kingdom (UK) has in its recent budget, which was introduced in the Parliament in early June, plugged a loophole which enabled foreign property buyers to avoid inheritance tax (IHT). Such avoidance was possible by routing property investments in UK via an offshore company or by using a dual structure of an offshore trust and offshore company for investments in UK properties. The budget proposals are expected to be finalised by October.

"From April 2017, any holding structure will effectively be treated as a look-through and all UK residential property will be subject to UK inheritance tax. Thus, heirs of Indian-resident property owners will be required to pay inheritance tax regardless of any tax planning undertaken. The new rule is designed to counter offshore tax structuring which enabled avoidance of inheritance tax on UK residential property," explains Kannan Raman, Tax Director, EY UK.

"The shares held in the offshore company, were a non-UK sited asset for inheritance tax purposes. Thus the value of the property, fell outside the UK estate inherited by the heirs and IHT was not trigged," explains Raman.

A dual structure, where an offshore trust held shares in an offshore company, which in turn owned UK property was also used, if there was a possibility of the Indian resident investor becoming a UK tax resident in the future.

In this case, the trustees were appointed in a favourable low tax countries (like Jersey, British Virgin Islands, Cayman, Mauritius) and managed the assets, including the UK property.

TOI has in an earlier article, cited figures from UK's land registry which shows that non-UK based Indian buyers spent almost £450 million purchasing some 221 residential properties in prime central London with the top three most popular locations being Mayfair, St Johns Wood and Belgravia.

Currently, the value of UK estate, above the nil-rate (exempt) band of Great British Pounds (GBP) 325,000 or Rs 3.25 crore Is subject to IHT at 40%. Wetherell, a Mayfair real estate agent has highlighted that Indian buyers typically spend anything from £1million to £20 million (Rs. 10 crore to Rs. 200 crore) on purchasing a home in Mayfair, with 70% buying an apartment or penthouse and the balance acquiring a mansion. This means that in the coming years, heirs will have to cough up substantial IHT.

Jeremy McGivern, founder of Mercury Homesearch, London's property search agents says: "This budget proposal is unlikely to have a major effect on the core London market. London will continue to be attractive for international and Indian property investors."

"However, it is likely that some owners of London property will decide to sell, now that they cannot avoid IHT by using an offshore vehicle," he adds.

Further, assuming the heir is a tax resident of India, there will be no tax credit available in India for the UK inheritance tax borne by the heir. "Tax credit under the India-UK tax treaty is available when the income is doubly taxed. Under the India Income-tax law, any property received under a will or by way of inheritance is not taxable in India. Thus, there is no question of double taxation and tax credit. Further, the taxes under the India-UK tax treaty does not cover inheritance taxes. Accordingly, the heir will not be able to enjoy any tax credit under the India-UK DTAA," explains Sonu Iyer, tax partner at EY-India.

The new income-tax returns also call for extensive details on overseas assets and income. Thus, on inheriting the UK properties, details will have to be furnished by their heirs in their tax returns.