

New Guernsey Document Duty Laws come into force

Insights - 16/11/2017

The Document Duty (Guernsey) Law, 2017 and the related Document Duty (Anti-Avoidance) (Guernsey) Law, 2017 came into force on 15 November.

One of the main changes brought about by the new laws is that the purchaser of shares in a company which owns Guernsey realty will now have to pay document duty. Previously those transactions could be completed, quite legally, without payment of document duty.

The new laws now state that duty will be chargeable on transactions which have the effect of giving the buyer a "significant benefit arising from, or relating to, real property", which will include the obvious, like the right to occupy the property (or control who does), and less obvious benefits such as the right to receive rent or other income from the property, and the right to enjoy the property.

There are a number of exemptions, including transactions between certain family members, transactions involving partnership property and transactions of property used for a company's or partnership's business. Where duty is payable the rate will be same as if the property had been bought by conveyance.

The new law is expected to effectively bring an end to the practice of selling a house by share transfer – after all, if there is to be no saving on duty, there will have to be a very good reason to risk buying a company. The acquisition of commercial property by share transfer will also be seen less frequently, but there may be other reasons why a buyer wishes to acquire the company which owns that property rather than buying the property by conveyance.

The new Anti-Avoidance Law and the related Document Duty law have brought about some significant changes to the way document duty is charged in Guernsey. It is difficult to say how much revenue the new Anti-Avoidance measures will raise for the Island, but with recent increases in the rate of duty it could be millions of pounds a year.

We would advise anyone who believes they may be affected by these new changes to speak with their property lawyer.

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