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## NEWSLETTER

Spring 2016

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## WELCOME

**“Change” has been a recurring theme in our recent newsletters. Some of that change is now crystallising and March 2016, in particular, has seen the introduction of legislation at Scottish and UK level, which will have significant implications for many of our clients.**

The implementation of the Scottish Government's land reform agenda has advanced further with the passing of the Land Reform Bill in mid-March. The programme of change is high on the Scottish rural property agenda. Our associate Philip Buchan summarises the key provisions of the Bill which will affect land owning clients and he alerts us to what will happen next, alongside the new, accelerated regime for registering land titles in Scotland.

For home owners, there have also been game-changing headlines. Andrew Stephen's summary of the property market flags up the new tax charge on second home purchases, which ties in with our tax update on Capital Gains Tax (CGT) for the property investor.

Around Budget time, tax usually becomes a hot topic, and the Chancellor's recent Budget was no exception. Taxation advice is central to Murray Beith Murray's practice and, in February this year, we were pleased to be joined by Neil Ross whose own private client tax practice now complements our existing tax team led by our Tax Director, Sean Cockburn.

On a final 'tax' note, it's interesting to observe that the First Minister in Scotland has, so far, not made quite so much of the new tax raising powers in Scotland, as had been anticipated a year ago. As Peter Shand points out in his article, tax rates can influence behaviour and perhaps it is with that in mind, that the Scottish treasury, for the time being at least, remains reluctant to change too much.

**Hugh Younger**  
Senior Partner

# Land Reform and Agricultural Holdings

## Update

The Land Reform (Scotland) Bill was passed by the Scottish Parliament on 16 March 2016. The following is a summary of the Bill as passed:-

## Land Reform

- The Scottish Ministers must prepare and publish within 12 months of the relevant section coming into force a Land Rights and Responsibilities Statement of their objectives for land reform. The statement must be reviewed every 5 years and laid before the Scottish Parliament. The Scottish Ministers are to have regard to European Convention rights and wider international human rights provisions.
- The Statement will be enforced by a new Scottish Land Commission, which the Scottish Ministers will appoint. In appointing members to the Commission, the Scottish Ministers must have regard among other things to human rights, equal opportunities and the reduction of inequalities of outcome which result from socio-economic disadvantage.
- The Commission will include a new Tenant Farming Commissioner (the "TFC"), who will prepare and promote codes of practice on a range of agricultural matters. The TFC is to prepare and submit a report to the Scottish Ministers on the operation of agents of landlords and tenants in relation to agricultural holdings within 12 months of the provision coming into force.
- The Scottish Ministers must (rather than may) make regulations (a) requiring information to be provided about persons who have "controlling interests" in owners and tenants of land and (b) about the publication of that information in a public register. The detail is to follow in secondary legislation expected by the end of next year. There will be penalties for non-compliance with the registration requirements.

## Core Paths

- The Bill provides for the review and amendment of the existing Core Paths Plan. The local authority must serve notice on the owner and occupier of any land which is, as a result of an amendment of the plan, being included in a plan for the first time and specify the period within which any objections and representations may be made.

## Sporting Rates

- The Bill ends the non-domestic rates exemptions for shootings and deer forests.

## Deer Management

- Scottish National Heritage (SNH) has been given power to require owners (usually through deer management groups) to produce Deer Management Plans within 1 year of service of a notice. SNH is responsible for approving the plans and it may also amend them in consultation with the deer management group. The penalty for non-compliance with control schemes is increased to a maximum of £40,000. SNH can require selected owners to make a return showing how many deer of each species and of each sex are planned to be culled in the following year. There is a £1,000 penalty for non-compliance. SNH must carry out a 3-yearly review of compliance and the effectiveness of the Code of Practice on Deer Management and report its findings to the Scottish Ministers.

## Engaging with Communities

- The Scottish Ministers must produce guidance for landowners and tenants on engaging with the community in decisions relating to land. The guidance must include information about (a) the types of land and types of decision in relation to which community engagement should be carried out, (b) the circumstances in which persons with control over land (for example, owners and occupiers) should carry out community engagement and (c) the ways in which community engagement should be carried out.

- The Bill includes a right to buy land to further sustainable development, an undefined term. It is important that there is the likelihood of significant benefit to the community if the land is transferred and harm to the community if it is not. A limited range of land types is specifically excluded (for example, croft land) but the Scottish Ministers may add to the list with secondary legislation. The right to buy is not limited to rural land. The Keeper of the Registers of Scotland must set up and keep a Register of Applications by Community Bodies to Buy Land.

## The Agricultural Tenancy Sector

- The Bill provides an MLDT as the vehicle for future agricultural tenancies which will replace existing Limited Duration Tenancies (LDTs). However, existing LDTs are maintained. Any new agricultural tenancy entered into for a term of not less than 10 years (other than a lease constituted as a 1991 Act tenancy) will be an MLDT and any lease purporting to be for a term of more than 5 but less than 10 years will be considered to be an MLDT with a duration of 10 years. The Bill allows 1991 Act tenancies and LDTs to be converted into MLDTs by agreement between the landlord and tenant.
- MLDTs are intended to offer increased flexibility to landlords and tenants by permitting them to negotiate lease provisions in relation to fixed equipment, rent and purposes of the lease and encouraging lets to new entrants by offering MLDTs with 5-year break clauses. The continuation period for MLDTs is 7 years rather than the 3 years followed by 3 years followed by 10 years cycle (which is the case for existing LDTs).
- Short Limited Duration Tenancies (SLDTs) are not expressly abolished. (These cover the let of land for up to 5 years). Tenants on an SLDT, who remain in possession with the landlord's consent, would see their tenancy convert to a Modern Limited Duration Tenancy (MLDT).

- The Bill removes the requirement on 1991 Act tenants to register with the Registers of Scotland in order to be eligible to exercise the right to buy their holding upon a proposed sale, with the result that all 1991 Act tenants have a pre-emptive right to buy.
- The Bill enables a tenant farmer under a 1991 Act tenancy to apply to the Land Court for an order compelling the landlord to sell the agricultural holding if the landlord fails to carry out an obligation under a 1991 Act tenancy when ordered to do so by the Land Court. The property must in the first instance be offered to the tenant but if the tenant does not wish for whatever reason to buy, the tenant may apply for an order for the property to be sold, subject to the tenancy, to a third party.
- Rent reviews under 1991 Act tenancies, LDT's and MLDT's are to be determined primarily on the basis of the productive capacity of the holding rather than on an open market calculation.
- The Bill widens the class of people to whom tenant farmers can assign their 1991 Act tenancy and to whom they can leave their tenancy upon death. The Bill also amends the provisions relating to assignation and succession of LDTs and makes provision for assignation of MLDTs and repairing tenancies.
- There is a new provision which allows 1991 Act tenants to seek to relinquish their tenancy to the landlord in exchange for compensation assessed in accordance with a statutory formula. If the landlord does not wish to pay the compensation, the tenant may assign the tenancy for value to any individual who is a new entrant to, or is wishing to progress in, farming. "New entrants" and "farmers wishing to progress" will be defined in secondary legislation.
- The Scottish Ministers must review the legislation governing small landholdings and lay a report before the Scottish Parliament before 31 March 2017.

# Sasine Register closed to Standard Securities

**The General Register of Sasines, Scotland's – and the world's – oldest property register which was introduced by the Registration Act 1617, is being gradually closed. The Register's name comes from the old French word 'seizer', which means 'take'.**

The Land Registration (Scotland) Act 2012 closed the Sasine Register to certain deeds which now have to be registered in the plan-based Land Register. The Registers of Scotland (Voluntary Registration Amendment of Fees, etc) Order 2015 has added to the list of deeds which will induce registration in the Land Register and the Sasine Register was closed to standard securities on 1 April 2016.

As part of its land reform agenda, the Scottish Government has said that all land in Scotland must be registered in the Land Register by 2024. To encourage this, the 2015 Order also discounted voluntary registration fees by 25% until 2017 and for the time-being no registration dues are payable for the voluntary registration of land subject to a standard security. This is of benefit to landowners contemplating voluntary registration of land.

The English & Welsh Land Registry ran a similar voluntary registration campaign some years ago. This was a success and the incentives ended. A penalty system is now used and additional triggers have been introduced to prevent land passing through family generations without inducing registration.

If you would like a copy of our **Guide to Voluntary Registration of Land**, please contact [philip.buchan@murraybeith.co.uk](mailto:philip.buchan@murraybeith.co.uk)



# Private Tenancies (Scotland) Bill Passed

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**At the turn of the year we discussed a few of the issues surrounding the Scottish Government's Private Housing (Tenancies) (Scotland) Bill (the "Bill"). The Bill was passed on 17 March 2016 and introduces a new statutory form of tenancy - the private rented tenancy ("PRT") - which will be established through secondary legislation once the Bill becomes law. It is expected PRT's will come into use in 2017 and they are intended to replace short assured tenancies and assured tenancies.**

The Bill is concerned with property which is let to an individual where the tenant occupies the property (or any part of it) as the tenant's only or principal home (although a tenancy will not cease to be a private residential tenancy by reason that this is no longer satisfied).



During the passage of the Bill, the parliamentary debates raised numerous questions as to how to balance a tenant's needs for affordable housing and employee accommodation (particularly, accommodation for key workers on country estates) with a landlord's desire for a thriving rental market. The impact of the Bill upon the urban and rural sectors has been a constant thread throughout. A few of the main changes can be summarised as follows:

## 1) Tenancy Period

The draft Bill originally provided for an initial term of 6 months for all new leases, giving landlords and owners the reassurance that their rental income would be secure for a certain period of time. The "lock-in" period has, however, been dropped amid concerns that it may prejudice certain individuals, such as vulnerable groups who may need to terminate their tenancy earlier. The tenant will be free to serve a notice to end the tenancy at any time.

## 2) Landlord's duty to provide information

Where the terms of a private residential tenancy are not set out in writing, the landlord must provide the tenant with a document which sets down all of the terms of the tenancy within certain specified time limits, failing which the tenant may apply to the First-tier Tribunal for recourse. The Scottish Ministers have been given the power to impose a duty on landlords to provide tenants with certain information (to be specified in secondary legislation). The First-tier Tribunal will have power to sanction a landlord for failure to provide the required information.

## 3) Rent Pressure Zones

The Bill has introduced rent pressure zones ("RPZs"), giving local authorities discretion to request an area be designated as a RPZ. Once designated, rent in an RPZ would become capped, based on a formulaic calculation. On an application made by the landlord, improvements made to the let property by the landlord may be taken into consideration when the rent payable under the tenancy is determined.

## 4) Student Accommodation

Student lets granted by universities and educational bodies are exempt from the legislation. The list of exemptions includes private providers of purpose built student accommodation albeit narrowly.

## 5) Grounds for Eviction

Currently, the most popular type of tenancy, the short assured tenancy can be terminated by a landlord at the end of a fixed term (known as the "no-fault" ground for repossession). This allows landowners the flexibility to let domestic properties on the basis that they can re-allocate the property to be occupied by employees when required. This ground does not, however, feature in the 16 new grounds of repossession and its removal will seriously impact upon residential letting in the countryside. During the parliamentary process, it was suggested that the existing notice period could be extended to the benefit of tenants or that an additional ground for eviction could be introduced where property is required for a new employee, but these suggested amendments have not been passed. It is anticipated that the private rented tenancy regime will reduce the quantity of rental stock in rural areas as landowners maintain the availability of properties for their key workers. Due to the weakening of the grounds for eviction, it is possible that agents will advise purchasers to avoid taking on domestic properties without vacant possession when rural land which includes let domestic properties is transferred.

The concern is that the reform has gone too far and the balance between the needs of tenants and landlords has not been achieved. It is expected that the dilution of the grounds for repossession will increase litigation and there is strong feeling in the rural sector that the changes will ultimately hamper would-be tenants and rural business in general as landlords react by removing properties from the letting market. It is hoped that secondary legislation will allow a landlord to repossess a property if it is required for a key employee.

# Wild Fisheries Reform

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**For those interested in Wild Fisheries in Scotland the Scottish Government is pushing forward with a number of the Reforms identified in the 2014 Wild Fisheries Review.**

In February the Scottish Government issued a Salmon Conservation Order covering Scotland and that part of the Tweed which lies in England, the effect of which is to stop the netting of salmon in coastal waters outwith estuary limits. They also made regulations which provide for all net caught fish in inland waters to be carcass tagged. These regulations all come in to force on 31 March 2016.

The new regulations also affect inland rod fisheries since they link the ability of fishery owners to kill salmon to the conservation status of the river. For those rivers with the most robust stocks it will remain possible for fish that are caught to be kept. These rivers are principally Scotland's main salmon rivers. For the remainder of Scotland's rivers all salmon caught must be returned to the river.

In late February the Scottish Government then published a Consultation paper on the provisions of a Wild Fisheries (Scotland) Bill. This Bill amongst other provisions envisages the replacement of the existing District Salmon Fishery Boards which represent fishery proprietors by new Fisheries Management Organisations (FMO's) which are intended to be more representative of the different interest groups in each of the new Fisheries Management Areas (FMA's) which are intended to cover more than one catchment area in the interests of efficiency and may be 12 to 18 in number in Scotland. Response to the Consultation is required by 2 May 2016.



## Brave New World

**The subject of Digital Tax Accounts (DTAs) is not a particularly popular one but it is apparent that the Government is determined to reform the UK tax system as we currently know it and replace it with a structure fit for the digital age.**

The broad principle is to create a DTA for every taxpayer, which is updated in real time and pre-populated with information already available to HMRC. The taxpayer will then be able to interact with HMRC digitally, just like online banking, to see their liabilities and entitlements and make payment of tax liabilities.

The consequences of such a radical reorganisation are far reaching and it is anticipated that self-assessment tax returns will be abolished within the next 5 years. The new regime is to be introduced for small businesses from April 2018 and phased-in to all businesses by 2020; however HMRCs record for meeting similar deadlines is not great, so the tax return might be around for a few years yet.

For taxpayers, many will see a reduction in their compliance burden where HMRC is able to retrieve all of the information they require from third parties, such as employers and

banks. However, the self-employed and those in receipt of rental income will be asked to upload their income and expenditure on a quarterly basis, substantially increasing their compliance burden. This is in order to enable HMRC to process the information in as close to real time as possible which, in due course, may result in the end of the payments on account system where tax is paid in January and July of each year. It is expected that taxpayers will ultimately be required to pay tax on more of a 'pay as you go' basis, preventing large irregular tax bills.

Regardless of the impact on the taxpayer, change is coming and those who embrace it will fare better than those who bury their heads in the sand. Whilst the concept of submitting self-employment accounts to HMRC from your mobile phone may have sounded absurd a few years ago, the technology already exists on the taxpayer's side. And the benefits of receiving tailored prompts from HMRC – such as when someone has a baby, or approaches retirement – are obvious. If the Government and HMRC are able to realise their ambitions, the prize must surely justify the impending frustrations and teething problems. In any case, it's not as if anyone has a choice in the matter...

For further information please contact [sean.cockburn@murraybeith.co.uk](mailto:sean.cockburn@murraybeith.co.uk) or your usual contact.

## CGT and the Property Investor

**An unexpected announcement from the Chancellor in his 2016 Budget was the reduction in CGT rates. The current rates of 18% for basic rate and 28% for higher rate taxpayers have been reduced to 10% and 20% respectively.**

Likely to be considered a gift only for the wealthy investor, the move is designed to provide a boost to the stock market and to encourage investment in business in the UK. The sting in the tail, is, however, the announcement that there will be a surcharge of 8% in relation to the disposal of residential property, other than the primary residence. Effectively, the rates on such disposals remain unchanged. This, of course, includes disposals by non-UK resident individuals on the sale of UK residential property who became subject to CGT regime on 6 April 2015.

For further information please contact [norah.tod@murraybeith.co.uk](mailto:norah.tod@murraybeith.co.uk) or your usual contact.

The buy-to-let investors, who are already having to shoulder the restriction to mortgage interest relief and the loss of the 'wear & tear' allowance, are going to find it comparatively more expensive to reshape their asset portfolios in order to obtain some tax efficiency. This is on top of the additional SDLT/LBTT charge on second and additional property purchases, which will put many buyers off acquiring rental properties from those who want to dispose of them.

All in all, it would seem that there is not a lot of support going out to the property investor at a time when the supply of rented homes is already dwindling. With its exclusion from the cut in CGT rates, property, as an asset class, is a less attractive investment than it once was. Perhaps a sideways step to the Furnished Holiday Letting business, and the use of the capital allowances structure, is an option to be considered.

## Personal Savings Allowance & Bank Interest

**The new Personal Savings Allowance (PSA) will herald the biggest change in bank deposit interest in decades. From April 2016, the tax-free PSA of £1,000 for basic rate taxpayers or £500 for higher rate taxpayers was introduced for interest earned on savings. As the PSA is an allowance, not an exemption, the income will still be included in the individual's total income for the year and the PSA will operate in conjunction with the current 0% starting rate for savings income and £5,000 starting rate limit, both of which remain unchanged.**

A major consequence of the new PSA is that banks, building societies and National Savings will no longer deduct basic rate income tax at source from interest. Unit Trust interest is considered to be savings income and will, therefore, potentially be covered by the PSA; however, there is no mention of this being paid gross.

As a result, some people who do not currently file a tax return may have to do so, if additional tax cannot be collected via a PAYE coding adjustment. For others, it will be necessary to make a tax reclaim in some circumstances.

It is anticipated that, where an individual's savings income is below their available PSA, HMRC will not include any adjustment in their PAYE code. However, where HMRC expect a taxpayer's savings income to exceed their PSA, they will include an adjustment for both the expected savings income and PSA in the PAYE code. Both the level of savings income and the PSA will be based information held by HMRC.

Accordingly, you will want to review your coding notices to make sure any adjustments included by HMRC are reasonable to avoid an under or overpayment arising.

For further information please contact [neil.ross@murraybeith.co.uk](mailto:neil.ross@murraybeith.co.uk) or your usual contact.





## Climate Change and EPCs

**Sustainable. Renewable. Efficient. Just a few of the buzzwords of the 21st century as world leaders, businesses and individuals all endeavour to generate a greener way of living. According to the Scottish Government, there is evidence to suggest that “climate change is one of the most serious threats facing the world” which may be why it has a target of reducing greenhouse gas emissions by 80% by 2050.**

For those in the commercial property sector, the implementation of The Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016 later this year will mean that owning or renting “green” property is no longer purely desirable; it is fast becoming a necessity.

The issue of energy efficiency itself has been at the centre of discussions in Europe for some time. The introduction of The Buildings Energy Performance Directive (EPBD) in 2003 imposed obligations on Member States to set minimum energy performance standards. This in turn led to the introduction of Energy Performance Certificates (EPCs) in 2009 imposing an

obligation on property owners to consider the efficiency of a building prior to selling or renting. EPCs provide property owners with details of the potential carbon dioxide emissions from their buildings graded on a scale from A to G, with ‘A’ being the most efficient and ‘G’ the least. They are accompanied by a Recommendations Report outlining a number of suggested improvements to enhance efficiency. EPCs are now a common feature of most commercial property transactions and owners are required to produce them prior to any potential sale or new letting. New legislation, however, seeks to go further than this by requiring owners to not only produce EPCs but to assess and if required, improve efficiency levels.

The Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016 are expected to come into force later this year. They will not apply to all buildings (green deal approved properties or buildings constructed in accordance with set building standards are excluded) but will affect buildings already subject to EPCs and in particular:

- Non domestic buildings; and
- Building units with floor space of more than 1000 m<sup>2</sup>

The 2016 Regulations introduce the concept of an “Action Plan” requiring owners to not only exhibit EPCs but take steps to improve the energy efficiency of their buildings. This is linked in with section 63 of the Climate Change (Scotland) Act 2009 (the “2009 Act”), whereby Scottish Ministers must (a) provide for the assessment of energy performance for non-domestic buildings and greenhouse gas emissions and (b) require building owners to take steps to improve the energy performance and reduce emissions.

Recent legislation in England and Wales has also added fuel to the fire. The Energy Efficiency (Private Rented Sector) (England and Wales) Regulations 2015 (otherwise known as the minimum energy efficiency standards (MEES)) introduced a new minimum energy efficiency standard of ‘E’ rating. These provisions will take effect from 1 April 2018, making it unlawful for any business or residential property to be let out without this minimum rating. There are a few exemptions to this rule, such as lack of cost effectiveness or necessary consents, listed building, or a reduction in property value by more than 5 percent. Nonetheless, non compliance can result in financial penalties, graded by the severity of the breach. It remains to be seen whether a similar approach will be adopted north of the border.

Murray Beith Murray works with clients and other professional advisers to make sure its clients are ready for the introduction of the Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016.

## Where there is a Will there is a way... to give

**It has long been common practice for individuals to leave bequests in their Wills to charity. Whilst such bequests are made primarily for altruistic reasons, they also carry quite significant tax benefits.**

As the economy recovers and house prices rise, more and more individuals are being caught by the Inheritance Tax net. Gifting to charity, however, is exempt for Inheritance Tax and making charitable gifts can, therefore, serve to decrease your overall Inheritance Tax liability on death, making it all the more appealing.

From 6 April 2012, even more emphasis has been placed on making charitable gifts under your Will, as opposed to lifetime gifting, as Inheritance Tax is only charged at a reduced rate of 36 per cent (instead of the usual 40 per cent) if 10 per cent or more of the 'net value' of your estate is left to charity on death.

The net value of an estate is the total value of all the assets after deducting debts and liabilities, any reliefs, exemptions, (for example anything left to a husband, wife or civil partner) and anything below the Inheritance Tax threshold (currently £325,000).

However, the way in which some charities pursue legacies left to them in Wills has come under some scrutiny. Bequests in Wills make up a large proportion of charities' revenue. Some charities do, as a result, now use private search agencies to comb through Wills, which become public documents following death and Confirmation (or Probate in England & Wales), for mentions or bequests in their favour so they can then pursue the payments left under the Will.

A prominent UK charity was recently criticised for doing just that and wrote to the deceased's daughter to ask the very blunt question of whether her father was yet dead.

The deceased, on this occasion, had left a legacy to the charity in her Will but only if she was not survived by her husband. Rather than waiting for the deceased's executors to contact them directly regarding the bequest, the charity wrote directly to the deceased's daughter, as an executor of her late mother's estate, to ask whether her father was still alive. He was, and the charity was not, therefore, entitled to anything under the Will.

Unfortunately, stories such as this are not altogether uncommon, and can be distressing to family members dealing with the loss of a loved one.

One alternative to making outright bequests to a charity in your Will is to set up a charitable trust drawn up under your Will. Setting up your own charitable trust allows you to appoint your own trustees to oversee a programme of annual donations after your death and, in doing so, to retain some control and oversight over the use of the charitable funds from year to year. More than one charity can benefit and this allows charity trustees to exercise flexibility in making charitable donations according to your original wishes.

If the charitable trust is set up under the will, or you leave a bequest in your Will to a charitable trust set up during your lifetime, then as long as the trust meets the prescribed test under the charity laws, this would have the same favourable tax treatment as if you left the bequest to a specifically named charity.

Anne Frank wrote "no one has ever become poor by giving" and there is certainly some good scope to make arrangements during your lifetime which will achieve tax savings as well as being of benefit to charity.





# Investing for Tax Relief

**Morgan Stanley ran an advertisement in 2006 that features a memorable advertising slogan:-**

**“You must pay taxes. But there is no law that says you gotta leave a tip.”**

Off the cuff, yes. But the slogan drives at one of the things that is on everyone's mind and which influences our daily lives. Even in Georgian times, the notorious “window tax” caused many of Edinburgh's New Town residents to block out their windows, from which the term “daylight robbery” was evoked. Hence the reason why an article about tax becomes interesting.

In more recent years, successive governments in the UK (and Scotland) have employed the tax system to influence how people invest their money. The theory is that making changes to the rates of tax, or the reliefs available to certain types of investment, can have a material impact on how investors behave.

For example, one of the growing markets in tax efficient investments is the **Alternative Investment Market** (AIM). We have seen the emergence of investment managers who specialise in investing in UK small companies, listed on AIM. The AIM, which was once dominated by fledgling technology firms until the “tech bubble” burst in 2000, it is now a mature and highly diverse index covering a wide spectrum of sectors.

One of the primary benefits of AIM investing is that, provided that the underlying companies carry on a trade, they may qualify for Business Property Relief. This means that, as long as the shares are held for a minimum of two years prior to your death, they will be exempt from inheritance tax, offering a potentially significant saving.

The other growing area is the **Enterprise Investment Scheme** (EIS) and **Seed Enterprise Investment scheme** (SEIS) which are government initiatives, offering some of the most attractive tax breaks available. These are schemes aimed at boosting investment in small private companies and one of the main advantages is that when you invest, income tax relief will be available on the initial investment set against any UK income tax that you pay in the year of the investment. As with AIM shares, investing in EIS or SEIS shares promises relief from Inheritance Tax.

Otherwise, what about making an alternative investment in trees? **Forestry** can offer multiple benefits, from access and conservation, through to the genuine enjoyment of ownership. Critically for the tax planning, it offers the lure of the same relief from inheritance tax. For those who have an appetite, it is possible to buy forestry assets in your own name. That comes with the complications of managing it and the alternative is to seek greater diversification (and economies of scale) by investing with others in a pooled forestry fund. Forestry is not an inherently liquid asset and will incur administration and management expenses. However, mature timber may be harvested and sold at the appropriate time to generate funds to meet expenses and, potentially, income distributions. Profits on the sale of timber are free of tax for UK tax payers.

Most clients are aware of the benefits of investing in an **‘ISA’** which is a tax efficient “wrapper” for investments. What is relatively new is that the rules now enable the spouse of civil partner of a deceased to benefit from an additional ISA allowance and, therefore, to have more of their savings tax advantaged. The rules now also permit ISAs to invest in AIM stocks, giving the added benefit of tax free growth and income in addition to the potential inheritance tax saving. Finally, recent changes in the **pension rules** have made a big difference to the tax implications of investing in your pension and drawing the benefits from it. The pension is now regarded as one of the core parts of any estate planning exercise and that includes inheritance tax planning.

The challenge with tax rules is that they are ever changing and March's budget is a good example. But there is a cautionary remark to be made. It stands to reason that investing in small companies and special asset classes is risky. For example, shares in an AIM portfolio or an EIS company are likely to be difficult to sell if you decide to come out of the investment. Even worse than paying taxes, investors could also make a substantial loss if a risky investment fails to perform. Some financial commentators would suggest that if a tax attractive investment does not make sense for your portfolio, then it does not make sense at all. To coin another slogan (not Morgan Stanley's), remember not to “let the tax tail wag the dog”.



# Edinburgh Property Review



**The start of 2016 has seen a high level of activity within the residential property market in Edinburgh. However, the shortage of new properties has resulted in a market which favours sellers in general, particularly across the mid and lower value range.**

The top end (above £500,000) continues to be relatively static due to the impact of the new Scottish Land & Building Transaction Tax (LBTT). The most recent statistics from ESPC for residential sales over the last quarter (November 2015 to January 2016) demonstrate that transaction levels increased by 3% against the same period a year earlier. In addition, when comparing the average sale price over the same two periods there was an increase of 1.9%. The number of new homes brought to the market between November and December showed a decrease of 15.1% annually (\*) This may be explained partly by the spike in activity last year ahead of the introduction of LBTT.

Sales in East Central Scotland over the period have risen by 5.1%, with the percentage of sales achieving Home Report Valuation increasing from 46.8% to 58.7% and the median selling time being 37% faster having dropped from 56 days to 35 days. Overall, the last few months have been a very good time to sell.

Recent weeks have seen a flurry of sales activity, not dissimilar to the same time last year, again as a consequence of impending changes to the tax system. Following on from the UK Government's Autumn Statement in November 2015, the Scottish Government proposed, in December 2015, the introduction of a supplementary LBTT levy of 3% on the purchase of additional residential properties in Scotland to take effect from 1st April 2016. The additional tax forms part of a Government strategy to address the perceived problem of first time buyers being outbid by buy-to-let investors despite the fact that, in Scotland, mortgage lending to first time buyers is at its highest level since the middle of 2007 and the health of that sector of the market generally appears to be strong.

The proposed new LBTT rates are set out below. Further information can be found at: [www.gov.scot](http://www.gov.scot)

Purchase price	Existing LBTT rate	Additional Homes Supplement
Up to £145,000	0%	3%
Above £145,000 to £250,000	2%	3%
Above £145,000 to £250,000	5%	3%
Above £325,000 to £750,000	10%	3%
Over £750,000	12%	3%

At the time of writing the draft legislation has yet to be finalised but, based on the current proposals, a number of the main aspects of the additional LBTT levy to consider are as follows:-

### Threshold

The 3% will be levied on all relevant transactions over the value of £40,000. The tax will apply to the entire purchase price, not just the amount exceeding £40,000.

### Main residence

The tax will not apply to first time buyers or individuals who are replacing their main residential property. Where individuals own more than one property but are buying a property to replace their main home they will not be subject to the levy. That said, if the purchase of the new main residence takes place before the sale of the existing one, the 3% levy would be payable initially but is refundable if the sale of the previous main residence takes place within 18 months of the new purchase.

In the event that an individual opts to rent out their current main residence when buying a new property this will be treated as them buying an additional property and the supplement will be payable.

### Property outwith Scotland

Where individuals own such property it will be taken into account when purchasing further property in Scotland and will be subject to the additional 3% charge.

### Exemptions

Where property has been inherited, the acquisition itself will not trigger the charge but any subsequent purchase by the beneficiary will attract the additional tax.

Bulk acquisitions exceeding 6 homes or more will not be subject to the charge.

As is always the case, we would recommend that specialist advice is sought to take account of your own particular circumstances.

\*ESPC House Price Report - January 2016

# News

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**Murray Beith Murray** was announced as a finalist in the annual Scottish Legal Awards. At the awards ceremony, which took place in Edinburgh at the end of March, Shonaig Macpherson, chair of the judging panel, commented:



“In chairing the Judging Panel for the Awards for the first time I was extremely heartened by the breadth and depth of excellence across so many firms and disciplines, with opportunities for talented lawyers to practice at the highest level of their chosen specialism in Scotland. The volume and quality of the submissions for these Awards is a clear signal of the high value that the profession places on them as an aid to building progressive and successful businesses.”

Murray Beith Murray was shortlisted for the Excellence in Client Care category, a new category proving to be the most popular for entries.



## Our Services

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- Trust Administration and Financial Management
- Residential Property and Estate Agency
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- Commercial Property
- Dispute Resolution

Please contact us if you would like to discuss how we can help you.

As part of our environmental commitment, we are encouraging our clients to receive an electronic version of the newsletter. If you would like to receive the newsletter via email, please provide us with your email address to:

**marketing@murraybeith.co.uk**  
and we will update our records.

Thank you.

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