

## USING OFFSHORE NOMINEE COMPANIES TO HOLD TITLE TO UK RESIDENTIAL PROPERTY

Following the introduction of the new ATED legislation (Annual Tax on Enveloped Dwellings) in early 2013, many UK tax advisors are recommending to their foreign-domiciled (and/or foreign-resident) clients that they should avoid using offshore structures to economically own their £2m-plus UK residential properties. Instead, the most common advice now is for the client to own the property directly, and to use allowable debt in conjunction with life insurance to deal with the resulting exposure to Inheritance Tax.

Whilst this advice completely eliminates all exposure to the new ATED legislation, many wealthy foreign individuals will prefer to retain their anonymity as the property owner at the Land Registry. Privacy is of paramount importance to many wealthy individuals and families, and it is very straightforward to maintain privacy of their ownership of the property even when they beneficially own it directly (from a tax perspective).

The solution is to use an offshore company, to be owned directly by the client, and the sole activity of which will be to hold the legal title to the property as bare nominee for the client. The offshore company will have no income and will generate no capital gains. It can even be used as a nominee to hold other assets of the client, if desired. By solely acting as a nominee company, legal responsibility for settling both the very modest administration fees and statutory disbursements can be borne directly by the client, so that the company does not even need to have its own bank account. The preparation of annual financial statements for the company can also be kept to the absolute minimum.

PraxisIFM has devised a very simple service for providing this nominee service. Clients may choose between either a British Virgin Islands (BVI) or a Guernsey company, and the service can be provided from either of our Guernsey or Swiss offices.

The service consists of the following elements:

- Formation of the Nominee Company in either Guernsey or the BVI (following completion of our standard due diligence requirements).
- Providing a board of directors, company secretary, nominee shareholders and registered office/resident agent.
- Accepting the registration of the legal title in the Nominee Company's name.
- Arranging for a Declaration of Trust to be issued to confirm that the legal title is held by the Nominee Company as bare nominee for the client, and arranging for this to be provided to the UK Land Registry by the client's solicitors as evidence of the nominee arrangement. (This is essential to prevent the ATED provisions from being automatically applied).
- If applicable, entering into appropriate documentation with a lending institution to effect their legal security over the property title.
- Adopting board minutes to record all executed documentation.
- Maintaining the Nominee Company in good statutory order, paying all relevant annual statutory fees and maintaining the very simple accounting records.
- When the property is eventually sold, transferring the legal ownership of the title to the new owner and cancelling the Declaration of Trust.

### INDICATIVE FEES AND COSTS

In view of the very low activity and the purely nominee nature of that activity, PraxisIFM has devised an extremely competitive, clear and simple fee structure to minimise the cost of using a Nominee Company to be confirmed on a case-by-case basis.

## A. INITIAL FEES & COSTS

### *Formation Fees and Costs*

£2,000 plus legal/statutory disbursements as follows:

Guernsey company: £100 (approx.)

BVI company: US\$700 (approx.)

### *Transactional Fees and Costs re. Property Purchase*

Accepting registration of legal title to freehold property, liaising with the client's solicitors in respect of drafting a Declaration of Trust and submitting the same to the UK Land Registry - £2,500 (min.)

For a leasehold property, entering into all leasehold documentation, acquiring shares in management company etc. - an additional fee of £750 (min) will be charged.

Entering into Mortgage security documentation (if applicable) - £1,500 (min.)

Any third party disbursements will be charged at cost.

## A. ANNUAL FEES & COSTS

### *All-inclusive Annual Administration Fee*

£2,000 min. (payable pro-rata in year of formation and dissolution) plus statutory disbursements as follows:

Guernsey company: £500

BVI company: US\$650 (approx.)

Any third party disbursements will be charged at cost.

## B. FINAL FEES & COSTS

### *Transactional Fees and Costs re. Property Sale*

Effecting transfer of title and liaising with the client's solicitors regarding the sale of the property - £2,500 (min.)

Dealing with the lender to obtain release from the Mortgage security documentation (if applicable) - £1,000 (min.)

Dealing with the formal striking-off of the company - £500 (min.)

Any third party disbursements will be charged at cost.

## NOTES

- 1) As the sale could be many years in the future, the Final Fees & Costs will be based on the fees and costs prevailing at that time.
- 2) If the company ceases to act as a nominee and becomes the beneficial owner of the property (and/or acquires any other assets), then our Standard Fee Scales for fiduciary services will apply, unless otherwise agreed.

## OTHER SERVICES

PraxisIFM can assist with sourcing appropriate mortgage finance (working with FCA-regulated mortgage brokers, where applicable) and, via our insurance intermediary partners, Strabens Hall Limited, we can assist with sourcing high value term life and whole of life insurance cover for both UK residents and non-UK residents.

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