Two taxing

Laura Hutchinson, Partner at tax specialist Forbes Dawson, considers two recent changes in UK tax legislation and regulation.

Death bed planning

As the rather insensitive name suggests, death bed planning is the last chance to mitigate inheritance tax (IHT). Many people will be familiar with the concept of making gifts and surviving seven years to reduce their liability but what can be done if life expectancy is less than this?

For married couples, there will be no IHT on first death provided the chargeable assets are left to the surviving spouse in the will. The surviving spouse may then have the ability to make gifts and survive the required seven years. If this is not possible, other options need to be considered.

One of the most valuable IHT reliefs is Business Property Relief (BPR). This offers complete exemption from IHT on specific business assets, including shares in unquoted trading companies, provided they have been held for a two year period at the date of death. There are investment portfolios available specifically tailored to attract this relief, typically investing in companies listed on the Alternative Investment Market, which attempt to minimise the risk involved in investing in, what can be, higher risk companies. This is a useful way of converting chargeable cash into an IHT tax-free investment within just two years, without the need for a gift.

If gifts are made within seven years of death, whilst they may not be successful gifts for IHT, they will reduce the value of the estate for the purpose of ascertaining whether the residential nil rate band is available. This is important as this relief is tapered for estates valued over £2m, thus such a gift could inadvertently result in up to a £140,000 IHT saving.

Stamp Duty Land Tax (SDLT)

SDLT on UK residential property has seen significant changes over the last few years with changes from the 'slab' system (a single rate of SDLT if the property value falls within a specific price bracket) to the slice system (a tiered system of charge). This new system is beneficial for those properties falling below £937,500 and is designed to collect greater SDLT on more expensive properties.

From 1 April 2016 an additional 3% SDLT applies on top of the normal SDLT residential rates on the purchase of second properties, which will typically be buy-to-let properties. This means it is no longer possible to purchase a buy-to-let property worth less than £125,000 and pay 0% SDLT. The rate applicable now will be 3%, resulting in a charge of up to £3,750. The rates increase to as much as 15% on properties over £1.5m.

If the property acquired replaces the existing main residence that hasn't yet been sold, it may be possible to reclaim this additional tax if the old residence is sold within 36 months. These additional rates will also affect parents buying properties in their own name for a child, a UK holiday home and the first residential property acquired in a company or a discretionary trust, to list a few scenarios. This significantly increases the costs of such property acquisitions for those involved in the property rental market.