

Anthony Apponyi

From: "Thomas Talbot-Ponsonby" <Thomas.Talbot-Ponsonby@morgan-cole.com>
To: "Meryl Morgan" <Meryl.Morgan@morgan-cole.com>
Cc: <aa@chainmender.co.uk>; <ast@shapefinancial.com>
Sent: 27 May 2008 14:53
Subject: RE: Chain Mender

Meryl

I have looked at these proposals.

Since the gift is only of a small part of the beneficial interest in the property, I do not think that there is any risk that the loan can be construed as consideration for the gift.

The key question for SDLT is - is there any consideration given by Chainmender to the participant in return for this gift of the interest in the property.

My understanding of a complete transaction is:-

- (a) Loan offer and conditional gift
- (b) drawdown, signing of sale agreement and mortgage
- (c) On completion of sale by CM - repayment of loan out of proceeds of sale. I am slightly less clear about where the balance of sale proceeds go - I assume that they will in some manner be shared among the participants of the pool.

There are two possible items of consideration - (i) the opportunity to participate in the scheme; and (ii) if my assumption at (c) above is correct, an possible receipt of a share of profits from the pool.

I do not think that any monetary value can be attributed to element (i). Even if the Revenue were to argue that there was consideration, they could not argue that the consideration was more than 1.25% of the value of the property. Since no SDLT is payable on consideration of less than £125,000, the value of the property would need to be £10,000,000 before SDLT were due on 1.25% of this.

Element (ii) is only relevant if the borrower proceeds with the loan. The Revenue might well argue that they were only receiving a share from the pool because they had made a gift into the pool and therefore that the money received is consideration. However, even so, the amount actually received by the borrower would be very unlikely to exceed £125,000 and so no SDLT would be payable. I think that, prior to offering this on the market, it would be a sensible to agreeing the exact treatment with the stamp office to ensure that there is no suggestion that you should submit SDLT returns (even if no tax is due) or what needs to be stated on the return.

Kind regards

Thomas T-P

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-----Original Message-----

From: Meryl Morgan
Sent: 27 May 2008 10:47
To: Thomas Talbot-Ponsonby
Subject: Fw: Chain Mender

Thomas

Morning. I have just left you a long voice message on Shape's revised proposals which involves at day one the Client (borrower) entering into a Conditional Gift Letter with the Pool under which the Pool would receive a percentage interest in the Client's property equal to the Pool's arrangement fee of 1.25 percent of the proposed loan. The gift would be conditional on the borrower drawing down the loan and paying off the first mortgage or where the loan is not drawn down the property being sold within the drawdown period for the loan. Under Islamic law this Conditional Gift Letter is sufficient to give the Pool a beneficial interest in the Property. Shape confirmed yesterday that it isn't necessary for the Pool to have a beneficial interest under English Law. The key question is does this Conditional Gift Letter give rise to SDLT? If it does the proposals will not work for non exits.

There would be no Agreement for Sale under the revised proposals only the Conditional Gift Letter and the Loan.

Please can you look at this asap today as Anthony is still with Shape today discussing this.

Please can you telephone me on 07808 362122 when you have had a chance to consider the above and the attached.

Many thanks

Regards

Meryl

Sent from my Blackberry so please excuse any typing errors

-----Original Message-----

From: Kuwait, Central <central.kuwait@luxurycollection.com>
To: Meryl Morgan
CC: aa@chainmender.co.uk <aa@chainmender.co.uk>
Sent: Mon May 26 16:26:44 2008
Subject: Chain Mender

Meryl

Please see attached which follows your conversation this afternoon with Abdulkader . Iam meeting Sh. Muhamed ,Abdulkader and Mushir tomorrow morning May 27 to discuss.

Thank you

Anthony

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