Hong Kong and Mainland investors have been snapping up properties in several overseas markets, raising fears that speculation is pushing purchases out of reach of locals. Tax systems are becoming complicated as a result, prompting potential buyers to seek professional advice from CPA firms.

**Tax agencies build obstacles for foreign buyers**

Illustrations by ID WORKSHOP
From London, England, to London, Ontario, property investment from China and Hong Kong is being demonized as an unfair land grab pushing real estate prices out of reach of local homebuyers.

As a result, taxes and other deterrents have been introduced or are being considered in a number of jurisdictions, further complicating tax systems and increasing the reliance of clients on accountants.

“There has never been such demand for professional advice related to global taxation obligations,” observes tax adviser Laurence Lipsher, a Hong Kong Institute of CPAs member based in Guangzhou.

The increasing complexity reflects the difficulty of policing residential property purchases. No government wants to deter foreign investment – for instance Chinese buyers could pump up to A$60 billion into Australian housing over the next six years, according to a Credit Suisse report issued last month – yet there are concerns that foreign purchasers are driving locals out of the market.

Obstacles to investment

Indeed, Australia is the second-most popular destination for Chinese property buyers after the United States, according to data released in April by the Mainland real estate website Juwai.com. (Canada, the United Kingdom, New Zealand, Portugal, France, Spain, Germany and Singapore round out the top 10 target markets.)

While the U.S., with its abundance of available property, has not any significant new measures, countries with more overheated residential real estate markets have seen steps taken to rein in foreign investors.

Sunny Kan, Australian Tax Consultant at Australasian Taxation Services in Hong Kong and an Institute member, says more Hong Kong and Chinese clients are seeking advice related to investment in Australian property.

“There are a few new regulations as a result of the 2015-16 federal budget,” he says.

As investors from China and Hong Kong become more prominent in the residential property market – such as the March purchase for A$25 million for an as-yet-unbuilt 100th floor penthouse in Melbourne – Kan notes that some clients are unaware of their Australian tax position, such as one who failed to record tax credits after the sale of an investment property.

“This is a serious error and I asked the client to provide necessary documents for me to lodge an amendment,” says Kan. “He received a refund of several thousand Australian dollars.”

Kan describes another Hong Kong client in a very strong equity position with an investment property in Australia with no mortgage. “But this also means he has to pay Australian tax each year and he does not receive tax credits for future retirement use,” he explains. “I immediately suggested that he draw out equity from his investment property and obtain another mortgage to purchase a second investment property, not just to improve his tax efficiency but also provide a golden investment opportunity.”

Last year, the Australian government announced new charges related to foreign property buyers. Kan has already advised clients on buying Australian residential properties under revised rules from 1 December, which will require an extra A$5,000 in fees for deals worth less than A$1 million and A$10,000 for every A$1 million over that.

Neighbouring New Zealand has also seen soaring housing prices, especially in Auckland, the country’s largest city. However, no hard data is

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China to complicate tax for expatriates

While Chinese citizens are under the spotlight in some overseas markets, its own authorities are poring over the tax obligations of non-Chinese residents. From this year, foreign nationals working in the Mainland can expect to face more scrutiny over their earned income.

A new individual income tax audit scheme is being rolled out in Beijing and will initially target foreigners, says Guangzhou-based tax adviser Laurence Lipsher, a Hong Kong Institute of CPAs member.

“The State Administration of Taxation has determined [that] there is such an abundance of non-Chinese living there that tax officials can use them as a pilot scheme to perfect the individual income taxes audit process,” he says.

The audit programme has already begun in the capital’s Chaoyang, Dongcheng, Xicheng, Haidian and Shunyi districts, says Lipsher. “The law went into effect at the end of 2013 and in 2014 the SAT started displaying interest in it, and now they are auditing,” he says.

Foreign residents of China who earn more than 120,000 yuan a year must file a tax return. Lipsher notes that under many employment contracts in China, education, relocation, home leave and housing allowances mean a substantial portion of income is not taxable.

Fans of China’s one-page individual income tax return are in for a shock in the next two or three years, Lipsher warns. “That is going to change,” he says. “Sad to say, the SAT is using a role model to develop its forms, and the SAT has said that model is the complex code of the United States Internal Revenue Service.”

Lipsher notes the U.S. tax code covers more than 400,000 pages of legislation.

available on how many Chinese and Hong Kong investors have purchased properties. Andrew Bruce, President of the Auckland Property Investors’ Association, told The New Zealand Herald last month that there needs to be a better understanding of exactly how many foreign buyers there are and to what extent they impact the housing market.

Nonetheless, there have been widespread calls for the taxing of property purchases by non-residents. Gina Wallace, Managing Director of NZ-US Tax Specialists in Auckland and a member of Chartered Accountants Australia and New Zealand, says the government needed to act. “It has fended off criticism most recently by the Reserve Bank of New Zealand relating to the government’s inertia around what is now a housing crisis.”

Wallace says Chinese clients are seeking advice in the wake of last month’s announcement by Prime Minister John Key that the government would institute a capital gains tax on residential property sold within two years of purchase. It was aimed at foreign non-residents but few expect the new tax to have a major effect on property prices.

Tax on capital gains

One of the most significant changes is in the U.K., where Asia-Pacific investors are major players in the residential property market. According to Knight Frank, those from Hong Kong were the second largest buyers of property in London in 2012, representing 16 percent of the total value of purchases by overseas investors. Mainland citizens accounted for another 5 percent of deals.

CPAs are increasingly required by clients to negotiate the British property tax system, which is now the most complex in the world, according to a recent PwC study.

“There are now four regimes dealing with capital gains tax on residential property for both domestic homeowners and overseas investors,” says Paul Emery, Partner at PwC in London and a member of the Institute of Chartered Accountants in England and Wales.

The U.K.’s new capital gains tax regime introduced on 6 April will have a significant impact on overseas owners of British residential property. “Capital gains tax, which up to now has not affected most non-U.K. residents, will now apply across the board, regardless of the property’s value and irrespective of whether it is let or owner-occupied,” says Carlo Gray, Partner and Head of the Hong Kong office of Buzzacott, a U.K. tax advisory service.

He says the new laws have created concern, not just among Hong Kong and China clients who have invested in British property, but also Asia-Pacific-based U.K. citizens. He is advising investors to first obtain a valuation as of 5 April. “Because when you sell that property you’re going to need to prove to Her Majesty’s Revenue and Customs what the market value of that property was at that date,” he adds.

The new rule will affect not just individuals who own property in their own name, but also people who own them through companies, Gray adds. “That’s very popular here in Hong Kong,” he says. “The usual structure would be to have a British Virgin Islands-incorporated company to own U.K. property.”

Accounting professionals are able to guide clients through the maze of U.K. regulations that cover offshore vehicles, both in the wake of a crackdown on suspected money laundering and a change in stamp duty: “The stamp duty rules changed in April 2013 with regards to individuals purchasing property through offshore properties,” Gray points out. “The rate for companies that own property that are disposed of after 5 April is going to be 20 percent versus 28 percent if you own the property directly.”

Gray cautions that investors should be aware of the Annual Tax on Enveloped Dwellings rules that came into effect in April 2013.
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“That’s effectively a wealth tax,” says Gray. “If individuals are owning U.K. residential property through an offshore company, then unless they qualify for exemption or relief, they will effectively pay an annual wealth tax that ranges from £7,000 to £218,000 a year, depending on the property value.”

Gray advises some clients to obtain life assurance, which can be as little as £25 a month, to pay for any resulting inheritance tax. “That is definitely something for clients to think about if they want to use a property and not rent it,” he says.

In Canada, governments have been pressured to impose restrictions on property buying by non-residents. Last month, British Columbia Premier Christy Clark said her administration was trying to tackle the growing challenge of home ownership. An online petition calling on the province to restrict sales to foreigners garnered nearly 25,000 signatures as of 31 May.

Some believe it is unlikely any discouragement will be imposed, given its price-dampening effects on Canadian homeowners and investors. “There is no policy directed towards cooling off foreign investments in Canada, especially real estate,” notes Eva Lau, Senior Manager for Tax and Business Advisory Services at the Russell Bedford accounting firm in Hong Kong and an Institute member.

However, CPAs with Canadian experience say opposition is mounting to foreign residential property purchases in British Columbia, especially in Vancouver, the province’s biggest metropolitan area, and the situation could well change in the near future.