

November 2007

PRE-BUDGET REPORT 2007

Alistair Darling's first Pre-Budget Report contained major personal tax changes designed to prepare for an Autumn election that has now been postponed. However, the impact of many of the proposals takes effect from April 2008.

Residence & Domicile Review

The Chancellor announced that he proposes to introduce legislation in the Finance Bill 2008, which will remove some of the tax advantages that are available to resident individuals who are not domiciled in the UK and formally change the practice regarding the counting of days of UK presence for UK residence test purposes. The proposed changes are outlined below.

Depending on the nature of the draft legislation, which we expect before the end of this year, action may be required in connection with your Praxis structure prior to the beginning of the new tax year on 6 April 2008. For example, it may be advisable to crystallise inherent capital gains, bring forward the timing of further additions to the offshore structure and/or consider making substantial capital distributions. We intend to issue further guidance when the details of the changes are known.

Domicile

Under the current rules, resident individuals who are not domiciled in the UK are able to claim the remittance basis under which they are only subject to UK tax on income and capital gains that arise outside the UK to the extent that the income or gains are remitted to the UK. In addition, non-domiciled individuals are currently able to use offshore structures to convert offshore income and capital gains into tax-free funds so that they can be remitted to the UK without any UK tax charge.

It is proposed that the new rules will come into force on or after 6 April 2008 and will apply when an individual has been tax resident in the UK for seven years or more. The Pre-Budget Report

notes appear to indicate that the proposed changes will have effect from 6 April 2008 for any foreign domiciled individuals who became UK resident prior to 6 April 2002.

The proposed changes are:

- Either the remittance basis will no longer apply or a foreign domiciled individual may continue to be taxed under the remittance basis of assessment on overseas income or capital gains by paying a flat £30,000 additional annual tax charge. There will be consultation on draft legislation to be published towards the end of the year. Further consideration will be given to higher flat charges for individuals who have been resident in the UK for more than 10 years.
- The withdrawal of personal allowances where the remittance basis is claimed and unremitted income is £1,000 or more per year.
- Revising the current tax law on the use of offshore structures to prevent income and gains being remitted to the UK tax-free.
- Removing the current exemption which allows income to be remitted tax-free when the source has ceased in an earlier tax year.
- Extending existing anti-avoidance tax measures and the definition of remittances of foreign income.

It is likely that the additional flat £30,000 charge and the withdrawal of personal allowances will only have a material effect on those individuals with relatively moderate overseas earnings and capital gains. It is unlikely to encourage the very wealthy to relinquish their claim to the remittance basis. In addition, it will be interesting to see if the draft legislation addresses the discrimination clauses found in nearly all double tax treaties, which quite often also grant an automatic entitlement to UK personal allowances.

Although individuals who are resident, but not ordinarily resident, in the UK are also taxable on the remittance basis on overseas income, these individuals do not appear to be materially affected by the proposed changes.

The Remittance Basis – Irish Investment Income and Employment Income

Current UK tax legislation includes provisions which treat Irish investment and employment income (not Irish capital gains) as taxable on an arising basis, regardless of the fact that the recipient might otherwise only be taxable on a remittance basis on foreign source income. With effect from 6 April 2008, this restriction will be removed.

UK Residence

Following two recent tax cases, the usual HMRC practice of not counting days of arrival and departure when calculating days of presence in the UK for UK residence test purposes will be formally withdrawn with effect from 6 April 2008. Thereafter, all days of presence in the UK, including both days of arrival and departure, will be taken into account.

Watch This Space!

Draft legislation is expected before the end of 2007. Our advice at this stage is to do nothing until we have had an opportunity to see what is proposed. Further guidance will be issued once details of the changes are known.

However, if you have any comments or questions in relation to the 2007 Pre-Budget Report, please contact your Client Engagement Director on +44 (0) 1481 737600.

Praxis Fiduciaries Limited

PO Box 296
Sarnia House
Le Truchot
St Peter Port
Guernsey
GY1 4NA

Tel: +44 (0) 1481 737600
Fax: +44 (0) 1481 710511

Email: info@praxisfiduciaries.com
www.praxisfiduciaries.com