

February 2008

HMRC CLARIFICATION OF THE REMITTANCE BASIS CHANGES FROM 6 APRIL 2008

Our news release of January 2008 provided details of the draft legislation covering the taxation of UK resident non-domiciliaries published on 18 January 2008. HMRC have now issued a statement to clarify some of the proposals further to intensive lobbying from the tax profession and the City of London.

In the 2007 Pre-Budget Report, the Government announced changes to the residence and domicile tax rules that will restrict the tax advantages available to individuals who are resident in the UK but not domiciled there. The largest impact is likely to be felt by shareholders in offshore companies and those with offshore trusts. This News Release provides details of the HMRC statement released on 12 February 2008.

Disclosure of Foreign Income and Gains

One area of particular concern was the extent to which UK resident non-domiciliaries would be required to disclose details of their worldwide income and gains to HMRC, even if the income and gains are not taxable, not having been remitted to the UK. HMRC have now clarified that so long as taxpayers declare their remittances to the UK and pay UK tax on them, they will not be required to disclose information on the source of the remittances. However, the previously announced notification provisions requiring UK resident settlors to provide details concerning their offshore trusts are likely to still apply.

Retrospection in the Treatment of Offshore Trusts

HMRC have announced that there will be no retrospection in the treatment of trusts and that the tax changes will not apply to gains accrued or realised prior to the changes coming into effect. This implies therefore that any capital gains inherent in trust (or underlying company) owned assets or gains realised up to 5 April 2008 will be protected from the tax changes with effect from 6

April 2008. HMRC have also confirmed that capital payments received prior to 6 April 2008 will not be taxed by reference to trust gains realised after that date. It is not yet clear how this will be implemented and we await details of the amendments. We expect these to be released on Budget Day, 12 March 2008, and in the days thereafter.

Remittance Basis for Offshore Income Gains

A previous oversight in the draft legislation meant that offshore income gains (i.e. gains arising on offshore funds without distributor status) realised by offshore trustees and attributed to the settlor by reference to capital payments made to him would have been taxed on an arising basis, even if the £30,000 remittance charge was paid. HMRC have now confirmed that that this anomaly will be corrected.

Payment of the £30,000 Remittance Basis Charge

HMRC have clarified that any money brought into the UK to pay the £30,000 charge will not itself be taxable, providing the payment is made direct from an offshore bank account to HMRC. This is a welcome concession.

Bringing Artworks into the UK

HMRC have clarified that it will continue to be possible to bring artworks into the UK for public display without incurring a chargeable tax.

Comments

The above clarifications are welcome but there remains a great deal of uncertainty about how the new rules will operate particularly concerning offshore trusts and companies and the manner in

which gains, both realised and unrealised, will be dealt with.

We hope that greater clarification will be made available shortly after Budget Day (12 March 2008) but time will then be very short before the 6 April 2008 deadline if action is required. Clients therefore need to continue to review their arrangements urgently to consider what action they or their trustees might need to take before the end of the tax year.

Contact

If you have any comments or questions in relation to these changes 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