

GES NewsFlash

Domicile changes: clarification of Government's intentions

The story so far

Alistair Darling's first Pre-Budget Report on 9 October 2007 included an announcement that there would be a substantial change to the taxation of non-UK domiciled individuals from 6 April 2008. In line with this a consultation document was published on 6 December, entitled "Paying a fairer share: a consultation on residence and domicile".

The draft legislation was published on 18 January 2008 and was described by HMRC as "work in progress". The drafting has provoked a large amount of controversy and comment in the press and its apparent lack of clarity has caused concern to many non-UK domiciled individuals.

Consequently, Dave Hartnett, acting Chairman of HM Revenue & Customs (HMRC) has issued a much welcomed statement which seeks to clarify the Government's intentions and how they will be reflected in legislation.

Clarification points made by HMRC

- **The legislation will not introduce any new disclosure requirements for remittance basis users**

Many people have been concerned that from 6 April 2008 individuals who claimed the remittance basis would be obliged to disclose details of their offshore income and gains. The HMRC statement gives an assurance that this will not be necessary. However, if the individual discloses a remittance and claims that it is not fully taxable, HMRC may look into the source of the remittance in more detail to ensure that the correct tax treatment is being used.

- **Changes to the treatment of trusts will not have retroactive effect**

There has been concern that gains that accrued to offshore trustees before 6 April 2008 would be matched with capital payments received by non-UK domiciled beneficiaries after this date and conversely, that HMRC might seek to tax beneficiaries who had received payments before 6 April 2008 on trust gains realised after that date. Representations have been made to the Government that in both instances this would be 'unfair' and 'beyond reasonable expectation'. HMRC has now clarified that there will be no retrospection in the treatment of trusts and the tax changes will not apply to gains accrued or realised prior to the changes coming into effect;

- **The £30,000 remittance charge is not in effect a £50,000 charge if income is remitted to pay it**

Where individuals who have been resident in the UK for 7 years wish to claim the remittance basis after 6 April 2008, they must pay a charge of £30,000 per year. There has been concern that, where the £30,000 must be remitted in order to pay this charge, that it will be a taxable remittance. HMRC have confirmed that this will not be the case.

- **HMRC is working closely with the US Authorities to establish a possible way in which the £30,000 charge can be creditable against US tax bills**

The Government is aware that currently there is a particular issue for US citizens who have been resident in the UK for longer than 7 years. HMRC will continue to discuss with the US authorities how the £30,000 charge can become creditable against US tax.

- **The new legislation does not discourage the loan of artwork to UK museums**

The Government also confirmed that assets brought into the UK after 6 April 2008, for the specific purpose of being loaned to a museum or gallery, would not be taxed as a remittance.

Our comments

Deloitte has been fully engaged in the consultation process and has been closely involved in a number of representations made to the Government and HMRC. We are very pleased that HMRC is working together with Deloitte and our colleagues in the tax profession to deal with some of the issues in the draft legislation and we particularly welcome Dave Hartnett's letter received today. We hope there will be further clarification over ensuing days, leading to the Finance Bill to be published after the Budget on 12 March.

Find out more...

To find out more about any aspect of the above, please discuss with your Deloitte contact who will be happy to help and can provide you with access to Deloitte's network of tax specialists.

People to Contact

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