

# Financial Services Update

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## In this edition:

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- IRS agrees remittance charge treatment
- FSA continues its crackdown on client assets rule breaches
- New agreement for UK taxpayers holding Swiss accounts
- New FSA examination regime proposal
- The need to make right to work checks on your workers

## IRS agrees remittance charge treatment

**After three years of uncertainty, the US Internal Revenue Service (IRS) has announced that it will accept payment of the UK remittance basis charge as a creditable foreign income tax. For Americans with sufficient non-UK taxable income, this may make claiming the remittance basis more attractive. Those Americans who have already paid the remittance basis charge may want to review whether they can claim US tax relief with their tax advisors.**

Currently, non-domiciled individuals resident in the UK for seven out of the last nine UK tax years have to choose whether to pay the £30,000 remittance basis charge or be taxed on worldwide income. From 6 April 2012 that charge will increase to £50,000 for individuals who have been resident for 12 or more years.

The Treasury has released a consultation document regarding the development of a statutory definition of 'residence'. While the proposed rules promise clarity, it will clearly be more difficult for those who have been

resident to break UK residency. In particular, the rules, as currently proposed, will make it difficult for those who have young families to break residency if their family remains in the UK.

**Scott Barber,**  
**Expatriate Tax Partner**

"FOR AMERICANS WITH SUFFICIENT NON-UK TAXABLE INCOME, THIS MAY MAKE CLAIMING THE REMITTANCE BASIS MORE ATTRACTIVE."



## FSA continues its crackdown on client assets rule breaches

**The FSA has continued its robust approach to tackling breaches of its client assets rules and has recently fined Towry Investment Management Limited £494,000 for providing misleading information to the regulator and certain client money breaches.**

Very few asset managers actually hold, in a regulatory sense, the investment assets or

cash of the funds or accounts they manage and incorrectly assume that they do not need to take any steps to protect themselves.

As a minimum, all staff should be aware of what is classed as client money and that the accounts of the regulated entity must not be used to facilitate any payments or receipts for clients. If any breaches do occur, they must be reported to the FSA immediately and

corrective action taken.

For those firms which do have permission to hold client assets, the FSA's actions are a reminder to ensure that the Client Assets Sourcebook ("CASS") rules are being strictly followed.

**Peter Chapman,**  
**Audit Partner**

## New agreement for UK taxpayers holding Swiss accounts

A new agreement has been reached by the UK and Swiss governments with effect from 1 January 2013 to combat offshore tax evasion and is expected to raise billions of pounds in previously unpaid tax for the treasury. The agreement will apply to currency, precious metals, bonds and shares, but property and safety deposit assets are specifically excluded. HM Revenue and Customs (HMRC) has advised that it will look through complex structures such as shell companies, trusts and foundations to identify the beneficial owner of the Swiss asset.

UK taxpayers with Swiss accounts will be provided with two options under the agreement:

1. Payment of withholding tax at source, both in respect of a one-off payment to cover liabilities prior to the agreement, and an annual withholding for years post the agreement; or

2. Voluntary disclosure to HMRC regarding Swiss assets and associated income.

### Option 1 - (Route one) Withholding tax payments for previous years

Existing funds held by UK taxpayers in Switzerland will be subject to a significant



one-off deduction between 19% and 34%, based on the value of the Swiss assets held, to settle past tax liabilities. This will be calculated by the Swiss banks and paid to the UK on an anonymous basis. Swiss banks will make an up-front payment of CHF 500m as a sign of goodwill. Those who have already paid their taxes will be unaffected.

### Option 1 - (Route two) Withholding tax payments for future years

From 1 January 2013, a new withholding tax of 48% on investment income and 27% on gains will be deducted by Swiss banks and paid anonymously to the UK. This will be coupled with a new information sharing

provision which will make it easier for HMRC to find out about Swiss accounts held by UK taxpayers. There will be no charges for UK taxpayers who fully disclose their affairs to HMRC.

### Option 2 - Voluntary notification

Those who do not wish to make a payment through either route from option one, as described, may instead authorise the Swiss bank to disclose all relevant information to HMRC. HMRC will then deal with previous and future years' payments.

**Michael Sahra,**  
Senior Tax Manager

## New FSA examination regime proposal

**The FSA is carrying out a review of the examination standards and qualifications required for individuals performing regulated activities.**

As part of this review, the FSA is proposing that individuals who advise clients and manage investments should be assessed on additional knowledge; 'personal taxation' and 'investment principles and risk'. Changes could also be made to include content on funds of alternative investment funds, with reference

to the Alternative Investment Fund Managers Directive.

If these changes are made, examination standards will only be applicable to those who are new to the industry. Continuing Professional Development will be the method for which existing investment managers can keep up-to-date with this new standard.

**Harpatap Singh,**  
Regulatory Consulting, Senior Manager





## The need to make right to work checks on your workers

**Despite the provisions of the Immigration, Asylum and Nationality Act 2006 (the Act) coming into force on 29 February 2008, it would appear that many firms are still not clear about what checks they should be conducting on job applicants and workers who are subject to ongoing immigration controls.**

If it is found that a firm has employed an illegal worker as a result of negligent recruitment and employment practices they are liable to be fined up to £10,000 per illegal worker. Furthermore, if it is proven that a firm has knowingly employed an illegal worker, the fine is without a set limit. Individuals in positions of responsibility, who know or consent to the illegal employment of workers, in addition to fines, may also face up to two years' imprisonment.

It is recommended that prior to allowing a job applicant to start work, firms obtain original documents to prove the worker has the right to work in the UK. Details of the approved list of documents or combination of documents which can be accepted are available on the UK Border Agency's website.

It is advisable that firms check the documents provided to ensure they relate to the job applicant and take reasonable steps to verify the authenticity of the documents - although firms are not required to become experts on detecting forgeries.

Firms must retain certified copies of the documents provided by the worker, for the duration of the person's employment and for two years after termination of employment for those with restrictions on their right to work in the UK. By doing this firms could be provided with a defence, or statutory

excuse, against liability for the payment of a civil penalty for employing a migrant worker illegally.

There is an additional duty on firms to conduct repeated document checks on workers who are subject to ongoing immigration controls and a system should be set in place where repeat checks are conducted at least once every 12 months for these individuals.

Immigration laws continue to evolve, therefore firms are encouraged to conduct an audit of their workers right to work in the UK, to ensure they are compliant with the provisions of the Act.

**Cheryl Gowdie,**  
**Managing Director of HR Consultancy**

### Get in touch

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