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# Financial Services Update

Shared experience.



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## £50,000 charge for non UK domiciled

**For 4 years, individuals not domiciled in the UK have experienced continuous shifts in their tax circumstances. The recent budget introduces new costs and potential benefits along with the promise of no more changes for the rest of this parliament.**

Currently non-domiciled individuals resident in the UK for seven out nine of the previous 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 once an individual has been resident for 12 years.

The Chancellor, George Osborne, has promised to consult on developing a statutory definition of residence. Currently, meeting the 90 night rule in the UK isn't always sufficient to prove non-residence. A statutory definition may help bring certainty for those looking to break UK residency, but may restrict the ability to have ongoing economic and personal ties.

Osborne also announced that proposals would be put forward to allow non-domiciled individuals to bring off shore income and gains into the UK for the purpose of investing in UK businesses free of any tax charge. This could be very beneficial but is likely to come with strings attached!

**Scott Barber,**  
Expatriate Tax Partner

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"CURRENTLY, MEETING THE 90 NIGHT RULE IN THE UK ISN'T ALWAYS SUFFICIENT TO PROVE NON-RESIDENCE."

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## The VAT man cometh

**The UK penalty regime for VAT is now blessed with a more stringent approach to errors, with penalties amounting from 30% to 100% of the tax in error.**

Therefore, it is key to ensure that your house is in order before any inspector arrives on your doorstep. This is especially true for financial services firms due to the complexity of the VAT rules relating to the sector.

It is advisable to identify any issues that could require disclosure to avoid any suggestion that a penalty is applicable for a failure to make such a disclosure.

The three areas to focus on:

### **VAT liabilities of supplies**

Supplies of financial services in many cases attract VAT exemption. There is therefore a need to look at the method of VAT recovery (partial exemption). Additionally, getting the right VAT treatment can affect so much of the VAT recovery. So the identity and the location of your customer in a particular transaction will be crucial to getting the actual VAT treatment correct.

Whilst many types of financial transactions will be VAT exempt, many will be liable to VAT at the standard rate. More importantly, where a customer in a transaction is located outside the EU, then such transactions, whilst still in many cases are exempt, they will still allow the business to claim VAT on the related expenditure. The term exempt with credit is used.

An inspector carrying out a VAT audit will be charged with ensuring the customer in a transaction is identified correctly and ensuring the taxable, exempt and exempt with credit transactions are correct.

### **Partial exemption**

Notoriously those financial services businesses with VAT expenditure restricted, because of the exempt income they receive, will often come under the spotlight to make sure that the level of VAT recovery is based on a methodology acceptable to HMRC. The use of a turnover method for VAT recovery is a standard methodology, but many businesses will have special models which should have

been agreed with HMRC in the past. These may well be ripe for review as business methods and trading patterns do vary.

We would therefore caution that if you do have an impending VAT visit and do allocate and apportion your VAT on expenditure, it is worth ensuring that the methodology used is fair, reasonable and appropriate for your business.

### **Imported services**

For many businesses in the financial services sector, the impact of having to self account for VAT on imported services has been a much forgotten aspect. This is the so called 'reverse charge' which compels any business to record and self account for VAT on imported services.

Normally this has no effect for a business but it will impact those businesses who are partly exempt and is an area a VAT inspector will inevitably focus his attention.

**Peter Bright,**  
VAT Director



"THESE SCHEMES HAVE BEEN ON HMRC'S RADAR FOR A NUMBER OF YEARS AND THESE PROVISIONS EFFECTIVELY SPELL THE END OF SUCCESSFUL PLANNING THROUGH THEM."

## Disguised remuneration

**The recent Budget confirmed anti avoidance changes effective from 6 April 2011 designed to crack down on what HM Revenue and Customs perceived to be avoidance using offshore remuneration planning structures, such as employee benefit trusts and employer financed retirement benefit schemes.**

These schemes have been on HMRC's radar for a number of years and these provisions effectively spell the end of successful planning through them.

The significant changes which are now in place are that a national insurance and income tax charge will now arise on:

- Loans from third parties such as trustees;
- The earmarking of assets which are later used to provide benefits to the employee; and
- The making available of assets to the employee or person linked to them

However, it's not all doom and gloom - HMRC have also announced that they intend to

exempt deferred rewards meeting certain criteria.

For FSA regulated businesses who are assessing the requirements of the Remuneration Code and are implementing the sections on the deferral of cash bonuses, the anti avoidance provisions could have an adverse affect.

**Michael Sahra,**  
**Senior Tax Manager**

## Update – auditors' client asset reports

**In their Policy Statement issued in March, the FSA confirmed their tightening of the rules covering auditors' reports to the FSA over client money and custody assets.**

The key change for the auditors is that they will be required to report by way of a limited assurance report in a prescribed FSA format. And now - as for statutory accounts -

these reports will be signed by the individual auditor who is responsible for the report.

The main changes for firms themselves is that those charged with governance will now have to review the findings of the final report and, wherever applicable, provide comments on actions taken and/or mitigating factors (if any) related to identified breaches.

The deadline for these reports is unchanged – they are due no later than four months from the year end.

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

## More rights for temps



**The Agency Workers Regulations 2010 is due to come into force on 1 October 2011. These regulations will give agency workers certain rights from their first day at work, as well as the same basic working conditions as permanent employees and workers after a 12-week qualifying period.**

The Regulations do not apply retrospectively; this means that for agency workers already in an assignment on 1 October 2011, the qualifying period will only begin to accrue from this date.

Firms are encouraged to consult with the employment agencies they use to discuss how these regulations are going to affect them and what preparations they need to start making in advance of their introduction into law.

Companies that breach these Regulations could be at risk of Employment Tribunal claims from an agency worker or contract claim from the employment agency itself.

**Cheryl Gowdie,**  
HR Director

## Heads up - Remuneration Code

**On 20 April 2011, the FSA published guidance and consultation relating to the Remuneration Code requirements for investment firms. The revised Code came into force on 1 January and was extended to a larger group of firms. The new guidance provides tools to help firms comply and gives further information on certain key areas.**

The rules relating to lower tier limited licence firms, invite the application of the rules in a way that is proportionate to their size, internal organisation and complexity.

For such firms, the FSA have provided certain "proposed" guidance which can be used immediately.

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

### Get in touch

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