



Private Client Briefing

Keeping you up to date with events in your sector.

Welcome

Welcome to the second edition of our Private Client Briefing.

Since our first Private Client Briefing there have been a number of changes in the world of tax.

The Spring Budget saw an increase in Entrepreneurs' Relief which will be a welcome relief to those looking at selling their business or shares as the markets start to pick up.

We are also now well into the 50% tax rate and although many suggest this is only a temporary measure, now that

the reality of the increased rate is with us, it is something that is having a real impact.

The decrease in corporation tax rates as against the increase in personal taxes has also brought the subject of incorporation back to people's minds and we also consider this below.

As we know, tax is forever changing but we hope that this briefing provides an interesting update on some of the key trends for clients in today's climate.



John Keating
Head of Business Tax
T: 020 7509 9400
M: 07974 230763
E: jkeating@cvsdfk.com

From cradle to grave – tax through the ages

It is perhaps an unfortunate truth but tax can affect everyone from birth, through marriage, retirement and finally in death.

Over the next editions of our newsletter we will look in more detail at tax issues and potential planning tips at each stage, however we will begin with an overview of the tax issues that could be faced throughout the life cycle.

Birth and childhood

As soon as a child is born they are entitled to a personal allowance of their own which means they can receive £7,475 of tax free income (2011/12 rates).

In the past this tax free amount was used by parents to divert income from them to their children to gain the benefit of low tax rates.

However for any child with income in excess of £100 that derives from capital provided by the parent, the income is taxed as if the parent had received it thereby losing any potential tax advantage.

Marriage and civil partnerships

In the past there were tax advantages on marriage such as an extra tax free allowance for income via the married couple's allowance. This was removed after 2008/09 and now only applies for couples over 75 years of age.

There are some remaining tax advantages for spouses, particularly for inheritance tax and also interspouse transfers without a capital gain arising.

You may recall that in the last few years HM Revenue & Customs (HMRC) were seeking to attack husband and wife companies and the artificial tax advantages they thought were being achieved. The aim of the proposals was to tax the spouse actually doing the work in the business and therefore generating profits.

Despite legislation being drafted, this has not been introduced to date making planning for husband and wife businesses still an important consideration when reviewing a business and the most appropriate structure.

Retirement

In the years before retirement the tax system can have an important impact on how we may choose to cease in business. Changes to the capital gains tax regime and the increase in entrepreneurs' relief make tax planning an increasingly important consideration.

It is important to plan in advance to ensure that all the necessary criteria are met in order to maximise succession and ensure issues are properly considered and dealt with.

Over the coming editions of our briefing we will look to expand on and develop the areas noted above but if there are any issues that you have, please contact Debbie Ince or your usual Chantrey Vellacott DFK contact.



Debbie Ince
Head of Private Client
T: 020 7509 9337
M: 07984 180 700
E: dince@cvsdfk.com



Peter Jones
 Manager
 T: 020 7509 9204
 E: pjones@cvcdfk.com

Incorporation – is it the way to go?

The trend towards many businesses operating as a limited company has slowed in recent years. However with all the recent tax changes should operating a limited company be back on the agenda?

With the reduction in the small company's rate of tax to 20% and the increase in rates of Class 4 National Insurance Contributions for the self employed, many business clients are taking the opportunity to consider the most appropriate business structure for them to operate under.

No decision should be made purely on the grounds of tax, and commercial issues must also be taken into account in any decision made in running and operating a business.

The following table shows the potential tax savings that could be made when operating as a company compared to as a sole trader.

Profit	Sole trader	Company	Saving
£50,000	£13,463	£8,586	£4,383
£100,000	£34,463	£18,586	£5,383
£300,000	£136,453	£58,586	£50,578
£500,000	£240,453	£113,055	£100,108



The above are based on certain assumptions and do not include the costs of operating the company but the impact of incorporation is clear at least in terms of tax savings.

However as noted above, tax should not be the only driver and the administrative burden from operating as a limited company can deter many people from making the change.

It is important to take proper advice before making any change and we will be happy to discuss the potential advantages and disadvantages with you.

If you require any further information please contact Peter Jones or your usual Chantrey Vellacott DFK contact.

How Private Client can work for you

Each year tax staff at Chantrey Vellacott DFK deal with approximately 4,500 tax returns to include personal, partnership and trust and estate returns (on behalf of trustees, executors and unincorporated charities). These vary from the straightforward to the exceedingly complex. Ensuring that your return is completed correctly and submitted before the 31 January 2012 deadline is even more critical this year with the introduction of a new penalty regime.

Our expertise does of course extend beyond such 'routine' compliance work to encompass advice and assistance in many other areas to include areas such as:

- Retirement and succession planning.
- Capital gains tax.
- Advice for expatriates and non-domiciliaries.
- Administration of trusts.
- Business structure reviews.
- Planning with Limited Liability Partnerships (LLPs).

We provide full support and advice in many other areas and one-off transactions such as share options and other employee benefits, tax efficient investments such as pensions or EIS shares and in structuring your affairs in the event of

separation or divorce, together with full assistance in the event of an enquiry from HMRC. Our tax investigations service provided by Abbey Tax can also protect you against the costs of such an enquiry.

We pride ourselves on establishing and maintaining close personal contact with our clients and adding value to our relationships with our clients. We would therefore ensure that a dedicated client partner and tax manager will be available should you wish to discuss any aspect of your affairs.

If you do require any advice or assistance with your affairs, please contact Jennifer O'Driscoll or your usual Chantrey Vellacott DFK contact, and we shall be happy to discuss your needs further.



Jennifer O'Driscoll
 Tax Senior
 T: 020 7509 9414
 E: jodriscoll@cvcdfk.com



Tej Kalsi
Trust Senior
T: 020 7509 9463
E: tkalsi@cvcdfk.com

Inheritance tax exemptions

Inheritance tax (IHT) on death is based on the value of your estate when you die and may include the value of assets you have given away or put into trust during the previous seven years. Simple planning can help minimise the amount of IHT to be paid and below are some exemptions which apply to lifetime transfers.

Potentially exempt transfers (PETs) – this operates on a ‘wait and see’ basis. If the donor survives seven years after making the gift, it will not be included in his estate and no IHT will be payable.

Annual exemption for IHT (currently £3,000) – this is the annual lifetime exemption available to each donor, applied in strict time order against the first gift in the year irrespective of whether that is a PET or a chargeable transfer. If you do not use it, you can carry forward any unused allowance for one tax year only and in that case, the current year annual exemption must be used first before the previous year’s unused allowance. It may be better to make a chargeable transfer before a PET to ensure that the exemption is not wasted as the PET would be exempt following the donor’s seven year survival.

Small gift exemption – gifts up to £250 in any tax year to as many individuals as you wish will be exempt from IHT. However, this cannot be used in conjunction with the £3,000 exemption when making gifts to the same individual.

Wedding and civil partnership gifts – the limits are dependent on the relationship of the donor to the donee. Thus gifts of up to £5,000 if from a parent, £2,500 if from a grandparent or remote ancestor, and £1,000 from any other person will be exempt from IHT. If the gifts are more than the respective limits, the marriage exemption will apply first before the annual exemption. The gifts must be made on or before but never after the event.

Other exemptions and reliefs that apply to transfers during both lifetime and death are:

Spouse or civil partner exemption – there will be no IHT payable on any assets passed on to spouses or registered civil partners even if above the IHT nil rate band (presently £325,000). Any lifetime transfers between spouses or civil partners will not be regarded as PETs and will not reduce the amount of nil rate band on death. However, this exemption does not apply if the gift was made prior to entering into a civil partnership in which case it will be a PET and seven-year survival period continues to apply. Since October 2007, the unused nil rate band on the death of the first partner is no longer ‘wasted’ as the surviving partner, on his/her subsequent death would be entitled to an increase in the nil-rate band. This makes will planning simpler by leaving all assets to the surviving spouse.

Charities and political parties – gifts to charities and political parties are exempt from IHT.

These are some examples of simple planning opportunities to reduce the value of your estate be it by giving away assets now, if you can afford to do so, and hence start the seven year survival period clock sooner, or later planning by making gifts which use up the annual gift allowance. As an alternative to making a direct gift to a beneficiary either during your lifetime or under the terms of your will, you can put assets in trust to ensure the preservation of them for future generations and control the way the trust assets are to be used.

If you require any further information please contact Tej Kalsi or your usual Chantrey Vellacott DFK contact.



Where is your tax residence?



Johann Maxwell-Cox
Tax Senior
T: 020 7509 9122
E: jmaxwellcox@cvsdfk.com

In the 2011 budget, the government announced its intention to introduce a statutory definition of UK tax residence for individuals. The government's objective is to replace the current uncertainty that has arisen, following a number of recent tax cases.

In June 2011 the Treasury published a consultation paper outlining the government's proposals for the new statutory test, detailing the criteria for judging whether individuals are considered to be resident or not resident in the UK for tax purposes

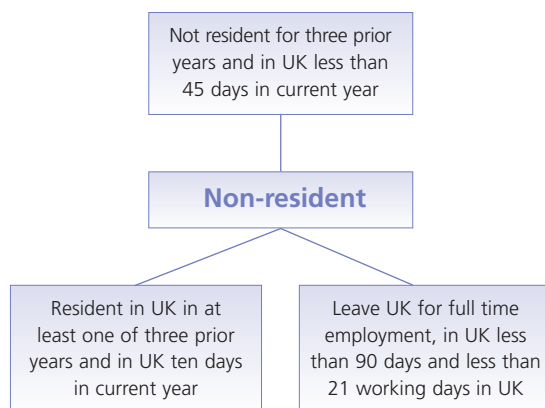
The statutory residence test (SRT) will take into account both the amount of time the individual spends in the UK and the other connections they may have with the UK. The SRT will:

- determine tax residence for individuals but not companies;
- apply for the purposes of income tax, capital gains tax and inheritance tax;
- not apply for non-tax purposes (including national insurance contributions).

Most importantly it will supersede all existing legislation, case law and guidance for tax years following its introduction.

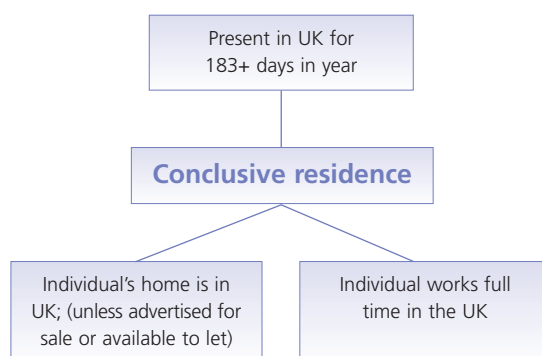
The SRT will have three parts:

- A)** Contains **conclusive non-residence** factors that would be sufficient in themselves to make an individual not resident, these are:-



Even if an individual does not meet the criteria set out in part A they would not necessarily be UK resident. That is down to part B and C.

- B)** Contains **conclusive residence** factors that would be sufficient to make an individual resident, these are:



If the individual satisfies one of the conditions in both parts A and B, part A will take precedence – the individual will be treated as non resident for the tax year in question. Part C is the 'grey area', and is to be considered by those whose residence status is not determined by part A or part B. It takes into account the number of days spent in the UK and the following connecting factors:

- UK resident family members;
- substantive employment or self employment in the UK (40 days where more than three hours of work a day is undertaken in the UK);
- accessible accommodation in the UK;
- whether 90 days or more are spent in the UK in either of the two previous tax years;
- where more days are spent in the UK than in any other single country.

Residence is determined according to a sliding scale of the number of days spent in the UK and the number of factors that apply. Essentially the proposed new rules will mean that for a long term resident of the UK, if they are to achieve non resident status, will need to substantially sever their ties with the UK, and/or spend very little time in the UK.

In contrast, non UK nationals (conducting business in the UK) by taking appropriate professional advice and maintaining comprehensive records would be able to manage their affairs with the certainty of not becoming UK resident provided they limit the time they spend in the UK.

If you require any further information please contact Jo Maxwell-Cox or your usual Chantrey Vellacott DFK contact.



Tax returns – the new penalty regime

We are well into the cycle of tax return preparation and at the moment 31 January 2012 still seems a long time away.

However this year this date is ever more critical than in previous years following the introduction of the new tax return penalty regime from 2011/12.

For those completing paper returns the deadline for submission remains at 31 October 2011, however increasingly people are submitting returns electronically meaning that the return can still be filed up to 31 January 2012.

Historically, if a tax return could not be completed and filed by the 31 January deadline, provided the tax liability was paid in full, no penalty would be charged.

However for 2010/11 tax returns due to be filed by 31 January 2012, this has changed. Firstly there will be no abatement of penalty if the return is not filed by the deadline even if the tax has been paid on time.

Secondly the penalties themselves have been amended as shown below:

Length of delay	Penalty you will have to pay
1 day late	A fixed penalty of £100. This applies even if you have no tax to pay or have paid the tax you owe.
3 months late	£10 for each following day – up to 90 day maximum of £900. This is as well as the fixed penalty above.
6 months late	£300 or 5% of the tax due, whichever is the higher. This is as well as the penalties above.
12 months late	£300 or 5% of the tax due, whichever is the higher. In serious cases you may be asked to pay up to 100% of the tax due instead. These are in addition to the penalties above.



No penalty will be charged if you have a 'reasonable excuse' for filing late however the examples given include a life threatening illness or loss of documents in a fire, and no guarantee of abatement is given.

It is important that you provide your tax return information as soon as possible to allow sufficient time to ensure that no such penalties are levied and so reliance on 'reasonable excuse' claims is necessary.

If you require any further information please contact Trevor Paterson or your usual Chantrey Vellacott DFK contact.



Trevor Paterson
Senior Tax Manager
T: 020 7509 9423
E: tpaterson@cvsdfk.com



Valery Blakemore
Personal Tax Senior
T: 020 7509 9422
E: vblakemore@cvsdfk.com

You're next!

The 2008 Finance Act extended HMRC's powers to gather information and visit businesses. HMRC now have the right to demand information from third parties about your financial and business affairs and to pay unannounced visits to your business premises to inspect your records. So look out...!

HMRC intends to target certain business sectors in specific locations: the first destination being London, soon to be followed by Scotland and the North West. Up to 600 businesses will be reviewed in each area – the emphasis being on uncovering tax evasion.

A recent HMRC press release has indicated that those specialist teams might be concentrating on various sectors around the Olympic venues (specifically the construction sector), cracking down on tax and National Insurance breaches.

Certain 'amnesties' will probably feature over the next few months / years and remain open to tax payers generally. HMRC will take a dim view of taxpayers who don't use these amnesties for their particular sector and are later found to be non-compliant.

Tax enquiries do's and don'ts

- The first thing to do is don't panic but don't ignore it! (A bit like the credit card statement you know contains bad news, put to the back of a drawer in the hope it will go away).

- You need to respond quickly and positively if you get an enquiry notice as HMRC may interpret no response as lack of co-operation – remember, the amount you have to pay if errors are found will be directly influenced by how co-operative you have been.
- It may be tempting to telephone the inspector immediately in the belief that you can sort the situation out with a quick chat on the phone. This is not a good idea – the inspector is not going to be put off by your assurances that there is nothing wrong. The first action to take is to discuss the situation with us as we have specialist HMRC enquiry and investigation knowledge.

Tax investigation service

Chantrey Vellacott DFK run a tax investigation service, fully backed by an insurance policy which the firm has taken out with Abbey Tax Protection. The service is designed to reimburse the cost of your defence in the event that you are selected for an enquiry. We strongly recommend that you subscribe to the service as tax enquiries can cost thousands of pounds and take several years to settle. In 2008/09, HMRC collected an additional £12billion through compliance activities. All taxpayers are at risk!

To discuss this further please contact Valery Blakemore or your usual Chantrey Vellacott DFK contact.

Who to contact

For further information or advice, please contact the author of the relevant article, your usual Chantrey Vellacott DFK partner or one of the following:

Birmingham

Tony Elliott
0121 454 4141
telliott@cvsdfk.com

Brighton & Hove

Ken Touhey
01273 421200
ktouhey@cvsdfk.com

Colchester

Dawn Lay-Flurrie
01206 549303
dlay-flurrie@cvsdfk.com

Croydon

Richard Willis
020 8633 9378
rwillis@cvsdfk.com

Leicester

Elliot Harris
0116 247 1393
eharris@cvsdfk.com

London

Debbie Ince
020 7509 9000
dince@cvsdfk.com

Northampton

Aaron Hemmington
01604 639257
ahemmington@cvsdfk.com

Reading

Justin Bond
0118 952 4700
jbond@cvsdfk.com

Stevenage

Mark Stevens
01438 741147
mstevens@cvsdfk.com

This Briefing is a summary of recent developments. It should not be regarded as a substitute for advice in any specific situation. The opinions expressed in guest articles are those of the respective contributors and do not necessarily represent the views of Chantrey Vellacott DFK. For further information or advice, please contact the author of the relevant article or your usual Chantrey Vellacott DFK contact.

Chantrey Vellacott DFK is the trading style of Chantrey Vellacott DFK LLP, a limited liability partnership registered in England and Wales (No:OC313147) whose registered office is at Russell Square House, 10-12 Russell Square, London WC1B 5LF. The term 'partner' denotes a member of a limited liability partnership. A list of members is available at our registered office.

Chantrey Vellacott DFK LLP is registered to carry on audit work by the Institute of Chartered Accountants in England and Wales. Chantrey Vellacott DFK LLP is not authorised by the FSA but is licensed by the ICAEW to provide investment services where these are incidental to, or arise from, the professional services it is engaged to provide.

© Chantrey Vellacott DFK LLP 2011

If you do not wish to receive any further copies of this briefing please notify us by email at info@cvsdfk.com



Mixed Sources
Product group from well-managed
forests and recycled wood or fibre

Cert no. SA-COC-002092
www.fsc.org
© 1996 Forest Stewardship Council



INVESTOR IN PEOPLE