

The government's proposals for the changes which will become law following Royal Assent in July 2013 were published just before Christmas with little publicity in the press. This is because it is a consultation document rather than the final article, but we like to keep a close eye on these documents as the changes will become law in April 2013. This gives us advance warning of the potential for planning and reviews to help you pay the least amount of tax you are legally required to pay.

In this edition of PLT we will look at some of the consultations which will impact on a number of our clients and invite you to discuss any of the articles which are particularly relevant to you.

Exit Planning using Enterprise Management Incentives (EMI)

Currently, Enterprise Management Incentives (EMI) schemes help small and medium enterprises (SMEs) recruit and retain high calibre employees by allowing employers to grant options to acquire shares at some future point in time at today's value.

A company which is potentially being grown for future sale, with certain key employees driving or taking on much of the responsibility for the growth, will need incentives, to ensure the employees join or stay with that company. The relaxation of the rules on Entrepreneurs Relief (ER) may be the possible enticement that employee needs.

An EMI scheme currently allows the gains accrued on the disposal of shares in a trading company to be taxed at the **reduced rate** of 10 per cent. This encourages an employee who will subsequently own a percentage of the shares in the company, and on the sale of those shares any resulting gain will only be taxed at 10%.

The current law has been restrictive up until now due to proviso's relating to the period of ownership and the minimum numbers of shares an employee could hold. As a result, the use of EMI schemes has been limited to those with access to cash to buy shares or to the employees with the largest holdings in the company.

Provided the legislation receives Royal Assent, then the Capital Gains Tax (CGT) Entrepreneurs Relief will be extended

to shares acquired through the exercise of EMI share options by removing the minimum shareholding requirement and allowing the 12 month minimum holding requirement to commence on the date the option is **granted** rather than the date of exercise. These changes will apply to shares acquired on or after 6 April 2012 that are disposed of on or after 6 April 2013.

With the new legislation, eligible shares acquired on or after 6 April 2012 and disposed of on or after 6 April 2013 have no requirement for the person to hold 5 per cent or more of the ordinary share capital in the company to qualify for ER. It will also start the clock for ER when the option is granted rather than when the option is exercised and as many holders of EMI options only exercise these at the time of a potential sale of the company, the potential for exit planning using EMI schemes is now much more favourable as a method of rewarding and retaining key employees.

Entrepreneurs' relief (ER) is subject to a lifetime limit on the first £10 million of gains.

We are here to help!

We are here to help: It's a fantastic opportunity to look at this exit planning strategy if your company is growing, relying on key employees and/or is potential for a sale in the next few years. Ask a member of the team for an EMI discussion or a general exit planning review to see how we can help you.



Residence and Overseas Property Issues

Statutory Residence Test

The current rules for determining tax residence depend to a large extent on cases decided by the courts. Many of these cases were decided many years ago and do not reflect modern global work or travel patterns.

It is intended that a statutory residence test will provide greater clarity and certainty to individuals when determining their residence status for tax purposes in the UK.

There are many different factors which will determine whether an individual is resident in the UK under current rules. If an individual is in the UK for 183 days or more in a tax year, they are considered as being resident in the UK for income tax purposes. However, an individual can also be resident in the UK if they are here for fewer than 183 days depending on the purpose and pattern of their presence and their connections to the UK.



Proposed revisions

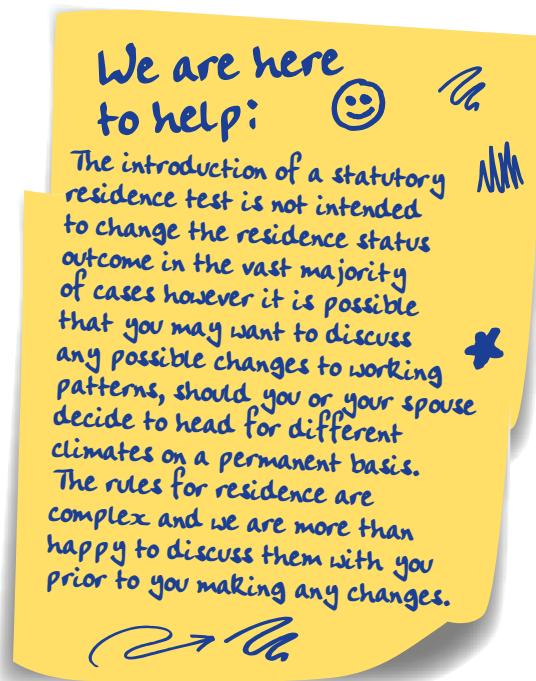
The statutory residence test will replicate as far as possible the residency outcomes delivered by the current rules. The test will also take into consideration the days spent in the UK and connections to the UK and will be structured into three parts.

- 1) An automatic overseas test will determine if an individual is automatically non-resident.
- 2) An automatic UK test will determine if an individual is automatically resident.
- 3) A sufficient ties test will determine the residency position if an individual meets neither the automatic overseas nor the automatic UK test. The sufficient ties test determines residency based on a combination of the amount of time spent in the UK with the number of ties a person has.

The measure will have effect from 6 April 2013.

It is envisaged that there will be a small number of individuals whose residence status will change as a result of this test but as yet HM Revenue and Customs (HMRC) are unable to state precisely how many will be affected.

Anyone who becomes resident as a result of this test will potentially be faced with additional burdens in completing a Self-Assessment tax return, disclosing worldwide income, considering elections for the remittance basis or claiming double taxation relief. Anyone who becomes non-resident as a result of this test will benefit from a corresponding reduction in these burdens.



Reforms to ordinary residence

Individuals who currently claim the remittance basis of taxation on the grounds of being not-ordinarily resident and individuals who currently benefit from Overseas Workday Relief (OWR) for three full tax years will be affected by the reforms to ordinary residence. However, transitional rules will minimise any impact on these individuals. OWR will also be available to non-domiciles who come to the UK regardless of their intention to settle in the UK.

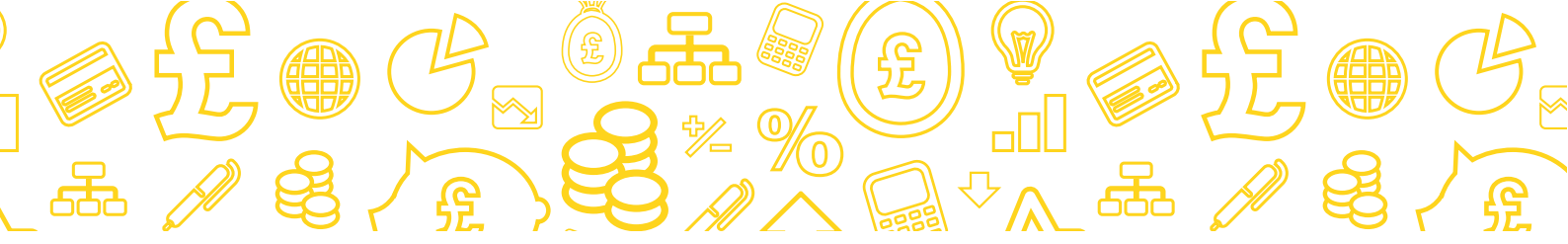
The reform will abolish the concept of Ordinary Residence and OWR will be available to those who are non-domiciled in the UK, and those who arrive here but who have not been UK resident in the previous three tax years regardless of their intention to settle in the UK.

and finally

Inheritance Tax for Non-domiciled Spouses

Should a spouse or civil partner be domiciled outside the UK – from 6 April 2013 they can elect to be treated as domiciled in the UK for the purposes of Inheritance Tax (IHT).

The IHT exempt amount for lifetime transfers from a UK-domiciled individual to their non-UK domiciled spouse or civil partner is at present capped at a lifetime limit of £55,000 however this appears to have fallen foul of the EU regulations



and so the changes will mean that rules are equalised between domiciled and non-domiciled spouses and civil partners. The IHT nil-rate band which currently stands at £325,000 will become the upper limit for transfer.

Where an individual chooses not to elect for UK domicile treatment their overseas assets would, as now, be exempt from IHT but any transfers to them from their spouse or civil partner would be subject to the increased cap. Individuals who choose to make an election would benefit from uncapped IHT-exempt transfers from their spouse or civil partner, but subsequent disposals by them would be liable to IHT (subject to their own nil-rate band), no matter where in the world their assets were located.

The election is only for IHT purposes and does not involve any changes to the income tax position of the non-domiciled spouse and will remain in place while ever the individual remains resident in the UK. The election will cease to have effect if the electing person is resident outside the UK for more than three full consecutive tax years.

maximum amount of the annual investment allowance (AIA) increasing from £25,000 to £250,000.

The measure will have effect from 1 January 2013 for all businesses whether chargeable to corporation tax (CT) or to income tax (IT).

The calculations are complex depending on the accounting year end and the date of the spend with specific difficulties if the accounting period covers spending prior to the rate reducing in April 2012.

Businesses are able to claim the AIA in respect of their expenditure on both general and "special rate" plant and machinery (although there are certain exceptions, the main exception being expenditure on cars). The AIA is effectively a 100 per cent allowance that applies to qualifying expenditure up to the specified annual limit or cap.

Stop Press

Inheritance Tax Nil Rate band to increase

Inheritance Tax Nil Rate band to increase by 1% to £329,000 from 6 April 2015. Not a headline grabber but a small increase which could save an estate £1,600 if the deceased is single or £3,200 on the second death of a spouse or civil partner.



We are here to help:

If you intend to spend on items for your business and have some flexibility on the date of the spend then please talk to us about the possibility of maximising the allowance, and don't forget for those of you who are sole traders or partnerships if the spend is timed correctly the maximum allowance could also gain you tax relief at 50% rather than the new rate of 45%. Prepare carefully for the spend with your client manager and you could potentially save £000 of tax!

Annual investment allowance: yo-yo increase to £250,000 is time restricted.

There is a huge incentive to get businesses spending on their business plant and machinery for a short period of time. The rate of allowance has been going up and down for a number of years now and this new increase is restricted to a temporary period of two years from 1 January 2013.

Businesses investing more than £25,000 a year in plant or machinery from 1 January 2013 will benefit from the



Reducing the pensions tax annual and lifetime allowances

Currently there are no limits to how much can be saved in registered pension schemes, however there is an overall limit on the total amount of an individual's tax-relieved annual pension savings, including employer contributions, known as the annual allowance. The annual allowance for the tax year 2011-12 is £50,000. Unused annual allowance from the three previous tax years for the individual can be carried forward and added to the annual allowance.



There is also an overall limit, known as the lifetime allowance, on the total amount of tax relieved pension savings that an individual can have over their lifetime. For the tax year 2012-13 the standard lifetime allowance is £1.5 million.

For tax years starting on 6 April 2014 onwards it has been confirmed that the annual allowance will be reduced to £40,000 and the standard lifetime allowance to £1.25 million which is estimated to save the treasury £1.8 billion in tax relief.

There will be a transitional protection regime (fixed protection 2014) for individuals with UK tax relieved pension rights of more than £1.25 million or who consider their rights will exceed £1.25 million by the time they take their pension benefits.

We will need to make an election to HM Revenue & Customs (HMRC) on your behalf by 5 April 2014 if you want to rely on the fixed protection 2014 which will entitle you to a personal lifetime allowance of the greater of £1.5 million or the standard lifetime allowance. Reviewing the position alongside your Independent Financial Advisor (IFA) early in 2013 is essential to ensure your pension pot receives the correct protection.

There are conditions for maintaining fixed protection 2014 if you have a defined contribution pension scheme. You must ensure that no further pension contributions are received by the scheme on or after 6 April 2014 and must not accrue further benefits above a 'relevant percentage' from this date.

We are here to help:

Now is the optimum time to review pension contributions and you may want to look at your pension entitlement and contribution history for State Pension purposes. We can advise on this, please just ask your client manager.



We Can Help

We can help you by ensuring that you're aware of the changes that will affect you, your family and your business. To find out more about the ways that we can help you, do not hesitate to contact us.

Accountancy Edge
7 Honey Street, Northam
Devon EX39 1DL

Tel: 01237 421342
Email: paylesstax@accountancy-edge.co.uk
www.accountancy-edge.co.uk