

TAX

UK MAY SOON CEASE TO BE TAX HAVEN

11 OCTOBER 2007



Mathew McKay
SENIOR SOLICITOR

In a most interesting development, the UK Chancellor of the Exchequer, Alistair Darling, announced in a Pre-budget Report delivered this week that the UK non-domicile tax exemption would be amended to close “loopholes” and ensure that “everybody who lives and works [in the UK] should pay their fair share”.

The current position may be attributed to the Magna Carta (1215) which provides that:

“All merchants may enter or leave England unharmed and without fear, and may stay or travel within it, by land or water, for purposes of trade, free from all illegal exactions, in accordance with ancient and lawful customs. This... does not apply in time of war to merchants from a country that is at war with us. Any such merchants found in our country at the outbreak of war shall be detained without injury to their persons or property, until we or our chief justice have discovered how our own merchants are being treated in the country at war with us. If our own merchants are safe they shall be safe too.”

The UK non-domicile rule

The UK “non-domicile” rule exempts some foreigners living in the UK from UK tax on their offshore income unless that income is remitted to the UK. The foreigner living in the UK must be able to cite another country

as their true “domicile”. A version of this rule has existed in UK tax law since 1914.

The Chancellor stated that there are approximately 115,000 registered “non-domiciles” in the UK. Some of the UK’s wealthiest residents utilise the rule. Proposals to abolish the rule in the past have met with strong opposition. Defenders of the rule argue that it promotes investment in the UK and that wealthy foreigners would leave the UK if the rule was abolished.

The UK proposals

After rejecting proposals to impose a flat annual charge on non-domiciles living in the UK, the Chancellor said that he would consult with officials and advisers on an alternative rule which would introduce “a charge after seven years, then a higher rate after ten”.

New Zealand’s temporary exemption

New Zealand introduced a temporary exemption from New Zealand tax on foreign income in 2006. The exemption applies to certain individuals arriving in New Zealand on or after 1 April 2006 who have not been treated as being tax resident in New Zealand for a period of 10 years.

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For further information, please contact your usual Bell Gully adviser or:

Niels Campbell

DDI 64 9 916 8944
niels.campbell@bellgully.com

Joanne Hodge

DDI 64 9 916 8942
joanne.hodge@bellgully.com

David Simcock

DDI 64 9 916 8645
david.simcock@bellgully.com

Willy Sussman

DDI 64 9 916 8952
willy.sussman@bellgully.com

John Bassett

DDI 64 9 916 8946
john.bassett@bellgully.com

Graeme Olding

DDI 64 9 916 8972
graeme.olding@bellgully.com

Summer Deverell

DDI 64 9 916 8817
summer.deverell@bellgully.com

Mathew McKay

DDI 64 9 916 8329
matthew.mckay@bellgully.com

Graham Murray

DDI 64 9 916 8832
graham.murray@bellgully.com

These individuals are not required to pay tax on their foreign income (other than income from employment performed in New Zealand and income from the supply of services). The exemption applies for a 48 month period (i.e. approximately four years). After that time, if the individual remains resident in New Zealand, they must pay New Zealand tax on their worldwide income.

Comment

While details of the amendments proposed in the UK are yet to emerge it appears at this stage that, even in their more limited form, the UK non-domicile tax rule will be more generous than the New Zealand equivalent. The UK exemption will continue to apply for a seven year period and it is implied that, when taxed, “non-domiciles” will be taxed at a lesser rate than UK domiciles.

We will follow the progress of these proposals in future updates.

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