BRIEFING NOTE

October 2014

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Autumn 2014 Update

It has been a busy summer of changes affecting offshore aspects to the Wealth Planning arena and these include the following:

1. **Major Rule Changes to the Liechtenstein Disclosure Facility (LDF).** For further details see separate Briefing Note.

2. **HMRC changes the position on foreign income/gains used as collateral or loans by UK resident, non-UK domiciled remittance basis users.** For further details see separate Briefing Note.

3. **Consultation in relation to the Annual Tax on Enveloped Dwellings (ATED).** HMRC recently issued a consultation document in relation to reducing the administrative burden of completing ATED returns. Currently, ATED returns must be filed within 30 days of the beginning of the chargeable period (or acquisition) based on information then available, which means that if circumstances change a further return must also be filed. A separate return is required for each property held.

   HMRC have asked for feedback on two options to reduce the administrative requirements of ATED with this consultation period closing on 16 September 2014. Following the consultation, the responses will be reviewed and further changes could follow to the ATED legislation.

   The first option under consideration is only applicable to those with several properties that fall within the ATED legislation. It looks to introducing a single return for all the properties to be submitted by the normal due date and also an additional supplementary return that would be submitted post year end to allow for the inclusion of any additional properties acquired in the period or adjustment for any properties disposed of. This would be insteadof having to file a return for each property where there is a relief available to reduce the ATED liability to nil. It is unlikely this will affect many people but would seem a logical step.

   The second option proposed by HMRC would allow those entitled to claim a relief that reduced their ATED liability to nil to apply for exempt status from filing returns. This status would then be reviewed at a set interval by HMRC. This would seem to be a logical step provided the process of applying for exempt status was not onerous itself and would reduce the burden of completing returns once exempt status was received.

4. **HMRC consults on new Criminal Offence and penalties for offshore tax evasion.** Following its announcement earlier in the year in the offshore evasion strategy papers, “No Safe Havens”, HMRC published two consultation documents on proposed new powers to deal with offshore tax evasion on 19 August 2014. Both consultations run until 31 October 2014. In their proposals they intend to extend the punitive penalties for offshore tax evasion – up to 200 per cent of the unpaid tax – to cover inheritance tax (IHT). IHT is now identified as one of the major taxes evaded through the use of offshore centres and complex planning structures. The consultation invites comment on the design of the new offence and on what the appropriate safeguards should be.

   HMRC say most offshore cases will continue to be handled through civil penalties, although it is hoping to strengthen its criminal sanctions. In this way the second consultation sets out a new strict liability criminal offence of failing to declare offshore income and gains. The consultation explores the situation where an individual moves their assets from one offshore centre which has tightened up its tax information sharing laws to another which has yet to do so. In such cases, HMRC is proposing to drop the rule which limits to 20 years the period over which it can look back at a taxpayer’s affairs.

5. **Withdrawal of Personal Allowance.** At Budget 2014 the Government announced it would consult on whether entitlement to the UK Personal Allowance should be restricted for non-residents and how this might be done. Most countries have a Personal Allowance or equivalent on their tax system. However, few are as generous as the UK which has the highest personal allowance in the G20 and one of the largest in the OECD and the EU. Comments in response to the consultation questions are invited by 9th October 2014. The consultation proposes that UK personal allowances should only be available to non-residents who receive most of their income from the UK. This would be particularly relevant for instance to non-residents who have UK rental income.

6. **The consultation period on the implementation of a CGT charge on non-residents closed on 20th June 2014.** The results of the consultation are still awaited. The change proposed in the March 2014 Budget was the extension of Capital Gains Tax to non-residents investing in UK residential property. For further details of the proposal see our Briefing Note entitled Capital Gains Tax for Non-UK Residents – Consultation is Here!

For further information or to discuss any of the issues raised in this briefing note, please contact a member of Rooks Rider Solicitors' Wealth Planning team:

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