

## Sykes Anderson LLP

### UK Budget 2011 - News You Can Use

**A short summary for entrepreneurial and internationally mobile people who want to know how they can benefit from the Budget.**

#### **Non UK Domiciled**

At the moment if you are non UK domiciled but have been UK resident for seven years or more you have to pay £30,000 per year in order to benefit from the remittance basis. This means broadly that on foreign money you only pay UK income tax and capital gains tax if you bring it into the UK. From April 2011 this annual charge will increase to £50,000 for those who have been resident for twelve years or more.

#### ***Top Tip:***

If you are coming up to the 7 or 12 year deadline it may be worthwhile leaving the UK for a short period to break your period of UK residence and be able to start the 7 year clock again from zero. This could save  $7 \times 30,000 = 210,000$  over 7 years and delay payment of the £50,000 per annum.

#### **Non Domiciled –business purposes**

The Budget introduces an exemption where funds are remitted to the UK for business purposes. We are awaiting further details.

#### ***Top Tip:***

This is something for the non-domiciled to watch, especially if you can invest in your own business. Why not see if you can extract the maximum from your business now tax free and then replace this working capital by remitting tax free from abroad? It may be an idea to line up a big business overdraft so you can really go to town!

#### **UK Residency**

The law is unclear as to when you are and are not a resident. The new rules “clarifying” the position may end up tightening the position for people planning to leave the UK, especially those who will continue to have UK business interests

#### ***Top Tip:***

It may be best becoming non resident as soon as possible i.e. before 5<sup>th</sup> April 2012 whilst there is a fog of uncertainty in the air. The “clarification” is unlikely to help taxpayers thinking of leaving the UK tax net.

#### **Anti-tax avoidance methods**

The Government has confirmed their intention to tackle tax avoidance. Expect widely drawn provisions in the forthcoming legislation.

#### ***Top Tip:***

In practice the Government will clamp down on specific schemes which are costing them a lot of money. You should avoid getting involved in these. Lower profile

planning tailored to your specific needs and the facts of your case is less likely to be a problem.

### **High Value Properties**

The Government are also looking into methods for owners of high value property avoiding paying their share of taxation.

#### ***Top Tip:***

This sounds like a sound-bite from a Government short of cash telling HMRC to think of ways to “round up” the usual suspects. The threatened introduction of an SDLT charge on share transfers of companies owning houses has not yet materialised. Offshore companies and trusts are unlikely to be targeted because of the UK’s need to attract foreign high net worth people.

### **SDLT anti-avoidance**

Over the last few years the Government has increased its policing of SDLT on higher value properties.

This has resulted in a number of loopholes being closed and legislation has been introduced today to clamp down on three further schemes.

#### ***Top Tip:***

There are still other legitimate SDLT savings to be made. It is highly recommended that you seek expert advice to avoid falling foul of anti-avoidance measures.

### **Enterprise Zones**

The Government shall be introducing 21 new enterprise zones where development of businesses will be encouraged by offering a 100% new business rate discount for five years for businesses within these zones.

#### ***Top Tip:***

Commercial landlords should consider investing in properties in these areas. Entrepreneurs should take this into account when setting up new businesses. It may be worthwhile looking at residential buy-to-let properties in better areas near suitable enterprise zones, especially if large numbers of jobs are likely to be created.

### **Entrepreneurs’ Relief**

The life time limit for Entrepreneurs’ relief is to be doubled to £10million. The increased lifetime limit will only apply for disposals after 6 April 2011. Disposal for these purposes is when there is a binding unconditional contract.

#### ***Top Tip:***

If you are selling your business and want to lock in the buyer prior to that without realising a capital gain until the next tax year you may wish to consider a cross option agreement.

### **Furnished Holiday Lettings**

Currently, if a property is let furnished to holiday makers for at least 70 days in the tax year and is made available for such lettings for at least 140 days in the tax year, it

will meet the Furnished Holiday Lettings (FHL) test and the owners can claim the reliefs for tax purpose. As of April 2012 the property must be let for 105 days, and be available for letting for minimum of 210 days during the year..

From April 2011 owners will no longer be able to offset their trading losses against other source of income. Losses from this activity will only be available to offset against future profits from the same business. The reliefs are now available in respect of non-UK properties, which was not previously the case.

 **Top Tip:**

If you own a second home, you should seek advice to see if you qualify for FHL relief.

**Tax treaties**

New rules will come in to stop UK residents using tax treaties as part of tax avoidance schemes and non UK residents using UK tax treaties they are not entitled to.

 **Top Tip:**

This is known as treaty shopping when people artificially try to come within double tax treaties normally when their link with say the UK is tenuous. You need to make sure your structures are set up properly so you can robustly deal with any claim.

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**David Anderson**

**Sykes Anderson LLP**

[david.anderson@sykesanderson.com](mailto:david.anderson@sykesanderson.com)

+ 44 203 178 3770

[www.sykesanderson.com](http://www.sykesanderson.com)