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Taxation

Non-domiciled employees – controlling the rising costs

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Changes to the rules for non-domiciliaries from 6 April 2008 create serious tax issues for expatriate employees and their employers. Addressing these before they become problems will help employers retain key employees and control staff costs.

Who will be affected?

All UK resident individuals claiming the benefit of the 'remittance' basis of taxation on their overseas income. This is likely to include many foreign nationals and those of overseas extraction working in the UK after 6 April 2008 and employees on secondment here who are resident but 'not ordinarily resident' in the UK. The impact on each individual will depend on a number of factors ranging from their employment contract and duties to their overseas assets and family situation.

How are they affected?

The impact on each individual employee will vary depending on their circumstances but some common situations where they will face increased UK tax liabilities are set out below.

Individuals claiming the benefit of the 'remittance' basis through their tax returns will lose their personal allowance, increasing

their annual income tax bills (by up to £2,174 for 2008/09). In addition, the annual capital gains tax exemption will be lost (costing those with gains up to £1,728 for 2008/09). Anyone who has been resident in the UK for seven of the previous nine years will face a further yearly £30,000 charge if they elect for the remittance basis.

Previously, it was tax-efficient for individuals who were not domiciled in the UK and worked for international employers to have separate or 'dual' contracts for their UK employment and their overseas work. The salary for overseas work would not be taxed in the UK provided that none of the income was remitted here. Such contracts will only continue to be tax-effective where employees claim the remittance basis (incurring additional tax).

Employees who are resident but not ordinarily resident in the UK

did not previously pay tax on earnings from overseas duties, unless they were paid in or remitted to the UK. Again, it is necessary to claim the remittance basis to continue with this treatment.

Non-domiciled employees working full time in the UK but retaining significant personal assets overseas will face additional UK tax costs where these give rise to income or gains in excess of £2,000 per year. While these will not relate to their employment income, they will of course reduce the attractiveness of working in the UK.

Clearly, where employers have put in place tax equalisation arrangements for foreign employees, the cost of these arrangements will increase. Even where there are no such arrangements, foreign employees may now require more generous remuneration packages to keep them working in the UK or tempt

them to take up roles in the UK.

What should employers do?

The first job is to assess the size of the issue for your company by establishing how many of your employees are likely to be affected. Then the immediate tasks are likely to involve:

- reviewing dual contract arrangements for non-domiciled individuals

- calculating direct cost increases to any tax equalisation arrangements
- providing information to affected employees
- establishing the level of support you wish to offer to affected employees and putting this in place as soon as possible.

How PKF can help

We can provide a wide range of support services including:

- tax equalisation calculations and structures
- contract reviews
- employee briefings and information
- one to one employee support
- employee tax return services.

Our Team



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Philip Fisher has worked in the field of employment taxation and rewards for 15 years. Recently, he has specialised in the implementation of employee share schemes, advice to expatriate employees and the negotiation of settlements following PAYE & NIC investigations. He is a regular writer for numerous books and journals on taxation issues – the author of *Employee Share Schemes* and editor of *Income Tax and NIC for the Employed*, both published by CCH.



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Brian has over 30 years experience in employment tax and National Insurance Contributions, including dealing with PAYE investigations and negotiating settlements on clients' behalf at the highest level. He has specific knowledge of designing and implementing systems and procedures to ensure employment tax compliance and has prepared and designed expense manuals and deals with large scale termination / redundancy issues on behalf of a wide range of clients.



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Sandra deals with a broad range of taxes affecting high net worth individuals and is responsible for a sizeable portfolio of expatriates and non-UK domiciled private clients, which include top executives, inbound/outbound expatriate individuals and entrepreneurs. She also has a wealth of experience in dealing with HMRC enquiries and negotiating settlements.



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Anne-Marie has 19 years experience in tax investigation work, including PAYE audits of large businesses, government departments and charities. She also specialises in Employment Related Securities including the arrangements in respect to expatriates. She has been involved in the negotiation of settlements with HMRC and is well versed in their new risk based approach.

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