

Welcome to Phoenix

EDITION 12

Budget 2008

The link is <http://www.hmrc.gov.uk/budget2008/index.htm>

The real story is here:

BN22

This is a fascinating piece of targeted anti-avoidance legislation and flies in the face of Article 56 of the Treaty of Rome. We expect a robust and rapid rebuttal of this by major corporates. For those non-UK companies that are correctly managed and controlled outside of the UK this is a threat that should be challenged.

In essence HMRC want total taxation rights of all companies in a group where one of the companies happens to be UK resident. This is both unachievable and in contradiction to EU law. There will be challenges from HMRC subsequent to the Holden (control and management test) case however we mainly expect to see sabre rattling more than anything substantial on this.

BN31

Offshore Fund Regime

No changes of material impact for tax planning here. Our offshore fund offerings for tax deferral continue to be of use as before.

BN39 / BN54 / BN58 / BN59 / BN60

SDLT anti-avoidance

Yes, we all know that the Candy brothers did a £900M+ deal using Sharia compliant lending (which 'inadvertently' led to no SDLT), and that route has been stopped. Never mind! We still have one of the most robust SDLT arrangements going and it has survived the budget unscathed.





BN40

I highly recommend that everyone reads this budget notice as a classic example of incompetence and the Labour government's fundamental misunderstanding of law. In summary: "...FA 2006 permits amendments to the tax rules on alternative finance arrangements... This power allows for the introduction of provisions relating to new arrangements, but does not allow for amendments to the rules on existing arrangements. This measure will introduce a further power to permit amendments to existing tax rules on alternative finance arrangement to be made by secondary legislation."

Answers on a postcard please...

BN 66

Property partnerships are officially dead. Not good news but let's face it we all know that certain Isle of Man organisations have been over flogging this technique so no great surprise. What do we do now you ask – we have the answer.

BN102

Residence testing

The rule is there was no rule, then there was and now it's changed. That's clear then. Residence is defined as a matter of the facts of the case so stay safe and stay clear! Alternatively talk to Marlborough Estate Agents for access to the best end of the Guernsey property market!

BN104

Yes, we have re-basing of trust assets, hallelujah! An interesting clarification this and one that does not seem to be in line with the current government's way of thinking. Is there a chink in the armour perhaps? More to follow on this. The slight changes in the non-dom proposals I am sure will be covered by other newsletters from organisations far more learned than us so we shall leave that to them...for now.