

Quarter 4 2016

Wealth Wise

High net worth & family offices

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Non-dom update

The Government announced its intention to change the tax treatment of non-UK domiciliaries ('non-doms') in the Summer Budget of 2015.

A process of consultation on those changes has been ongoing. We had been provided with some draft legislation but the majority of the reforms had been withheld until the publication of a consultation document that was issued on 19 August 2016.

There are still some areas where more information is required, and the details are not finalised, but we do now have a better sense of what the regime from 6 April 2017 onwards will look like.

There has been some movement from the last consultation position that is helpful, but the changes to the proposals for the treatment of offshore trusts is not as beneficial as initially thought.

The changes include:

- a new concept of deemed UK domicile for those who have been UK resident for more than 15 out of the previous 20 years which applies to all direct taxes;
- transitional provisions which allow a tax free rebasing of foreign assets in certain circumstances, as well as a limited ability to unravel historic funds held overseas which could otherwise not be remitted to the UK without a tax charge;

- changing the treatment of offshore structures such as trusts settled by non-doms who will be considered deemed UK domiciliaries from 6 April 2017, although the trusts can remain outside the scope of inheritance tax;
- people who were born in the UK with a UK domicile of origin and who acquired a non UK domicile after leaving the UK will be treated as UK domiciled if they return to the UK, and trusts settled by them will come into a charge to inheritance tax;
- subjecting UK residential property to inheritance tax where it is held through offshore structures, even where the beneficial owner is not resident in the UK.



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The deadline for replying to the consultation document was 20 October 2016 and Moore Stephens made a detailed submission. It is understood that further changes are due to be announced to the above proposals, and this is particularly expected in the area of trusts. The next likely point where an update can be expected is 5 December 2016, on publication of the draft 2017 Finance Bill. However, the rules may still then be subject to change and this will leave affected individuals and structures very little time to plan what action to take before 5 April 2017.

Brexit: surprise and uncertainty felt overseas

The UK voted to leave the European Union (EU) in what was a surprise decision. Whilst the vote was clear, virtually every other aspect of Brexit is clouded in uncertainty.

Some consequences were felt immediately with the resignation of the Prime Minister, the decline in Sterling and the closure of certain property funds.

The prevailing uncertainty has led to many overseas investors putting projects on hold pending answers to questions such as the ability of foreign workers to continue to work in the UK, whether EU nationals will be subject to immigration restrictions and if the Brexit vote may trigger a new Scottish referendum on independence. For many international businesses, the role of the City of London, post-Brexit, remains unclear as companies indicate they may relocate to other EU jurisdictions to

continue to access the 'single market'. Families are also reviewing residence and tax considerations.

There is another side to the story though: many believe Brexit will improve the UK's long term competitive position. There has also been improved growth since the referendum and a number of overseas investors have commented that the fall in the currency has made the UK more fiscally attractive.

The longer term economic consequences will depend on the outcome of the UK's Brexit negotiations with the EU. The rhetoric of European leaders suggests a

challenging and lengthy process with a two year transition period ahead. However the negotiations play out, it is clear the vote has signalled the rise of political uncertainty – businesses and individuals will need to ensure long term plans are reviewed and adapted to the changing environment.

Whilst Theresa May has announced her intention to trigger Article 50 of the Lisbon Treaty by the end of March 2017, this is an unprecedented situation in the history of the EU and is now itself subject to a domestic legal challenge.

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Banking stress tests provide unique insight

Last performed in 2014, The European Banking Authority (EBA) has updated its 'stress tests' this year. These tests provide an opportunity to review the strength of financial institutions over and above the normal regulatory processes.

The EBA assessed the resilience of 51 banks, 37 from the Euro area and 14 other European banks – covering 70% of European banking assets, against 'baseline' conditions and under an 'adverse' scenario. A total of 16,000 data points are analysed per bank which is not a 'pass / fail' system but highlights the impact on the key capital ratios under stress conditions.

The key finding was that the common equity capital ratio (CET1), which is a measurement of a bank's core equity capital compared with its total risk-weighted assets that signifies a bank's financial strength, increased to 13.2% from 11.1% in 2014, compared with only 8.9% in 2011. This was achieved through a combination of additional capital and a reduction in risk weighted assets. However, it was noted that there was an

increase in non-performing loans and lower levels of profitability.

Using the baseline scenario, CET1 is expected to increase from 13.2% to 13.9% by the end of 2018, whereas under the adverse scenario, the ratio is expected to fall by 380 basis points to 9.4%. The reduction varies significantly with 14 institutions projecting an impact of 500 basis points and Banca Monte dei Paschi di Siena S.p.A. showing a negative ratio in 2018 of -2.2%.

The Federal Reserve also performs stress tests under the Dodd-Frank Act, the 2016 average CET1 ratio of the US banks was 12.3%, reducing to 8.4% in Q1 2018 under their 'severely adverse scenario'.

Although the stress tests do have inherent issues, such as the assumption that assets and liabilities held at the date of the scenario are replaced with similar instruments after maturity, they nevertheless provide a unique insight into the banks and their regulatory capital.

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Fraud update: Criminal Finances Bill 2016-2017

Now working its way through UK Parliament, the Criminal Finances Bill increases the importance of family offices taking steps to reduce the risk of unwittingly enabling financial crimes.

The Bill, currently at the second reading stage in the House of Commons, aims to strengthen existing legislation in relation to tackling money laundering and corruption, recovering proceeds of crime and preventing terrorist financing.

The Bill gives greater power to the state and enables greater knowledge sharing between the state and private companies. Its measures include introducing Unexplained Wealth Orders so that suspects of financial crime could be asked to explain the origins of their wealth and provide evidence on how luxury items, including jewellery and property, were purchased through legal means.

The biggest change relates to new offences for corporate failure to prevent the facilitation of tax evasion. Companies (and advisers)

with insufficient measures to prevent tax evasion or money laundering could in future be held liable for the actions of individuals within them where tax evasion results.

This represents one of the biggest shake-ups in the history of financial crime prevention. All firms will need appropriate procedures in place, including training for employees.

Family offices must take action. As well as reviewing their own procedures, they should ensure all advisors are investing money legally. Monitoring procedures should be established. It will be vital to ensure that neither money laundering nor tax evasion is facilitated from within the family office or the family itself.

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Country profile: Monaco

With two directors, 40 staff and a 60-year presence, Moore Stephens Monaco is firmly embedded in the local community.

Moore Stephens Monaco has been successfully advising wealthy families, individuals, and international businesses for 60 years. "We've been here a long time and have worked with three generations of some of our clients," says director and partner Andrew Gallagher.

Moore Stephens Monaco has two core service streams: Private Client & Family Office, headed by the Firm's Managing Director, Patricia Osborne, which offers a full range of administrative and accounting services including real estate and Audit and Business Services, headed by Andrew Gallagher. Both Patricia and Andrew are partners of Moore Stephens London and are therefore able to offer a wide range of assurance services.

"We are the traditional, trusted accountants, but by adding innovation and the ability to listen to clients we stay relevant," Andrew says. For example, as families and businesses become more concerned about data security and cyber crime, we are increasing our expertise in these areas and our assurance work



is evolving. We are increasingly involved in tailored assignments such as internal control reviews, internal audits and IT assurance work designed to meet specific client needs – a range of agreed-upon procedures.

As a member of the Moore Stephens International network, Moore Stephens Monaco can call on colleagues in over 650 firms in over 100 countries around the world – a depth of trusted resource that is vital when providing services to international clients.

Involvement in the community in Monaco is important to the Moore Stephens team. Both Patricia and Andrew participate on the Boards of a number of local associations including the Monaco Chamber of Shipping and the Propeller Club, for which Andrew is the President. Andrew says "We want to play a vibrant role, helping not just our clients, but the wider community as well."

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Profile: Birgitta Bondonno

Birgitta Bondonno, Senior Executive in the Private Client & Family Office (PCFO) team at Moore Stephens Monaco, enjoys helping her international clientele with their real estate challenges.



A Swedish national, Birgitta studied law in France and worked for an international law firm in Monaco for ten years before joining Moore Stephens in 2011. "I enjoy the fact that Moore Stephens offers broader services and has a multidisciplinary approach," she says. "I came here with strong legal expertise but now have a better understanding of accounting issues. It's also good for our clients – when they come to us they understand that we provide a one-stop shop."

Birgitta specialises in tax issues, in particular related to real estate. Her team includes accountants, legal assistants and administrators. "I deal with French and international tax," she says. "Whether people have moved here or invested here, I help them with their real estate structures, taking account of cross border issues." Estate planning, making sure that people plan ahead for the impact of tax and civil laws after death, is another important element of Birgitta's work. "We can also set up companies and holding structures for real estate, if appropriate," she says. "We propose well-trying structures for holding property

that will be reliable for long term investments and flexible to take account of changing family needs."

Among Birgitta's clients are wealthy families, Monaco residents and individuals based elsewhere around the world. "It's an international clientele and I enjoy working in this kind of environment," she says. She believes the Monaco office's strong links with Moore Stephens London give it an advantage. "We keep our standards at the London level and that keeps us ahead of our competitors in Monaco," she says.

Away from the office Birgitta is kept busy by her two sons, watching them play sport and taking part herself. "Skiing is my preferred activity, so it's good to have mountains so close."

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Global Family Office Community

The Global Family Office Community (GFOC), which exists to 'serve the needs' of family offices, held its first event in September solely for approved supplier firms at the Moore Stephens London Office.

Vahe Vartanian, head of the community, comments: "This was an opportunity for our approved service providers to family offices, to meet each other, and learn more about each other's businesses, as well as hearing an overview of the family office sector from both GFOC and Moore Stephens. Around 40 attendees joined us, with services ranging from accountancy through to property search, recruitment, technology providers, and even high-end kitchen designers, showing the breadth of companies that serve the family office market. The attendees valued the opportunity to be made aware of, and also make connections with other service providers which could be of benefit to their existing clients."



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