



The UK Statutory Residence Test – The Wait Continues

Draft legislation for inclusion in the Finance Bill 2012 was published on 6 December 2011. It was expected that this would include further details about the Statutory Residence Test, but it appears any legislative changes have been postponed. The following statement was released to explain:

'In the Budget 2011, the Government announced its intention to introduce a statutory residence test in the Finance Bill 2012. Following consultation over the summer, the Government has decided to allow further time to finalise the detail of the test. The test will now be introduced with effect from 6 April 2013 and legislated in Finance Bill 2013. Draft legislation will be published around the Budget 2012.'

A separate statement confirms that the Government remains committed to introducing the statutory test, but the detailed issues associated with it require further consideration.

Where does this leave us?

This is a disappointment for those who were expecting a statutory test to be introduced in April 2012. In the interim, non-residents are faced with another year of their status being decided based on personal circumstances against a background of case law and HMRC 'guidance'. It may be coincidence but the Supreme Court rejected the long running **Gaines-Cooper** appeal just over a month ago. This case emphasised the importance of making and maintaining a clear and distinct break from the UK, ensuring that one's 'centre of life' is not in the UK and being careful that any time spent in the UK is within the visiting limitations. It also clearly highlighted the care that needs to be taken in relying upon HMRC guidance.

The deferral leaves individuals with a degree of uncertainty for the time being. However it is important to note that it appears the Revenue is taking seriously the opportunity to develop a robust and clear set of rules surrounding this important area.

Given that the situation remains unclear, at least in the short term, professional advice is all the more important. If you are at all unsure of your non-resident position, we can provide comment and highlight any areas that may give cause for concern.

For more information please visit our website.

Please do feel free to pass this update onto friends or colleagues who may be interested in this subject - we would be happy to keep them up-to-date with further developments.

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