

21 May 2014

Annual Tax Conference 2014



The changing face of tax

Kevin Cowley

The changing face of tax



Agenda

Nicola Guffogg – International Developments

Phil Morris - VAT

Ben Holloway - Personal Tax

George Sharpe – Next years surprise announcement

Questions and Answers

Thanks



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PwC Tax Update

Nicola Guffogg

May 2014

International Developments

❑ Transparency

e.g. exchange of information
country by country reporting

❑ International tax system

e.g. transfer pricing
digital economy
treaty abuse



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Transparency

❑ Exchange of Information

- On request
- Automatic

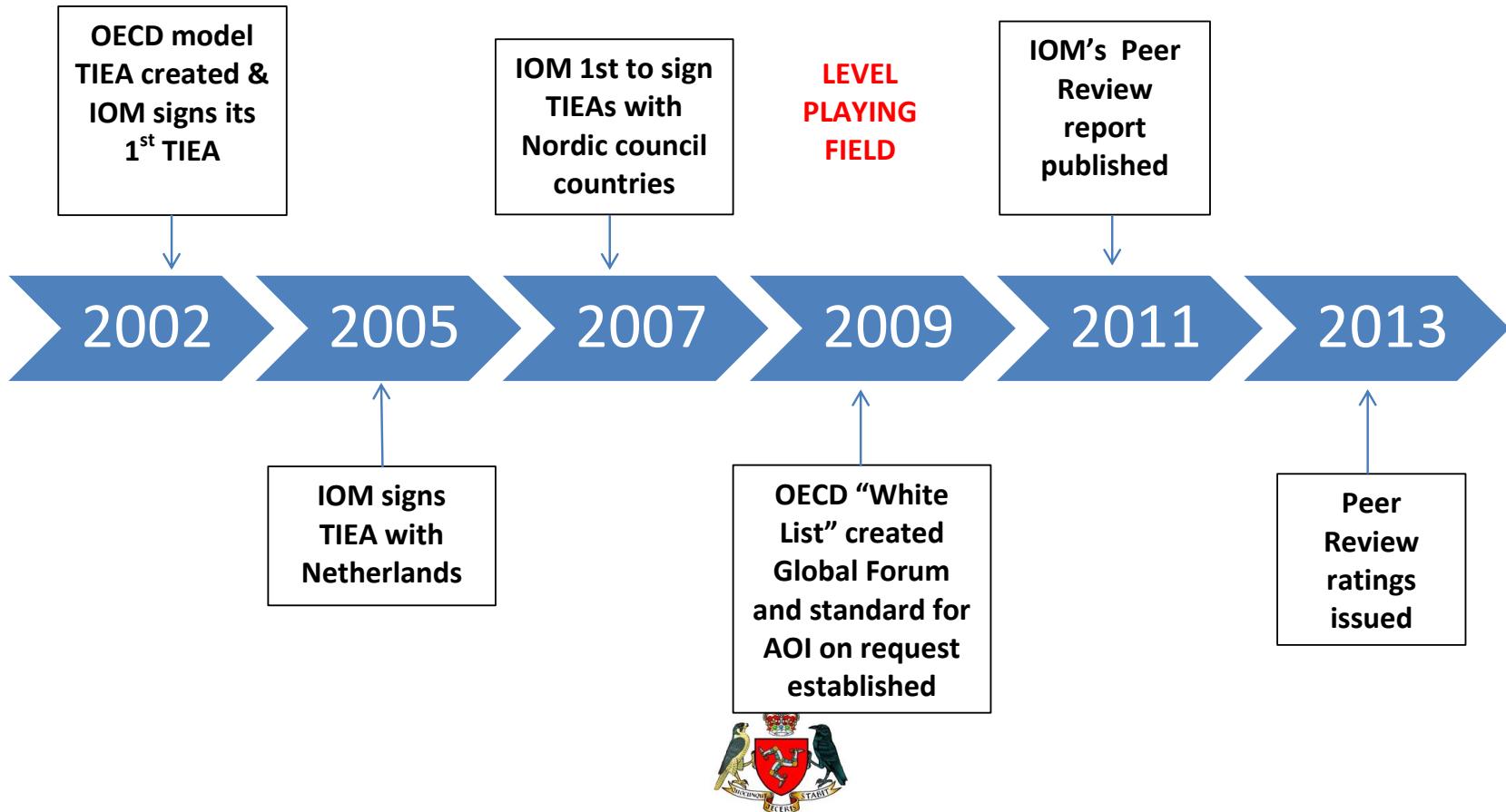
❑ What happens next?



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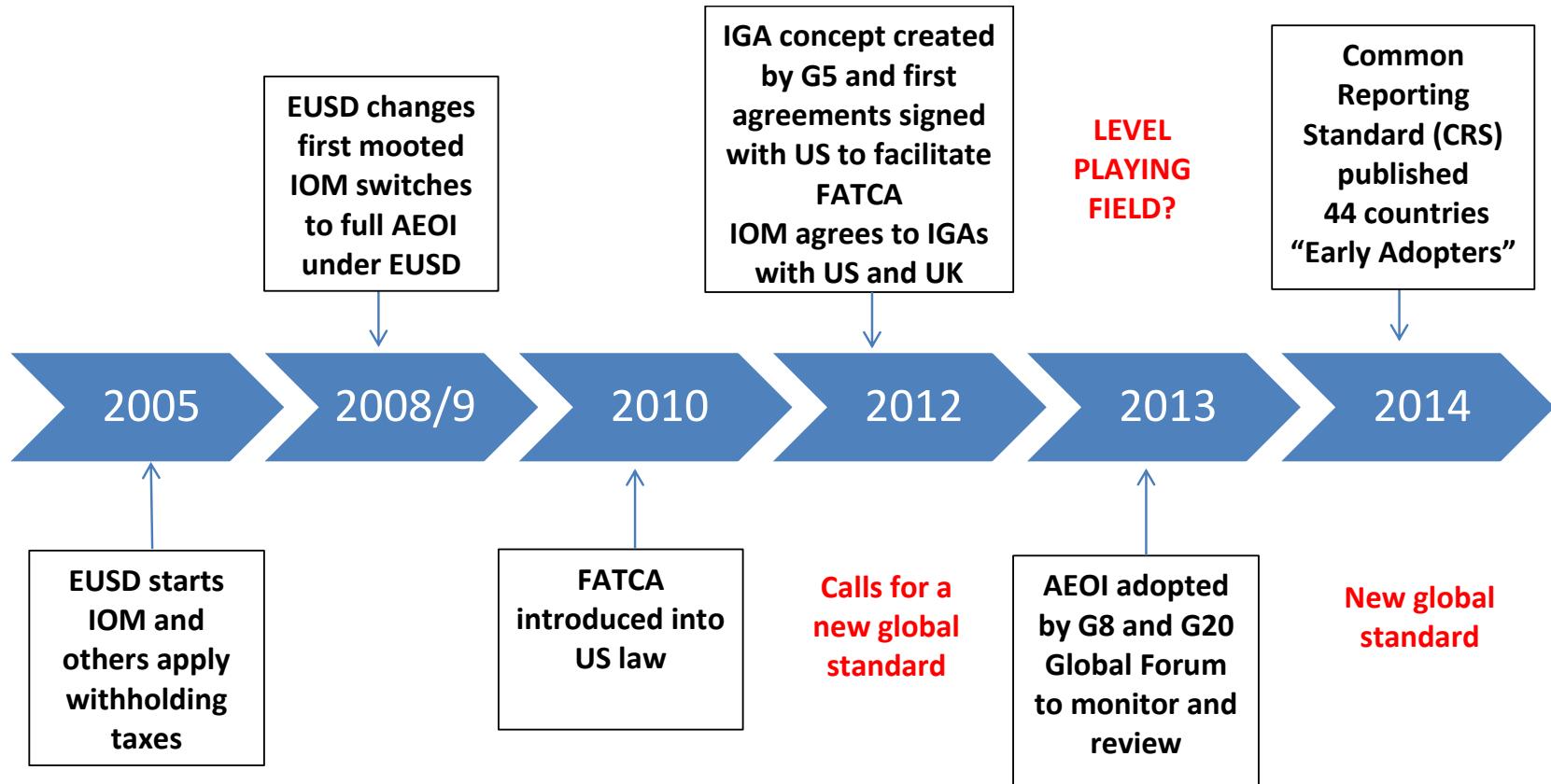
EOI on Request Timeline



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AEOI Timeline



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AEOI after FATCA

- ❑ Common Reporting Standard
- ❑ AEOI starting 1 January 2016 at least 44 countries
- ❑ IOM will send and receive far more information
- ❑ Review process



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What is IoM doing?

- Technical sub-group
- Guidance Notes
- Regulations
- Seminars
- Test files



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QUESTIONS



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VAT update

Phil Morris

Agenda

2015 VAT changes

2015 changes and egaming

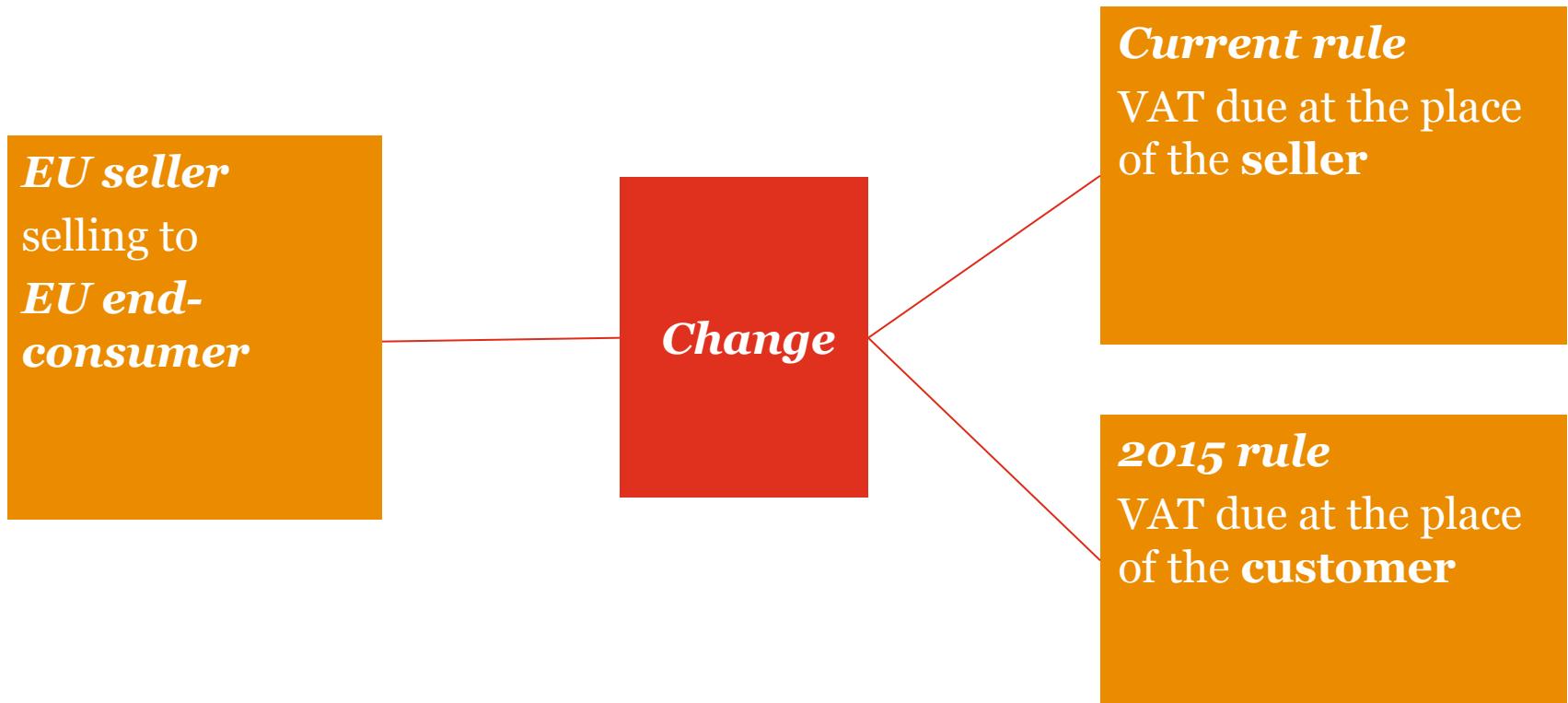
Pension funds

Prompt payment discount

Other developments

2015 - What are the changes?

Place of taxation of telecommunication, broadcasting & electronic services



What services are impacted?

Telecommunication, broadcasting and electronic services, including:

- downloaded software and applications
- downloaded images, text or information
- satellite, TV and radio broadcasting
- e-books or other electronic publications
- supply of websites or web-hosting services
- downloaded music, films or games
- internet service packages

Practical consequences?

The knock on effect

- Where is my customer?
- What information will I need and how will I get it?
- The impact on billing, IT, invoicing etc
- Reporting VAT in up to 28 Member States
- Pricing structures
- Legal and contractual arrangements
- Regulatory/consumer protection requirements

Isle of Man opportunities

VAT

- Changes create a level playing field
- Isle of Man is part of EU VAT system
- An IoMCo can meet 2015 VAT obligations locally

- World class IT infrastructure
- A benign tax environment
- Rapidly growing e-business sector
- New start ups? Relocation? Second hubs?

Other issues

Impact on egaming

2015 changes

- Generally, income from gaming activities is exempt from VAT
- Some countries treat such income as subject to VAT
- Which activities?
- VAT registration.

UK place of consumption

- Change in RGD from 1 December 2014
- Subject to duty where customer belongs
- Impacts non UK suppliers to UK customers
- Registration, returns and payments

Pension Funds

- Various cases regarding different types of pension schemes
- VAT liability of pension fund management services - VAT exempt?
- ECJ decided that a defined contributions pension scheme does fall within the VAT exemption as a "special investment fund". However, a defined benefits pension scheme does not
- This issue will rumble on so watch this space. In the mean time:
 - Pension funds - wrongly charged VAT on pension fund management fees ? Seek reimbursement?
 - Pension fund managers - accounted for too much VAT? Protective claim to Customs ? Partial Exemption issues?

Prompt payment discounts

- Historically, a business offering a PPD could account for VAT on discounted value, even if PPD not taken
- B2B – normally VAT neutral (ie charged and recovered)
- B2C – commonly used in telecoms and broadcasting sector with potential VAT loss where PPD not taken up
- Change to VAT based on actual consideration received
- Effective 1 May 2014 for telecoms and broadcasting sector and 1 April 2015 for other supplies

Other developments

- The VAT registration and deregistration thresholds increased from 1 April 2014 to £81,000 and £79,000 respectively
- Increase to fuel scale charges
- VAT questionnaires from Economic Affairs Division - VAT revenue sharing arrangement
- Consultation on proposed changes to the VAT Avoidance Disclosure Regime

Private client update 2014

Ben Holloway

Budget Round up 2014

IoM Budget

- Personal Service Company legislation has now been enacted.
- The changes to the Tax Cap legislation.

UK budget

- Enveloped Properties.
- Non-Resident individuals owning UK residential property.
- IHT exposures and ‘Situs’ assets.
- Personal allowances for non-UK residents.

Personal Service Company's

Some new Anti-Avoidance legislation (IR35)

Catches employer/employee relationships. The problem?

A and B provide services to a company, C. They perform substantially the same duties. However, A pays IoM ITIP and NICs on his earnings whilst payment for B's services goes to a company (D) owned by him. He extracts the funds as required by way of dividend.

What is wrong with the above?

- NICs - 12.8% saving for the employer, 11%/1% for the Employee, makes a 20% loss for the Treasury.
- Timing: A has tax deducted at source, B can 'manage' his tax position.

What is the effect of the legislation?

The payment from C to D now has to have ITIP and NICs deducted and A has an (employer's) obligation to do this!

Hats off for the Tax Cap

What has changed?

The election is now for a 5 year period and must be submitted prior to 6 April in the first year the individual wishes to benefit from the cap.(for 14/15 this has to be done by 30 June)

Why has this changed?

To combat perceived abuse of an individual placing assets into a company they controls and 'capping out' every few years.

Impact?

Probably, yes from a tax perspective. It makes the IoM less attractive for entrepreneurs (£120k vs £600k).

Residential Property – Where are we now?

The SDLT threshold was lowered to properties of £500K from 20 March 2014

Envelope (i.e. company)

Individual

ATED!

No ATED

(properties valued at £2M but coming down)

Lower rates of SDLT

Higher rate of SDLT

Debt arrangements may not be favourable for IHT.

Still IHT efficient

May be CGT efficient

Future CGT charge - consultation

UK Situs & IHT Issues – For Trustees

Common Situation

- Loan made directly by the Trustees of a non-resident trust to a UK resident Beneficiary;
- Loan document (normally a deed) held in the IoM in belief this ensures the loan is a non-UK asset; and
- Ten Year Anniversary/Exit coming or has passed.

Common Issues – If debt held directly by the Trust

- Is the loan a Specialty debt; and
- Even if it is, is it safe to assume that it is non-UK situs?

UK *Situs* & IHT Issues – For Trustees

Situs of debts – HMRC changes its view

‘In the past, HMRC's approach to the situs of specialty debts has been that this depends on where the relevant document is found. We now believe this may not be the correct approach in all cases involving specialty debts; specifically that many such debts are likely to be located where the debtor resides, or where property taken as security for the debts is situated.

Any cases involving situs and a specialty debt must be referred to Technical. For example, any claim that a debt secured on UK assets is not UK situs property must be sent to Technical’

UK *Situs* & IHT Issues – For Trustees

Counsel's view

- 1) It seems clear from *Re Finance Act 1894 and Deane* [1936] IR.R.556 and the more recent Irish case of *Murtagh v Rusk* [2005] IEHC 315 (11 October 2005) that in the absence of specific legislation neither the court nor the revenue can override the *situs* rule established that a normal unsecured specialty debt is situated where the deed is kept.
- 2) I do believe that *Hope* was wrongly decided in that a debt secured on UK land is UK situated.

HMRC are looking for a test case – particularly one involving debt secured on UK property.

Conclusion

UK Situs & IHT Issues - individuals

On death....

An individual is considered, for IHT purposes, to have made a transfer of value of all his estate. A debt owed by the deceased at time of death is deductible for IHT purposes provided that:

- The debt is incurred for a consideration in money or money's worth or imposed by law;
- There is no right of reimbursement linked to death;
- The debt was properly incurred by the deceased before death; and
- The debt was not artificially created (s103 FA 86).

Application

- Debt was commonly used to reduce exposure to IHT.
- Very relevant for UK HVR property where direct ownership is now likely.

UK Situs & IHT Issues - individuals

Budget 2013 Announcement

Conditions and restrictions would be placed on the deductibility of certain loans for IHT purposes.

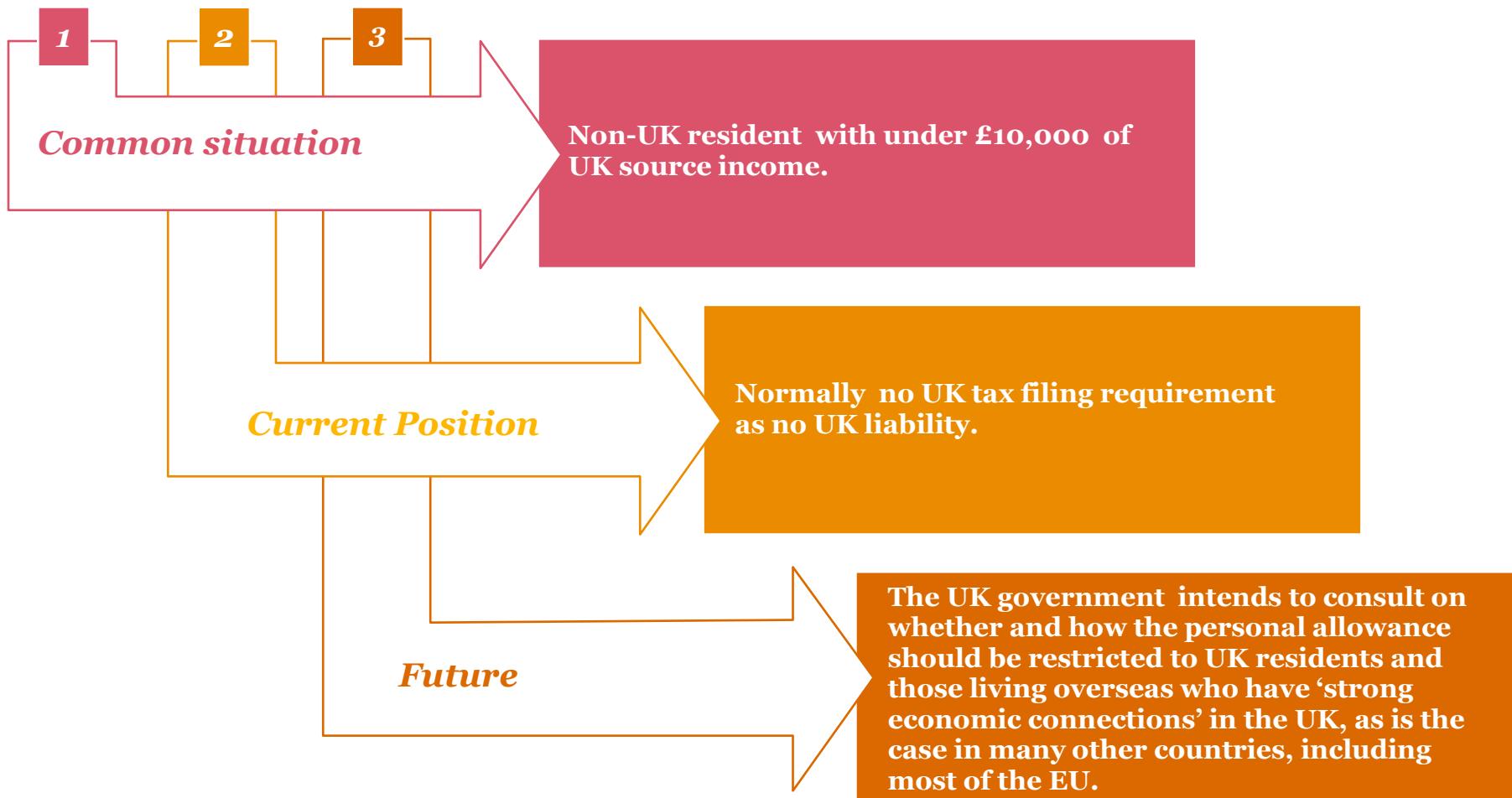
This is targeted at schemes aimed at reducing exposure to IHT by exploiting BPR, APR and excluded property status and by the use of loans that were, in reality, never likely to be repaid.

The new measures

A restriction on deductibility of debts attributed to:

- Acquisition, maintenance or enhancement of **excluded property**
- Acquisition, maintenance or enhancement of **APR or BPR property**
- **Debts not discharged from estate funds** unless there is genuine commercial reason why not and not left outstanding to gain a tax advantage and nothing else to prevent deduction.

UK Personal Allowances?



Next year's surprise announcement

George Sharpe

Next year's surprise announcement

Courtesy of
The Quatrains of Nostradamus

Also known as
The Taxation Strategy
2012-2016
A consultation

International Tax Issues

Question 23

Should the Isle of Man seek to stay at the forefront of small financial services centres in implementing tax co-operation policies?

Question 24

Should the Isle of Man do more in the area of international tax co-operation and, if so, what would be appropriate?

Question 25

Should we have an array of tax law which allows us to finalise all aspects of a double taxation agreement, and in particular assistance in the recovery of tax debts?

Question 26

Should the Isle of Man engage more in the movement to assist developing countries, for example by becoming a party to the multilateral convention?

Taxation of business

Question 17

Should the coverage of the 10% tax rate be widened and if so, to which business sectors?

The retail tax = missed opportunity

Taxation for individuals

Question 7

Should the current system based ... with a final tax cap of £120,000 per year, be maintained or ... ?

Consultation response:

“The tax cap should be retained but it is being abused ...

“Some individuals manage their affairs so that they have little or no income and pay little or no tax for a number of years. They then receive large amounts of income in a single tax year, pay the tax cap and then revert to having little or no income for the next few years. The extent to which the system can be abused in this way will increase substantially following the removal of the ARI. To counter such abuse, anti-avoidance measures could be introduced.”

So what for the future...?



National insurance

Question 12

What does the Isle of Man gain from continuing the current reciprocal arrangements with the UK?

Question 13

Does having a Manx national insurance scheme based on the UK scheme help or hinder the Isle of Man when trying to recruit employees and develop the economy?

Question 14

Should income tax and national insurance be more closely aligned in the Isle of Man?

Question 15

Should the scope of national insurance be widened to include other forms of income, for example benefits in kind, dividends from personally owned companies and pensions received before the state retirement age?

National Insurance



Reduce costs

And finally...

Land tax



Thanks and any questions...



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