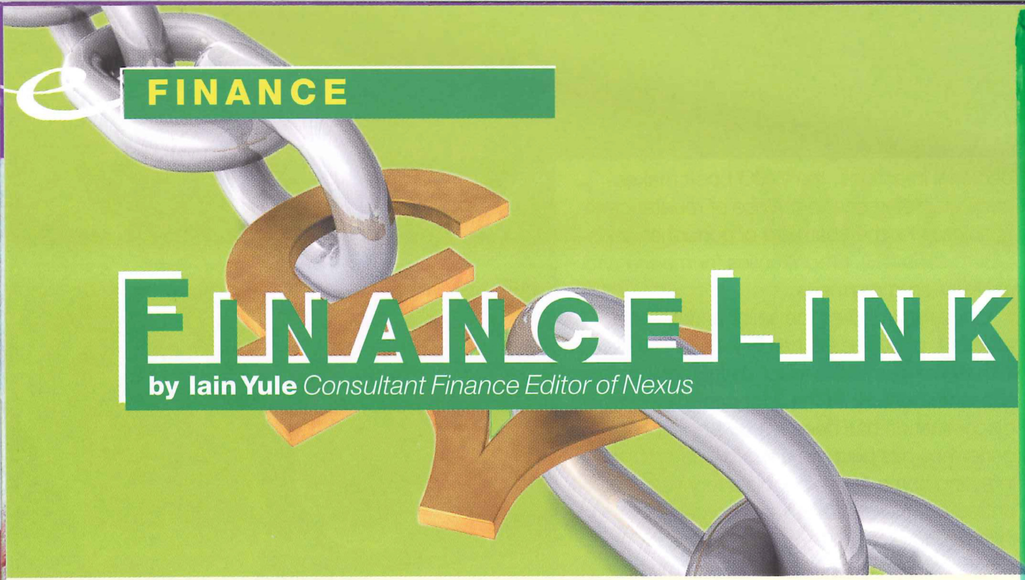

by Iain Yule *Consultant Finance Editor of Nexus*

Details of New Residence Test Start to Emerge

Faced with higher taxes, some people are tempted to become non-resident. That can be difficult to achieve with certainty, say accountants Baker Tilly, as the tax law in this area is limited. But a new residence test may help.

Potential emigrants need to rely on past tax cases or on HM Revenue and Customs (HMRC) practice, both of which can be interpreted differently.

Thankfully a statutory residence test is on its way, which will draw a clearer legal distinction between residence and non-residence, and is likely to take effect from 6 April 2013. The government have just published its comments and responses from last year's consultation.

These rules should be helpful to HMRC as the existing rules could well mean that because of the time and costs needed to take many small, uncertain, cases to tribunal or beyond, they may not have been challenged as vigorously as larger cases. So, while the new rules might help those planning on leaving the UK to have certainty that they are outside the net, it will also be much easier for HMRC to identify those falling into the net. HMRC may well feel that a large net of small cases is likely to be worth capturing.

The new test will be divided into three parts with each section using a set of rules to determine whether the individual is resident or non-resident, say expat financial advisers The Fry Group. In brief:

*Non-resident status is awarded if the individual has been non-resident for the past three years and visits the UK for fewer than 46 days; or if resident in one or more of the previous three years visits total fewer than 16 days; or has left to work abroad full-time with visits to the UK of fewer than 90 days and UK working days of fewer than 20 days.

*Resident status is awarded if the individual is present in the UK for more than 183 days in the tax year or only has one 'home' (which is in the UK) or works full-time in the UK.

If neither of these simpler tests produces a clear conclusion then the third test uses a number of connecting factors, together with the number of days the individual has been present in the UK, to determine residence. The factors include whether family is present in the UK, whether accessible accommodation is available in the UK, if there is substantive work in the UK and previous presence in the UK.

As is so often the case, a framework exists behind many of the rules. For example, a 'work day' is proposed to be any day where at least three hours is spent working in the UK, irrespective of the type of work carried out. There is also a particular definition of what is considered a 'home'.

Personal circumstances will still be the determining factor in the test. What is clear is that these new rules maintain many of the principals established in recent case law. If you live overseas, or intend to do so, it will be important to consider the impact of the rules, and you may need to plan accordingly; for example to restrict your visits to the UK in the current 2012/13 tax year.

You may need tax advice to be sure you are truly UK non-resident. This is an important status to protect as it means you can avoid paying UK income and capital gains taxes.

As more details emerge of the likely shape of the new statutory residence test we will alert you to them in Nexus and at www.expatnetwork.com.

New Contractors Retirement Plan

International financial services business Alexander Beard Group (ABG) has launched an International Contractors Retirement Savings Plan (ICRSP) aimed at expatriate workers in the oil, gas, engineering and infrastructure markets.

In conjunction with partners La Mondiale Europartner, ICRSP is designed to be flexible and portable, with a range of risk-rated investment strategies and a guaranteed fund option.

The plan is denominated in pounds, US dollars or euros and is available to expatriate workers of all nationalities except those from the USA (due to FACTA regulations).

Contributions can be paid monthly, quarterly or annually, or by lump sum. The plan also accepts transfers from other recognised international pension arrangements.

At maturity the plan pays out a lump sum or annuity or a combination of both anywhere in the world. Any gain may be taxed at maturity.

ABG's founder and executive chairman Paul Beard said: "We are delighted to launch this plan into a very competitive but growing marketplace for globally mobile workers in these industries. Most of them work through agencies which do not provide retirement benefits and we believe that this is an excellent way of accumulating retirement funds in a tax-sheltered environment. It complements our existing International Schools Retirement Plan and TCN International Retirement Plan."

ABG has two UK offices and others in Cyprus, Australia, New Zealand and California, USA. It plans to open in Johannesburg later this year.

Good Tax News For US Expats

The US tax revenue service, IRS, has recently announced some big changes in the way it handles American expat tax returns.

It is putting in place a series of common sense steps to allow expats to catch up on any years they have failed to file tax returns.

This new system allows those with little to no tax obligation (such as those whose income is less than $92,900 a year) to come forward without facing penalties or heavy fees.

Not only can you come forward with little to no penalty, but the IRS is also making it easier to catch up. Before, you would have to catch up on six to eight years of delinquent taxes before they were satisfied. Under the new regulations, which start in September, you only have to file three years.

** More detail on this can be found in the Money section at www.expatnetwork.com under Expat Tax.*