

## WEB SITE

Visit our WEB SITE  
at  
<http://www.khpplc.co.uk>



**KEY HAVEN**  
**PUBLICATIONS PLC**

Key Haven Publications PLC  
PO Box 669, Oxford OX3 3AU  
Telephone: 01865 352121; Facsimile: 01865 351081

Volume 13, Issue 2, 2008

**EDITORIAL BOARD**

Robert Venables QC (Consulting Editor)  
Jonathan Schwarz (Joint Managing Editor)  
Keith Gordon, Barrister (Joint Managing Editor)

Stephen Allcock QC  
Richard Bramwell QC  
Stephen Brandon QC  
David Ewart  
Michael Flesch QC  
Milton Grundy  
Professor David Hayton LLD  
Launcelot Henderson QC  
Harvey McGregor QC, LLD  
Kevin Prosser QC  
Andrew Thornhill QC  
Professor John Tiley

**All editorial correspondence should be addressed to:**  
**Keith Gordon, Managing Editor**  
Atlas Chambers  
Gray's Inn  
London WC1R 5EP

**The Offshore & International Taxation Review**  
**(formerly The Offshore Tax Review)**  
is published by  
Key Haven Publications PLC  
PO Box 669, Oxford OX3 3AU  
Telephone 01865 352121; Facsimile 01865 351081  
*Visit our Website at: [www.khpplc.co.uk](http://www.khpplc.co.uk)*

# DISCLAIMER

The views contained herein are put forward for further consideration only and are not to be acted upon without independent and professional advice.

Neither the Publisher nor the Authors or Contributors can accept any responsibility for any loss occasioned to any person no matter howsoever caused or arising as a result of or in consequence of action taken or refrained from in reliance on the contents hereof.

©2008 KEY HAVEN PUBLICATION PLC

The moral rights of the authors have been asserted

### **Conditions of Sale**

All rights strictly reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or any means, electronic, mechanical, photocopying, recording or otherwise, without prior written permission of the publisher.

Any person infringing the publisher's copyright will be liable to criminal and/or civil proceedings.

Papers are invited for publication on the understanding that they contain original unpublished material not submitted to any other journal and may be subject to anonymous peer review. The decision of the Managing Editors to accept, reject or modify any paper shall be final. Style sheets are available from the publisher on request.

Printed in England by Dearne Valley Printers.

## CONTENTS

	Page No
Editorial	v
<b>Transfer of Assets Abroad Post Income Tax Act 2007</b> Robert Venables QC	1
<b>Interests in possession, Settlements and <i>Usufruits</i>, A Foreign Perspective</b> Peter Harris	33
<b>The 91 Day Myth</b> Keith M Gordon	45
<b>Drafting Trusts and Will Trusts in the Channel Islands and Drafting Cayman Islands Trusts By James Kessler QC: Book Review</b> Mary Fraser	53

# EDITORIAL

International and offshore planning is continuing to hit the headlines with the suddenly-announced revisions to the rules on the taxation of those with an overseas domicile. The implications of the new rules will doubtlessly feature heavily in future issues.

This issue opens with an article by the Consulting Editor. He considers how the provisions designed to counter the transfer of assets abroad apply following their rewrite in the Income Tax Act 2007.

Next, Peter Harris, an English barrister with a French resident tax and estate planning practice of over fourteen years, explains how a French *usufruit* should not necessarily be treated for inheritance tax purposes in the same way as an interest-in-possession trust.

The third article is by Keith Gordon. Keith provides a brief summary of the history of the so-called 91-day test found in HMRC's IR20 booklet and how the proposed legislation to be introduced in the forthcoming Finance Bill will (or will not) affect it.

Finally, Mary Fraser reviews James Kessler QC's latest two books on Drafting Trusts and Will Trusts, which focus on the law in the Channel Islands and the Cayman Islands.

Robert Venables QC

Jonathan Schwarz

Keith Gordon

February 2008