THE OFFSHORE & INTERNATIONAL TAXATION REVIEW

EDITORIAL BOARD

All editorial correspondence should be addressed to
The Managing Editor, Amanda Hardy, 24 Old Buildings,
Lincoln's Inn, London WC2A 3UP
Telephone (020) 7242 2744
Facsimile (020) 7831 8095

The Offshore and International Taxation Review
(formerly The Offshore Tax Review)
is published by
Key Haven Publications PLC
7 Crescent Stables, 139 Upper Richmond Road
London SW15 2TN
Telephone (020) 8780 2522, Facsimile (020) 8780 1693
Website http://www.khpplc.com

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 Publishers 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.

Printed in England by Adland Print Group

CONTENTS

EDITORIAL

This issue begins with a detailed exposition by Daniel Hochberg of the important question of the enforcement of revenue demands directly and indirectly between jurisdictions. The principle in *Government of India v Taylor*, that public policy prevents such enforcement, is examined in the light of recent cases. Most interestingly, Mr Hochberg examines the principle in the light of the right of indemnity given to a settlor by section 86 of the Taxation of Chargeable Gains Act 1992 and the recent case, *Prestwich v Royal Bank of Scotland*. Mr Hochberg also deals with the effect of the proper law of the settlement on the issue of enforcement and concludes with some practical advice on drafting trustees' powers to pay taxes and the current scope of the principle in *Government of India*.

Robert Argles examines the High Court decision of Lloyd J in the capital payments cases, *Billingham v Cooper* and *Edwards v Fisher*, which were the subject of some positive comments by the Managing Editor at Special Commissioner level, in Volume 9, Issue 1, of this Review. Mr Argles also deals with the important issue of the impact of the High Court decision on other factual situations, for example where the trustees of a non-resident settlement purchase a property in the United Kingdom and allow a beneficiary to reside in it rent free and where non-resident trustees control non-resident companies who make loans to beneficiaries.

Stephen Brandon QC provides, in two articles, a clear and simple guide to the thorny question of the remittance of income by a non-domiciliary. The first article deals with the rules in Schedule D Cases IV and V generally, setting out commonly perceived principles and examining their authenticity in the light of the decided cases. The second article deals with the equally important question of how such remittances fall to be charged on a foreign domiciled taxpayer under sections 739 and 740 of the Income and Corporation Taxes Act 1988.

In a revisit to the subject matter of his articles in this review in 1993 and 1997, Milton Grundy provides a vital update on the changing climate with regard to the use of holding companies in international tax planning. In particular, Mr Grundy examines whether an individual who is a "zero tax payer" should invest directly in an operating company or utilise a holding company in the present climate.

The Consulting Editor discusses the impact of the United Kingdom Finance Bill on international tax planning involving trusts. In particular, the fate of many popular

schemes, such as the "envelope trick" and the "flip-flop" are discussed, as well as suggestions for future planning.

Finally, Eoin Kennelly provides an interesting analysis of the changes to Irish gift and inheritance taxation introduced in the Finance Act 2000, which radically changes the pre-existing regime of taxation by reference to domicile to one of taxation based on the residence or ordinary residence of the donor and recipient.

The Editors welcome contributions. The Editors particularly welcome debate on points raised in articles appearing in the *Review* (or indeed other Reviews and Journals). All articles (whether long or short), ideas for articles, and other correspondence on editorial matters should be addressed to: Amanda Hardy, Managing Editor, Offshore and International Taxation Review, 24 Old Buildings, Lincoln's Inn, London WC2A 3UP.

Robert Venables QC Amanda Hardy

June 2000