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Obama's tax plans: The Stop Tax Haven Abuse Act

"Throughout the world millions are celebrating the election of Barack Obama and his promise to bring change to the United States.

Whether you agree with Obama's tax policies or not, the changes he has planned for the United States include an increase in taxes for high net worth individuals. Moreover as the co-sponsor of the proposed "Stop Tax Haven Abuse Act", it appears he also intends to make it more burdensome for Americans to engage in financial transactions



Suzanne Reisman, Law Offices of Suzanne Reisman

with "offshore secrecy jurisdictions".

Obama has promised tax simplification. Exactly what this means is

not yet known. While simplification is always welcome, it could translate into earlier phase-outs of deductions, losses of credits and a host of other changes that would result in an increase in personal income tax for high net worth individuals well beyond the superficial increase in tax rates.



“Offshore secrecy jurisdictions are defined as those that have business, bank, corporate, or tax secrecy laws or practices that unreasonably restrict the US to obtain relevant information.”

The highest marginal US income tax rate is now 35%. Obama has proposed increasing that rate to 39.6% for individuals with taxable income in excess of \$250,000. The capital gains rate for assets held in excess of one year, currently 15% for most property, is expected to increase to 20% -- 2% higher than the rate now imposed in the UK.

The much heralded U.S. estate tax repeal passed by the U.S. Congress 2001 is now but a distant memory. For some time, Congress has talked of “reform”, rather than “repeal. Currently an American citizen or domiciliary has an “applicable credit amount” that allows the individual to transfer \$3.5 million free from tax upon death. Estates

valued in excess of that amount are taxed at a flat rate of 45%. Earlier this year, there was speculation that the \$3.5 million applicable credit amount might be increased to \$5 million or more. However Obama has proposed that the current rate structure remain in effect.

What is far more worrying to individuals and advisors who work with Americans interna-

“..the Stop Tax Haven Abuse Act appears to start from the premise that an American who has any connection to a tax haven referred to as an “offshore secrecy jurisdiction” has a tax avoidance motive...”

tionally is the notion that the Stop Tax Haven Abuse Act may actually become law. When it was proposed in 2007, it was possible to dismiss this legislation as more American protectionism and patriotic grandstanding. However now that one of its cosponsors is the President elect, there is a frightening likelihood that this legislation, or some variant of the current draft, may eventually become law.

Proposed as a necessary tool to combat the evils of the worst stereotypes of offshore jurisdictions, the Stop Tax Haven Abuse Act appears to start from the premise that an American who has any connection to a tax haven referred to as

Suzanne Reisman is a US private client lawyer based in London. She is qualified both as a US lawyer and a solicitor of the Supreme Court of England and Wales. She works with US families and entrepreneurs residing outside of the US and non-US families with US tax, trust and estate planning issues, expatriation and international philanthropy.

Suzanne has her LL.M. (Taxation) from NYU School of Law. Her clients include US and non-US individuals, trust companies, financial institutions, solicitors, accountancy firms, and charities. She is a member of STEP, the American Bar Association, and the European Association for Planned Giving.

“Tax simplification, could mean, an increase in personal income tax for high net worth individuals, well beyond the superficial increase in tax rates.”

an “offshore secrecy jurisdiction” has a tax avoidance motive, by creating a presumption that any US person who directly or indirectly formed, transferred assets to, or was a beneficiary of, or received money, property or the right to use property from a trust, corporation, LLC, partnership, foundation or other entity that is formed domiciled in or operating in an offshore secrecy jurisdiction is in control of that entity. Exceptions apply to transactions with publicly traded entities.

Offshore secrecy jurisdictions are



Suzanne Reisman

defined as those that have business, bank, corporate, or tax secrecy laws or practices that unreasonably restrict the US to obtain relevant information unless it has effective information exchange practices with the United States. Even those jurisdictions that have entered into information exchange agreements with the United States may be classi-

fied as offshore secrecy jurisdictions if there is an insufficient exchange of information in practice.

The legislation also creates the presumption that any distributions from or right to use property held by an offshore secrecy jurisdiction entity constitutes income in year of receipt. It also presumes that any direct or indirect transfer to an offshore secrecy jurisdiction account or entity represents “previously unreported income” of the US person taxable in the year of transfer. Publicly traded U.S. entities and transactions with publicly traded offshore

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Close Summit Trust Company SA is an independent trust company headquartered in Geneva, Switzerland. Close Summit Trust is associated with the Close Brothers Group plc, a UK based merchant bank listed on the London Stock Exchange.

Close Summit Trust brings a combination of financial and management stability which enables it to provide continuity in personal relationships and the orderly passing of family wealth for high net worth individuals who require offshore trust and company management services.

As with the Close Brothers Group, Close Summit Trust in Switzerland is characterised by specialisation, professionalism and integrity. Because Close Summit Trust is committed to an independent trust administration policy, it is free to work with your existing financial advisers, bankers or asset managers, or introduce you to suitable advisers if you do not yet have your preferred team.

The bottom line? Expect to find familiar faces at Close Summit Trust but not familiar solutions. Our people are under no pressure to sell you any particular product, just to provide you with the right service for your needs.

We are not expecting to be the biggest offshore services provider, but we are striving to be the best.



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“The Act includes substantial changes to the rules regarding offshore trusts.”



Suzanne Reisman

secrecy jurisdiction entities are excepted.

The Act includes substantial changes to the rules regarding offshore trusts. For example, a US settler would be deemed to hold any power held by a protector or enforcer to advise, influence, oversee or veto the actions of the Trustees. The definition of US beneficiaries would be expanded to include any US person receiving cash or other property or the use thereof for less than fair market value (regardless of whether the individual is a named beneficiary).

The burdens imposed by the legislation would fall upon non US financial institutions, withholding agents and trustees, essentially enlisting them to assist in the collection of US income tax. Withholding agents who received US source income from an offshore secrecy jurisdiction entity on behalf of a US person would be required to report the client's personal details and the nature of the individual's relationship with the entity to the US Internal Revenue Service. Withholding agents would also be required to provide the US person with the contact information of person filing with IRS and the information required to be reported on the US person's tax returns.

Financial institutions would be required to report to the IRS when a US person opened an account in an

offshore secrecy jurisdiction or acquired an entity in an offshore secrecy jurisdiction. Exceptions would apply to publicly traded entities.

Many non-US institutions prefer not to do business with US clients. If passed, the Stop Tax Haven Abuse Act may serve as yet another disincentive to doing business with Americans.”

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News

Maitland hire Chief Information Officer for Cape Town office



Dr Tim Brown
Maitland

Maitland, has appointed Dr Tim Brown, former managing director of Aqute Business Intelligence, as head of information technology for its worldwide operations. Dr Brown will be based in Maitland's Cape Town office from which it services international clients using a world-class IT platform.

Maitland provide independent third-

party outsourced fund administration. Maitland operates its global fund administration platform from Cape Town with dedicated client support rendered out of its international network

Merrill Lynch hire Nordic Financial Advisers

Merrill Lynch's GWM have strengthened their Nordic team with the appointment of financial advisors Frode Andersen and Paul Boström. Both will focus on ultra high net worth and high net worth clients in Norway and Sweden. Based in Luxembourg, they will report to Steen Foldberg, GWM Market Leader for the Nordic Region, Belgium and Luxembourg, and Jonas Melchior, GWM Sales Manager for Luxembourg.

New York investment firm open Amsterdam

Highmount Capital who have 1.3 billion dollars under management have just opened in Amsterdam. www.hmcap.com

Event round up

Project Associates who offer crisis management PR to ultra high net worth individuals, had drinks at The Ivy Club this week. As one PR put it: "just climbing the stairs at The Ivy Club makes you feel like a movie star." The smoking roof was well occupied and drinking went on late into the night. **David Rigg** was host.

FF&P held a seminar to discuss the economic outlook. **Bob Michaelson, Group Investment Director** made the main presentation and said: "housing market is critical to recovery" He thinks we are looking at a sixty month 'bad' cycle with an up-swing in late 2009. Penny Lovell hosted the event.

Brooks MacDonald held the main party this week at The Oriental club, with robust attendance from the wealth market. James Thompson of Private Wealth Advisory at **Stanford Group Suisse** was spotted as was **Paul Knox, JP Morgan** and **Edward Reed, Macfarlanes**.

Key Trust update

“WealthWise”: Courses helping the rich become wise about wealth

“Some of our clients have inherited wealth, others created it. What they all have in common is the need for real insights into different aspects of private wealth ownership, from first principles upward.

Many also recognise that it is important to go beyond the obvious issues of understanding markets or assessing the balance between risk and reward.

WealthWise™ have devised courses that include sessions on how to maximise the usefulness of professionals, cutting through the jargon – and opportunities for delegates to explore their personal lifestyle objectives in one-to-one counselling with our course tutors. We tackle such issues as how to evaluate advisors and build effective relationships with them.

Philanthropy

Another interesting observation is that as wealth owners become older, they progressively divert more and more money into charities, founda-

tions and philanthropic projects – and less and less to the next generation.

Typically, the focus begins with the basics of funding children’s education, medical and housing needs and starting businesses. But beyond that, the donors of wealth want their children to serve real apprenticeships and to develop genuine life skills, without becoming de-motivated from having no necessity to achieve anything.

It therefore becomes important to assist each successive generation to understand the merits and uses of philanthropy in a family wealth context, and how it can bring the whole family together through a shared, worthwhile cause.

Even the youngest can benefit: for clients with a private family foundation, a valuable technique is to create a junior board. This deft touch enables the children to increase their participation and understanding of wealth’s responsibilities – and so value them more.



Brian Clarke
MD, Key Wealth Care Group

I believe WealthWise™ is an essential step towards becoming comfortable with wealth ownership. Our purpose is to ensure that the wealth belongs to the individual rather than he or she belonging to it.”

Key Wealth Care is the Jersey-based wealth management group specialising in private client and family office services.

For information

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Divorce feature: Sandra Davis, Head of Family, Mishcon de Reya advises on cross cultural divorce.

“Managing relationships after a divorce is never easy, but it’s generally accepted that parents can get on once they concentrate on putting their children first and focus on being a good parent rather than a good spouse.”



Sandra Davis
Head of Family Law
Mishcon de Reya

Consideration for the children is always a priority in divorce settlements. Sandra Davis considers how much more difficult it is to give first consideration to the children when separate lives also means separate countries.

The world has become increasingly accessible. Foreign travel is inexpensive. There are far more over-

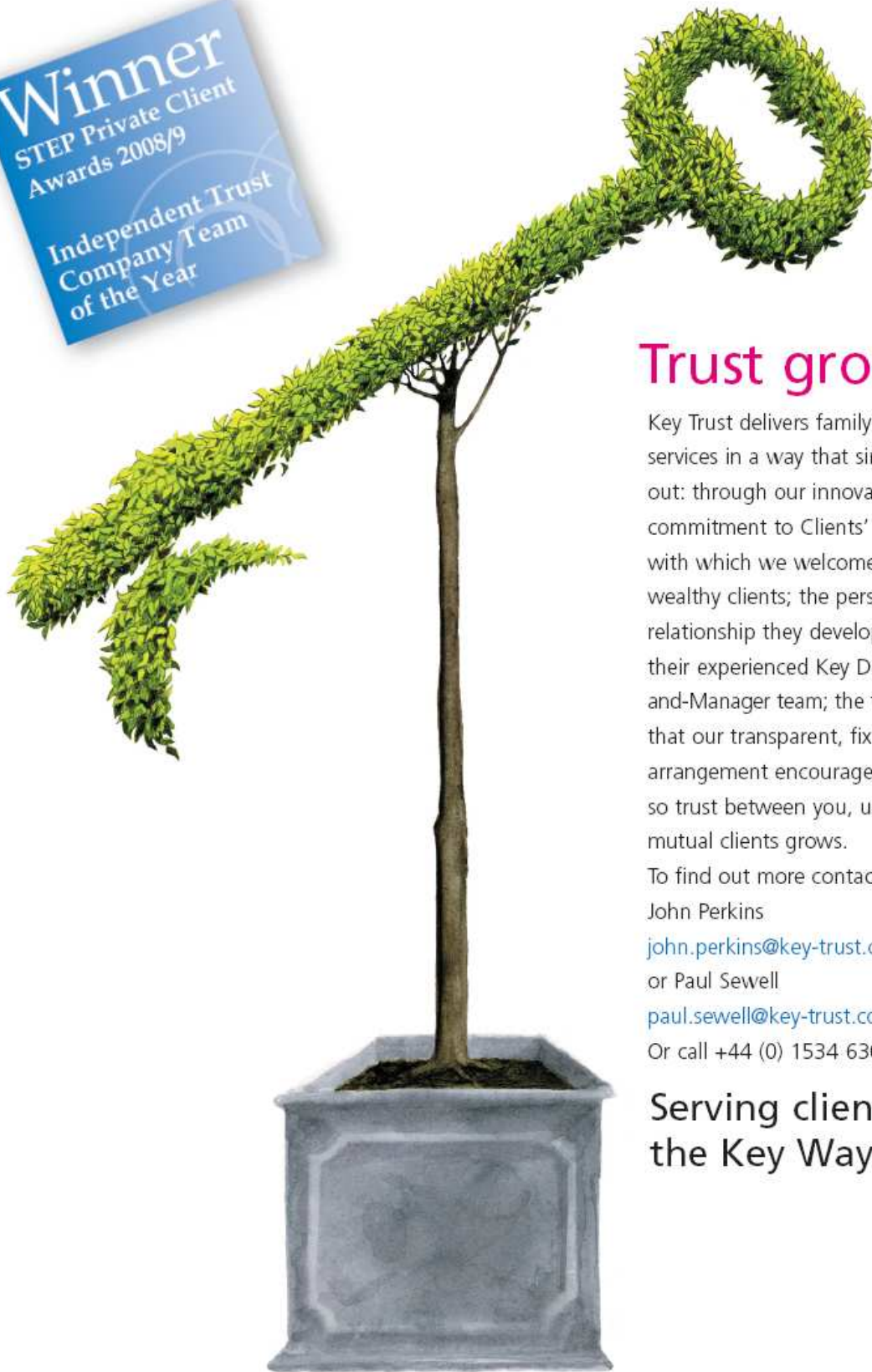
seas employment possibilities than there were in the past. Romance is blossoming in every far-flung corner of the globe, resulting in more cross-cultural marriages than ever before. But what happens to your children if the relationship fails and going your separate ways means more than moving to the next street, borough or town?

Divorce is a difficult time for children. Their parents are separating for reasons, which they may not yet be able to take on board, never mind understand. In this confused state, children are faced with the impossible dilemma of balancing both parents' affections as their lives are carved up and split between them. For a child who spends every second weekend and a midweek evening with his father the ideal situation would be to have his separated parents living next door to each other. But in cross-cultural marriages a child may have to deal with relating to a parent who lives not just in a separate home but

in a completely different country.

The possible permutations of cross-cultural divorce are numerous. The mother and father could be of different nationalities but be living in either his or her country of birth. Alternatively, because of the incidence in people taking overseas employment, they might be living in a country in which neither parent has family connections. Whatever the situation, if divorcing parents decide to live in separate countries, it makes negotiating who the children should live with and how much contact the other parent should have that much more complex.

The natural instinct of the woman going through an emotional divorce in a foreign country is to return home. If life abroad has been centred on her husband's career or her husband's family, then returning to



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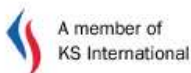
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“...if you are resident in Saudi Arabia or Egypt, the local law is likely to favour the husband, particularly where a male child is concerned.”

the support and familiarity of her own personal relations and friends is not just an emotive response — it makes a lot of sense. The problem is that if the husband chooses to stay put, he may well be reluctant to have his children living so far away.

If a woman wants to move abroad with her children following a divorce and her former husband does not agree, she will have to seek legal permission to take the children from Britain. The courts have a long history of granting permission to mothers who want to move abroad with their children, but it should not be taken for granted. The welfare of the child is always the most important factor in any legal dispute and the court will need to be convinced that there is a solid reason for moving the child abroad. Returning to your country of origin or moving with a new partner and his employment are the most commonly accepted reasons, but even then the judge will consider other factors. For example, cultural and political factors



Mishcon de Reya offices



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may be important. If the Home Office considers the country dangerous, or the standard of living, education and health care are in doubt the chances of obtaining the courts' permission may be reduced. Children also have a say; the older they are the more valuable will be their views. If they have made it clear that they do not want to leave Britain, this could stop them from being moved abroad.

If however the ex-husband wants to take the children abroad, the situa-

tion is different. This is largely because very few fathers apply to take their children out of the country permanently. Despite the achievements of women in the workplace, more often than not, they will have formed the closest bond with the children and in a break-up take primary responsibility for their care. This is the case in the United Kingdom. However, if you are resident in Saudi Arabia or Egypt, for instance, the local law is likely to

Feature article: Cross Cultural divorce



favour the husband, particularly where a male child is concerned.

In the United Kingdom, it is far more likely that a father will be the one trying to prevent a mother from taking their children abroad. The court will look at how traumatic the separation between the children and their father will be for them. If the children's British grandparents, aunts and uncles have formed close relationships with them, this too will play a part in deciding whether they should stay.

Though the legal system more frequently sides with the mother, a father wanting to keep his children in Britain can make use of any information he may have to argue that it is in the best interest of the children to remain here. But, in balancing the arguments, the courts will bear in mind that it is generally in the child's interests to remain with their primary carer.

Where there is conflict in divorce there is also inevitably mistrust. A broken marriage is not the best foundation on which to build a relationship of mutual trust and consideration and yet this is what is

needed if divorced parents living in different countries wish to share and enjoy the responsibility for bringing up their child.

If a parent lives in a different country to his child, then it is only reasonable to expect that the child can spend part of their holidays with them. For a child to leave the country on holiday, the consent of the other parent is required (or the court has to give permission). If for example, the mother with residence objects to her child enjoying time with the father abroad she has to have a valid reason.

This is where the trust and consideration come in. A mother allowing her child to spend time with her estranged husband abroad has to trust that he will return the child at the end of the holiday period. While some countries which are signatories of the Hague Convention will ensure the return of abducted children or children wrongfully retained after contact visits, many countries (particularly non-Western countries), have not signed this Convention.

The problems that can arise were highlighted recently when an 11 year old British girl was stranded in Russia af-

ter her father had obtained an order preventing her from leaving the country until she is 18.

The girl was returning from visiting her maternal grandmother in Russia when she was stopped from boarding a plane home. Her father had obtained an order which under Russian law was designed to help separated parents with access to their children.

If a mother lives in one country and a father in another, the mother has to accept that the degree of practical support from the father is going to be limited.

For the father, there are logistics to consider — planning visits in advance, booking flights and accommodation when visiting the children in the mother's country of residence. There is





Sandra Davis
Head of Family Law
Mishcon de Reya

“...on the whole, a father has to rely on the mother's goodwill to keep the channels of communication open with children.”

also a very strong emotional element. Young children grow and change so quickly that even if their father manages to see them, say, once a month, he will recognise that he has missed significant stages in their development and fast becomes viewed as a remote character. For a father who wishes to be an active parent, monthly visits and longer holidays cannot be as rewarding as regular weekly contact, which is the norm for divorced fathers living in the same locality as their former wives. This situation must be particularly galling in the case of a father who had not initiated the break-up of the marriage. Frequency of contact is therefore a big issue.

In today's world, email and video conferencing can help to keep the absent father closer to the changes in his family, but, on the whole, he has to rely on the mother's goodwill to keep the

channels of communication open.

Managing relationships after a divorce is never easy, but it is generally accepted that parents can get on once they concentrate on putting their children first and focus on being a good parent rather than a good spouse. Keeping that balance and perspective is of course more difficult when you are living, literally, worlds apart. But if parents understand the rules — legal and self im-

posed — and make the most of communications technology to ensure regular contact, children of cross-cultural marriages will have a good chance of enjoying, not fearing, their international lifestyle.

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LexisNexis CRM event: 3rd December 2009

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In February 2008 LexisNexis commissioned Forrester Consulting to examine the Total Economic Impact™ (TEI) and Return On Investment (ROI) firms may realise by deploying InterAction. The purpose of the TEI™ study was to provide a framework to evaluate the financial impact of CRM on their organisations. Forrester aim to clearly show all calculations and assumptions used in the analysis. Readers should

be able to utilise the study to better understand and communicate a business case for investing in CRM. We have developed a Master Class around the research study and focused on the importance of Building a Business Case. Following the event you will have access to the Research case studies and Business Case sessions we are running.

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Santiago Gomez Sancha

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Gloucester Park Luxury serviced apartments



A few years ago Serviced apartments were buzz words in the hospitality industry, we don't seem to be hearing of them as much now but I struggle to understand why. Gloucester Park apartments located just off Gloucester Road are the perfect demonstration of a hotel alternative or that home away from home. I have been before but every chance I get to go back I grab with both hands and try to bring some guests along. Perfectly located for the tourist, business visitor or west end

celeb', the apartments are a two minute walk from the local tube (Gloucester Road) and only five minutes from the Natural History Museum and Kensington Gardens. Restaurants, pubs, shops and attractions surround the apartments and yet they are secluded, private, come with twenty four hour security and more importantly offer a peaceful resting place within the capital.

Walking through the entrance past the underground car park

and the manicured grounds, you pass through revolving doors into a slick and polished reception. After being shown the gym and sauna you are shown to one of the various lifts and whisked to your relevant floor.

After walking through your own front door, the differences between hotel and apartment become apparent. A fully equipped Miele kitchen stands just off the hallway and for me is the prime indicator of the home away from home mantra. Large lounge with

James Stratford finds a home away from home

all the latest entertainment systems and dining suite back onto the balcony where you can sit with that early morning coffee, watching the sun rise over London or that early evening glass of wine before heading out on the town.

The apartment I stayed in had two bedrooms, one and three bedroom apartments are also available, both of which are equipped with huge beds, area specific air conditioning, vast amounts of built in storage and more music and TV options. The master bedroom with its en-suite containing bath and shower, his and hers sinks is stocked with Molton Brown toiletries. The serviced apartments operate like hotels and a maid reappears with regular towel and bedding changes, laundry and dry cleaning services and everything else a concierge or reception team can offer. Wi-Fi is available for those wanting to stay connected and the rooms come with personal phone and fax lines.

For businesses relocating executives to London or even on short term assignments Gloucester Park is the simplest and easiest solution. Given the opportunity I would more than happily move in.

<http://www.chevalgroup.com/>



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Chapter One, Locksbottom, Kent



Chapter One dining room

Based near Bromley in Kent, Chapter One, presents a good reason for living in the country rather than town. Just a taxi hop from Bromley South or Orpington, luxury and style await a hungry diner.

The bar area, which is trendy and Manhattan in style, invites visitors to test some delicious cocktails before dinner but has proven a stylish place to catch up with friends over a glass of fizz or two.

The main reason for the success is the music, which was put together for Chapter One by DJ Michael Adams, who has worked with London hot spots, Hakkasan and the Buddha Bar.

The dining experience is elegant and grown up and the food matches this theme. With kitchens run by Andrew McLeish formerly of The five star Landmark Hotel and The Ritz, it is not difficult to see why Chapter

one is a hit with both locals and out of towners, particularly as there is also a private dining room for parties which can manage up to sixty people for drinks.

On my visit I tried a Ravioli of lobster and king prawn with spiced white cabbage and a veloute of lobster and cognac. It was filled with delicate flavours that were quite unique and the dish was certainly a Rolls Royce introduction to their eating ex-

Chapter One have four “AA rosette” awards for food quality



The chic bar area at Chapter One

perience. My plate of food was eagerly devoured and this should be on your “must try before you die” list.

Roast loin of Charts Farm sika venison followed with crushed Ratte potatoes, girolle mushrooms, baby artichoke and bordelaise sauce. This was also delicious and the venison was cooked to perfection.

A hot chocolate fondant with Tahitian

vanilla ice cream and a white chocolate sauce rounded off the meal. It will prove a must for chocolate lovers with thick lava like chocolate keen to ooze onto your spoon.

Green tea and home made petits fours helped me and my companion finish on a delicious and satisfied eating high.

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