BLICK ROTHENBERG
Chartered Accountants

The UK regime for non-UK domiciled individuals remains very attractive and with appropriate planning overseas funds can be brought to the UK without any tax charge arising.

Non-UK domiciled individuals and the taxation of remittances

An individual who is resident and domiciled in the UK is subject to UK income tax and capital gains tax ("CGT") on their worldwide income and capital gains, irrespective of whether the monies are received in the UK. An individual who is resident but not domiciled in the UK is subject to UK income tax and CGT on their UK income and capital gains; however, (subject to making an appropriate claim) foreign income and capital gains are subject to UK taxation only to the extent the monies are remitted to the UK, i.e. physically brought to the UK or deemed to be brought to the UK indirectly. In order to benefit from this favourable regime, known as the 'remittance basis of taxation', a non-UK domiciled individual must make an appropriate claim on their UK Tax Return.

An individual can decide each tax year if they wish to claim the remittance basis. For the first seven tax years of UK residence, an individual can freely claim the remittance basis. Thereafter, an annual charge of £30,000 is payable for individuals resident in the UK for at least seven out of the last nine tax years, but less than 13 tax years. The annual charge increases to £60,000 for individuals resident in the UK for at least 12 out of the last 14 tax years. From 6 April 2017, a non-UK domiciled individual who has been resident in the UK for 15 out of the previous 20 tax years will be considered deemed domiciled in the UK for taxation purposes and will not be eligible to elect to claim the remittance basis. It may not be beneficial to pay the annual charge every tax year, and an individual can choose each tax year if they want to do so.

The tax regime for non-UK domiciled individuals continues to be very attractive, but may be restrictive in terms of bringing overseas funds to the UK without a tax charge arising. The taxation of a remittance is generally linked to the source of funds that the remittance originated from, and planning including structuring offshore investments and accounts to segregate income from capital can be used to ensure that remittances to the UK do not trigger a UK tax charge. Where offshore investments are not segregated, matching remittances to their source is subject to a complex set of rules, commonly referred to as the 'mixed fund' rules.

As well as actually physically bringing overseas monies to the UK, a taxable remittance can also arise in the following situations using overseas monies:

- settling a UK credit card debt;
- settling liabilities incurred in the UK;
- repaying a loan made in the UK;
- repaying a loan made overseas but brought to the UK;
- paying interest on a loan made in the UK;
- settling an overseas credit card debt for UK expenditure;
- bringing to the UK assets which have been purchased overseas;
- paying for a service overseas provided in the UK;
- servicing interest on a loan that is used or enjoyed in the UK (except for certain payments of mortgage interest under pre-April 2008 grandfathering provisions).
- Loans secured against overseas monies/assets (which include non-UK income and/or capital gains) and brought to the UK may result in a taxable remittance (depending on when the loan is taken out and if certain conditions are not met).

However, there are some useful statutory exemptions and reliefs available where a taxable remittance should not arise. These include:

- personal items (clothing, footwear, jewellery, watches) purchased outside the UK using overseas monies and brought to the UK for personal use;
- overseas monies used to invest in certain qualifying UK businesses, which may include an individual's own company;
- works of art purchased outside the UK using overseas monies brought to the UK and made available for public access;
- property purchased outside the UK using overseas monies brought to the UK with a value of less than £1,000;
- overseas monies used to pay the annual £30,000/£60,000 remittance basis charge directly to HM Revenue & Customs.

As part of the latest reform to the taxation of non-UK domiciled individuals, the government has proposed a one year window of opportunity until 5 April 2018 for non-UK domiciled individuals with mixed funds to be able to rearrange them into constituent parts. Further details regarding this proposal and the wider changes can be found by following this link: www.blickrothenberg.com/non-dom

The UK tax treatment of remittances is a complex area. The guidance above is not intended to be exhaustive. If you are unsure about the tax treatment of a particular transaction, please get in touch with your usual Blick Rothenberg contact.

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If you wish to discuss anything in this article, please speak to your usual contact at Blick Rothenberg or:

Susan Spash
Partner
+44 (0)20 7544 8991
susan.spash@blickrothenberg.com

16 Great Queen Street
Covent Garden
London WC2B 5AH

+44 (0)20 7486 0111

www.blickrothenberg.com