Taxation of Remittances: Guidance (for the 2017/18 tax year)

BLICK ROTHENBERG

What constitutes a remittance and how the rules work is complex. If you are non-UK domiciled or have been so in the past, then you may be able to take (or have previously taken) advantage of the remittance basis of taxation. Under the remittance basis of taxation income and gains generated on offshore assets will only be taxable in the UK if those funds are remitted to or otherwise brought to or used for your benefit (or the benefit of close family members) in the UK. Please read the note below for information both on the basis of taxation and what constitutes a taxable remittance.

Your total unremitted foreign income and gains are less than £2,000

The remittance basis will normally apply automatically and at no cost to you, as you retain your entitlement to a personal allowance and Capital Gains Tax ("CGT") exemption.

Your total unremitted foreign income and gains are more than £2,000

If you have more than £2,000 of offshore income and/or gains in any tax year (that is not remitted to the UK/is kept offshore), and you claim to be taxed on the remittance basis, you will lose entitlement to your tax-free personal allowance for income tax (£11,500 for 2017/18) and your annual exemption for CGT (£11,300 for 2017/18) for the tax year.

You may also have to pay the remittance basis charge – see below. Currently, you can decide on a year by year basis whether or not to elect for the remittance basis. You will need to consider each year how much tax you would have to pay if taxed on all of your income and gains arising worldwide, and compare this to the tax you would pay if you claimed the remittance basis for your foreign income and gains and gave up your personal allowance and annual exemption.

The arising basis

If you do not claim the remittance basis, you will be liable to UK tax on your worldwide income and gains arising in the tax year irrespective of whether they are remitted to the UK.

The remittance basis charge

For any eligible individual who is 18 or over and who has been resident in the UK in at least seven out of the nine previous UK tax years, an additional £30,000 charge, known as the remittance basis charge ("RBC"), must be paid in order to access the remittance basis. The RBC increases to £60,000 if you have been resident in the UK in at least 12 out of the previous 14 tax years. Those individuals who have been UK resident in more than 15 out of the previous 20 tax years are deemed domiciled in the UK for all tax purposes and no longer have the option to be taxed on the remittance basis (see below).

You may qualify for the remittance basis automatically – see above. Whether paying the RBC is worthwhile will depend on both the likely UK tax due on any non-UK income and gains taking into account any tax paid in the source country (if applicable) on the same

income and gains. The calculation can be quite complex and will need to be considered annually.

The position from 6 April 2017

The new non-domicile rules have been effective since 6 April 2017.

Any non-UK domiciled individual ("non-dom") who has been resident in the UK in at least 15 of the past 20 tax years (including split years) will have become 'deemed' UK domiciled for all tax purposes, including income tax, CGT and inheritance tax ("IHT") from 6 April 2017. The result of this being that a long term resident non-dom will be taxable on a worldwide basis.

Please also refer to the attached summary of Confirmed Changes in Taxation for Non-Domiciled Individuals.

Remittances to the UK

If you claim to be taxed on the remittance basis of taxation, you will need to determine whether you have actually remitted any offshore income and/or gains to the UK during the tax year. In general, a remittance occurs when funds are transferred to the UK from overseas for the benefit of a relevant person. A relevant person would include you, your spouse or civil partner, your children and grandchildren, if under 18, as well as certain trusts and offshore companies.

The term 'remittance' can cover:

- Transferring cash or bank balances to the UK, including:

    - Investment income and/or gains earned overseas; and
    - Certain employment income earned and paid overseas.

- Withdrawing cash from an overseas bank account in the UK.

- Using overseas funds to:

    - Settle a UK credit card debt.
    - Settle liabilities incurred in the UK.
    - Repay a loan made in the UK.
    - Repay a loan made overseas but brought to the UK.
    - Pay interest on a loan made in the UK.
    - Settle an overseas credit card debt for UK expenditure.

Exceptions to the remittance rules:

There are certain limited exceptions to the remittance rules. These are broadly:

- Personal effects (clothes, footwear, jewellery and watches);

- Assets costing less that £1,000 (and not forming part of any set);

- Assets brought to the UK for less than 275 days in total;

- Assets brought to the UK for repair or restoration.

Mixed fund accounts

A bank account containing more than one kind of income and capital, or income and capital of more than one tax year is defined as a 'mixed fund'. Where amounts are transferred to the UK out of a mixed fund, the law requires that the individual's tax liability is calculated by reference to each individual transfer. Each transfer is matched according to a statutory ordering against the 'make up' of the mixed funds in the account immediately before the transfer.

There is a relaxation in these rules for certain non-dom employees with non-UK duties provided strict criteria are met in connection with the account into which the employment income is paid.

The treatment of remittances is a complex area of taxation and where additional structures such as trusts and companies are involved the tax position is further complicated. As each case is different, we would recommend that you to contact your Blick Rothenberg adviser if you are unsure as to whether or not you have made any remittance to the UK.

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