NON DOM SPECIAL TAX PLUS

APRIL 2018

INTRODUCTION

Welcome to the second edition of this publication.

We published our first Non Dom Special Tax Plus back in December 2016 following draft legislation on the proposed changes. These eventually came into force with effect from 6 April 2017, but not until Royal Assent in November 2017 after a period of considerable uncertainty. Since then more detail has emerged in the form of HMRC guidance and whilst the changes remain complicated, there is now more clarity to work with. This is also the case when it comes to the opportunities that accompany the changes – some of which really do need urgent attention! Therefore, now would seem like a good point in time to reflect on the legislation and to bring you up to date with the latest information we have.

To start with, it is not just the UK that has had a major tax reform; the US has recently seen the biggest reconstruction of its tax system in over 30 years further to President Donald Trump signing the long anticipated Republican tax bill. Lynsey Lord, who is familiar with the US tax system having worked on secondment in New York, looks at the implications of the new laws for those US citizens living in the UK. Lynsey considers their impact and looks at areas where seeking tax planning advice could prove prudent.

As we have always been keen to state, changes in legislation are generally accompanied by new opportunities. Good news for some is the two-year period of time which HMRC has given non-UK domiciled individuals to rearrange their overseas funds for the sake of tax planning. With guidance having recently been issued by HMRC, Henry Lowe explores the options and explains that this unique opportunity for 'cleansing relief' is short lived so we would advise you to seek advice, take action, and secure advantage now.

Pavandip Singh Dhillon examines 2017 rebasing and its effect on Long Term Residents (LTRs) in relation to their Capital Gains Tax liabilities on the worldwide arising basis. Broadly seen as a fair relief, Pavandip looks at who qualifies to benefit from 2017 rebasing and which of their assets fall within the grounds for qualification. He also provides some useful examples, which highlight how this relief is well worth exploring.

The rules surrounding anti-avoidance provisions set to tax UK resident settlors on the proceeds of offshore trusts are the focal point for Alice Pearson. In light of the extension of the deemed domicile rules, the government are trying to offer LTRs an olive branch by way of protection from immediate tax charges on overseas trust income and gains. It is a complex area but one which Alice has sought to bring clarity to, outlining the qualifying conditions, implications of trust protection and identifying what may put the protection on offer at risk.

I hope you enjoy reading our articles. I appreciate that as many of these areas are technically complex, you may wish to discuss them further in relation to your own particular set of circumstances.

If this is the case, I would welcome you to get in touch with me or a member of our Private Client Tax team – we look forward to hearing from you.

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US TAX REFORM

FOR US CITIZENS LIVING IN THE UK, THERE ARE TWO COMPLICATED SETS OF TAX LEGISLATION TO UNDERSTAND AND KEEP UP TO DATE WITH. AT THE END OF 2017 DONALD TRUMP SIGNED THE LONG AWAITED REPUBLICAN TAX BILL, WHICH HAS RESULTED IN THE BIGGEST TAX OVERHAUL IN MORE THAN 30 YEARS. THE HEADLINE CHANGES FOR INDIVIDUALS, WHICH ARE EFFECTIVE FROM 1 JANUARY 2018, ARE AS FOLLOWS:

- The seven federal income tax brackets have slightly reduced and the highest rate of income tax now stands at 37% (down from 39.6%).
- The standard deduction has increased by nearly double but this is combined with material changes to allowable itemised deductions. The personal exemption has also been suspended (until 2026).
- There are further restrictions to deductible expenditure including a cap on deductible State and local taxes and mortgage interest.
- The US Federal gift and estate tax exemption has almost doubled from $5.49 million to $10million (before inflation adjustment). This is a temporary measure and it is set to revert to the 2017 level in 2026.

Impact for UK residents

From a US tax perspective, the changes are good news for those who claim minimal deductions and therefore can reap the benefits of the increased standard deduction and lower tax rates. Generally those claiming greater deductions, for example those with state and local tax liabilities in excess of the new limit of $10,000, may find themselves worse off.

However, US citizens who are not taxable on the remittance basis in the UK may not see the benefit of these changes if their UK tax rate is 40% or higher. Instead these changes will simply increase (or decrease) their excess foreign tax credits in the US.

Action required?

If the UK tax liability is greater than the US liability, US citizens living in the UK will need to focus on reducing their UK liability to see a reduction in their global tax position. Basic planning may include ensuring all available tax allowances are being utilised and making pension contributions.

Where the UK liability is materially greater than the US liability, those with excess wealth could consider the use of a company or trust to hold their assets to shelter their income and gains from UK tax. This ties in well with the increased gift exemption which will allow non UK domiciled individuals to gift a greater amount into trust without triggering a US gift tax charge.

Inheritance Tax (IHT) planning

The increased estate taxes threshold may take some US citizens out of the scope of US estate tax although long term resident US citizens (i.e. those living in the UK for more than 15 years), may still be subject to UK Inheritance Tax (IHT).

The current IHT threshold in the UK stands at £325,000 and estates in excess of this will be subject to tax at 40%. With the US threshold almost 20 times higher than the UK IHT threshold, for many, estate planning will focus on reducing IHT liabilities. The most basic form of IHT planning is lifetime gifting and those with excess wealth can now consider making substantial gifts in a UK tax efficient way without triggering a gift tax liability in the US.

Excluded property trusts are popular structures and individuals who are not yet domiciled or deemed domiciled in the UK may want to consider such a vehicle for protection from IHT. The new trust protections (see Alice Pearson's article 'Protection for setllers of overseas trust') may also provide a favourable income tax and capital gains tax shelter for long term UK resident settlors.

IF YOU WOULD LIKE TO DISCUSS YOUR CIRCUMSTANCES IN RELATION TO THE ISSUES RAISED HERE, PLEASE GET IN TOUCH WITH LYNSEY LORD OR YOUR USUAL MERCER & HOLE CONTACT.

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PROTECTION FOR SETTLORS OF OVERSEAS TRUSTS

FOR MANY YEARS THERE HAVE BEEN UK ANTI-AVOIDANCE PROVISIONS WHICH SEEK TO TAX UK RESIDENT SETTLORS ON INCOME REALISED WITHIN AN OFFSHORE TRUST (AND IN SOME CASES AN UNDERLYING COMPANY) WHERE THE SETTLOR OR THEIR SPOUSE/CIVIL PARTNER CAN BENEFIT.

Further provisions seek to tax UK resident settlors on capital gains realised within an offshore trust (and in some cases an underlying company) as they arise where a wider class of persons can benefit, including the settlor, their spouse/civil partner and minor children.

Non-UK domiciled settlors

Non-UK domiciled settlors are able to shelter foreign income realised within an offshore trust from UK tax by making a claim for the remittance basis and ensuring the income remains offshore. UK source income is however always taxable on the settlor as it arises.

Capital gains realised within offshore trusts are not automatically attributed to a non-UK domiciled settlor, even if the remittance basis is not claimed. Instead, the settlor is subject to UK Capital Gains Tax (CGT) on the gains to the extent that these match to capital payments, in the same way as for beneficiaries. All matched gains are treated as foreign gains, which can be sheltered using the remittance basis subject to eligibility.

UK tax changes from 6 April 2017

From 6 April 2017, non-UK domiciled individuals who have been resident in the UK for at least 15 of the previous 20 tax years are deemed domiciled in the UK for all tax purposes (along with UK residents who were born in the UK with a UK domicile of origin, known as Formerly Domiciled Residents, (FDRs)). As a result, deemed domiciled settlors are now exposed to UK tax on the income and capital gains realised within an offshore trust as they arise.

However, the Government has recognised that many non-UK domiciled individuals living in the UK hold their wealth in offshore trusts. In an effort to soften the blow of the new rules and encourage such long term residents to remain in the UK, protection from an immediate tax charge on foreign income and capital gains realised within their offshore trust has been made available in certain circumstances.

Trust protection conditions

Foreign income and capital gains arising within an offshore trust are protected from UK tax provided that:

1. The settlor retains a foreign domicile under general law;
2. The settlor is not a FDR;
3. The trust was established while the settlor was not domiciled (or deemed domiciled) in the UK;
4. The trust is non-UK resident; and
5. No property or income is provided by the settlor, or the trustees of another settlement of which the settlor is the settlor or a beneficiary ('associated trust'), whilst the settlor is deemed domiciled.

Implications of trust protection

If the trust is protected, the settlor will pay UK tax by reference to benefits received. UK source income will however continue to be taxable on the settlor as it arises.

For income tax purposes, a benefit received by a close family member of the UK resident settlor (spouse, civil partner, cohabitee or minor child) may also be taxable on the settlor. Similar rules will be introduced from 6 April 2018 for CGT purposes.

These rules apply to all trusts established by non-UK domiciled individuals and not just those where the settlor is deemed domiciled. As deemed domiciled settlors are no longer able to access the remittance basis, UK tax is payable on the income and/or capital gains which match to benefits regardless of whether or not this is remitted to the UK. However in cases where the settlor is not yet deemed domiciled, the benefit may be protected from UK tax if the remittance basis is claimed and the benefit is not remitted.

Tainting

Trust protection will be lost if an addition is made directly or indirectly to the trust (or an underlying entity) by the settlor or an associated trust whilst the settlor is deemed domiciled in the UK. This is known as 'tainting'.

Protection will also be lost if the settlor acquires a UK domicile under general law. It is therefore crucial that settlors who become deemed domiciled are aware of the implications for trust protection of giving up their foreign domicile. HMRC have in recent years targeted the issue of domicile in many of their enquiries and therefore it is important a robust argument to support a non-UK domicile status can be presented. Contemporaneous evidence of links outside the UK and future intentions is key.

The tainting rules are wide reaching and include any scenario where there is an addition of value.

For example:

- If the settlor pays for improvements to a property owned by the trust, this enhancement expenditure could taint the settlement.
- The failure by the settlor to reclaim tax from the trustees could taint a trust. However, provided the settlor claims reimbursement within a reasonable timeframe, tainting should not occur.

If tainting occurs, trust protection will be lost and the settlor will be subject to UK tax on all income and capital gains realised within the trust as they arise. If the trust has multiple settlors, the protection is only lost in relation to property derived from the settlor responsible for the tainting.

Exceptions

There are some useful exceptions from tainting. These include scenarios where property or income is added without intention to confer a gratuitous benefit and additions (including loans) made on arm's length terms. For dry trusts, cash added to pay UK or overseas taxes and administration costs at trust level will not cause tainting but this does not extend to underlying companies. Property or income provided in pursuance of a liability incurred by any person before 6 April 2017 is also excluded from tainting, as illustrated in the following example:

Example

In December 2016 the trustees decide to purchase a property. As the trustees do not have sufficient funds, the settlor, Holly, agrees to settle a further £280,000. The trustees enter into a conditional contract to purchase the property in March 2017 but the conditions are not fulfilled until May 2017, when Holly provides the funds. As Holly had already committed to provide the funds before 6 April 2017, the trust is not tainted by her actions.

Loans

It is clear that loans are a risk area and where borrowings are in place, these require urgent review.

There is a twelve month grace period for loans made to a trust by the settlor where:

- The loan was made before the settlor became deemed domiciled;
- The settlor became deemed domiciled on 6 April 2017; and
- The loan was not entered into on arm's length terms.

In these circumstances tainting will not occur if either the loan (including all interest) is repaid before 6 April 2018, or the terms of the loan are altered on to arm's length terms and all interest up to 5 April 2018 is settled by the following day.

Inheritance Tax (IHT)

Regardless of whether the trust has protected status, trusts established when the settlor was not domiciled or deemed domiciled in the UK will remain excluded property for IHT purposes, unless they are FDRs. As a result, non-UK situs assets held within the trust will remain outside the scope of UK IHT. For IHT purposes, it is therefore still worthwhile creating excluded property trusts before an individual becomes deemed domiciled. In such cases, we would always recommend a full domicile review is carried out to ensure that the planning is effective.

Action points

Although the trust protection provisions are generous, the concept of tainting is complex and widely drawn and therefore protection can very easily be lost. There is no de minimis and so even a small addition could have catastrophic and permanent consequences for the settlor.

The following action points should be considered:

- Extreme care should be taken by the trustees and the settlor to ensure no value is added (unless covered by an exclusion). If there is any doubt surrounding the impact of a transaction, we recommend this is confirmed with us beforehand.
- All loans to and from a trust should be reviewed before the settlor becomes deemed domiciled and, where these are not on arm's length terms, they should be repaid or the terms altered beforehand.
- Where the settlor became deemed domiciled on 6 April 2017, loans from the settlor to the trust should be reviewed as a matter of urgency as there may be scope to repay the loan or alter the terms before 6 April 2018 to avoid tainting.
- Carefully review the terms of any new loans and ensure the terms of all loans are adhered to.

IF YOU WOULD LIKE ADVICE ON ANY ASPECT OF THE POINTS DISCUSSED IN THIS ARTICLE, PLEASE DO NOT HESITATE TO GET IN TOUCH WITH ALICE PEARSON OR YOUR USUAL CONTACT AT MERCER & HOLE.

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A WINDOW OF OPPORTUNITY TO ACCESS TAX EFFICIENT CASH

TO OFFER SOME RESPITE FOLLOWING THE SUBSTANTIAL CHANGES TO THE UK TAXATION OF CERTAIN NON-UK DOMICILED INDIVIDUALS FROM 6 APRIL 2017, A TEMPORARY 'CLEANSING' RELIEF IS BEING OFFERED TO PERMIT THE REARRANGING OF OVERSEAS FUNDS AND THEREBY ENABLE TAX EFFICIENT REMITTANCES. THE WINDOW OF OPPORTUNITY FOR 'CLEANSING' OR 'UN-MIXING' THE FUNDS IS OPEN FROM 6 APRIL 2017 TO 5 APRIL 2019.

Back in December 2016, our previous article 'The good news part 2: Identifying clean capital in a mixed account' gave an introduction to the relief but prior to November 2017 we did not have the final legislation to enable clients to take action. HMRC guidance was issued on 31 January but is basic in content.

Qualifying for the cleansing relief

The relief is widely available to non-UK domiciled individuals and in order to qualify for the 'cleansing' relief an individual:

- Must have utilised the remittance basis for at least one of the tax years between 2008/09 and 2016/17; and
- Cannot be a 'Formerly Domiciled Resident' (born in the UK with a domicile of origin in the UK).

Unlike rebasing relief, there is no requirement for the individual to have paid the remittance basis charge in any year. Cleansing is available to non-UK residents provided they meet the conditions and this could be useful to individuals who have previously lived in the UK and claimed the remittance basis and have subsequently left but are likely to return in the future and will require funding here.

The usual rules for transfers from 'mixed' accounts

Whilst it is good practice to segregate offshore accounts; overseas bank accounts or assets can often contain a mix of funds consisting of clean capital and untaxed capital gains plus sometimes untaxed income. These are known as 'mixed funds'. The usual tax rules determine that a transfer from a 'mixed fund' to another overseas account carries a proportion of the constituent parts (income, capital gains, clean capital) over to the new account.

Conversely, there is a deemed order when remitting to the UK from a 'mixed fund' and this is broadly unfavourable to the taxpayer with tax free clean capital treated as remitted last, after taxable income and gains.

Effect of the cleansing relief

If a taxpayer qualifies for the cleansing relief, it is possible to 'nominate' transfers of cash between overseas bank accounts to consist of a specific type of fund, such as clean capital. This nomination will mean that, for example, only clean capital is treated as being carried over to the second overseas bank account, rather than the usual apportioned mix, which may have also contained any income and capital gains.

A remittance of the clean capital could subsequently be made to the UK from this second overseas bank, to provide additional tax free funds for the taxpayer.

If the funds remaining in the original account comprise a mixture of income and gains which is separately identifiable, this may also be cleansed to segregate the income from gains and facilitate further remittance planning to make use of preferential tax rates and allowances or losses.

Important practical points to consider

The mechanics of the nomination and transfer are complex and it is important to consider the following:

- Only cash can be nominated to be cleansed and as such assets purchased using clean capital would need to be sold, prior to cleansing the disposal proceeds, in order to access the clean capital.
- Joint accounts can be cleansed subject to each holder meeting the qualifying conditions.
- The nomination must take place on a transfer between two overseas bank accounts.
- Only one nomination can be made between two specific bank accounts and new overseas bank accounts may need to be opened to facilitate the cleansing nominated transfers.
- Records of all cleansing nominations need to be retained, to provide clarity as to the transfers that have been made.
- HMRC's view is that an over nomination can void the cleansing relief. As such a nomination should always be taken on a prudent basis and only where the amount to be nominated of can be clearly identified.

- Where clean capital has been transferred to a trust or spouse, it may be possible for the individual who made the transfer to carry out nominations to access that clean capital, even though the trust or spouse is the bank account holder.
- The new capital gains tax rebasing (see Pavandip Singh Dillon's article '2017 Rebasing – a welcome relief') can be used in conjunction with the cleansing relief but care needs to be taken to identify the funds used to initially purchase those rebased assets.

The cleansing relief provides a unique and time limited window of opportunity in which to rearrange offshore funds and to access clean capital.

PLEASE CONTACT HENRY LOWE OR YOUR USUAL CONTACT AT MERCER & HOLE IF YOU WOULD LIKE TO EXPLORE THE OPTIONS AVAILABLE TO YOU.

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2017 REBASING – A WELCOME RELIEF

From April 2017 an individual who is a Long Term Resident (LTR) will become deemed UK domiciled for all UK tax purposes. A LTR is defined as someone who has been a UK resident in 15 of the last 20 years. Without the protection of the remittance basis this means LTRs will now be subject to Capital Gains Tax (CGT) on disposals of non-UK assets. This is a major change for non UK domiciled individuals who may have owned assets for many years. However, the impact will be lessened because rebasing is being offered. This transitional relief permits foreign assets to automatically be treated as if they had been disposed of and reacquired at their market value at 5 April 2017, meaning that only the rise in value beyond 5 April 2017 will be subject to CGT. The relief is subject to conditions which need to be born in mind.

Our previous article 'The good news part 1: Capital Gains Tax (CGT) rebasing' in December 2016 covered the key conditions of rebasing based on draft legislation at the time. The legislation was finally enacted in November 2017, followed by HMRC guidance in February 2018. We now take a fresh look at the relief, especially as the end of the tax year approaches.

Who qualifies?

Only an individual who is a LTR on 6 April 2017 will qualify. The government has decided not to extend rebasing to individuals who become LTRs after this date. Furthermore, individuals who were born in the UK with a UK domicile of origin Formerly Domiciled Resident (FDRs) are specifically excluded.

Crucially, the individual must not only be a LTR but also domiciled outside the UK under general law in each of the tax years up to and including the tax year of disposal. For LTRs who have been resident in the UK for most of their life, advice on domicile status should be sought in order to check the position before steps are taken to maximise the rebasing opportunity. HMRC are increasingly enquiring into the foreign domicile status of such individuals and preparing ahead is advisable.

The LTR must have paid the Remittance Basis Charge (RBC) at least once. Individuals who have been filing on the worldwide arising basis since 2008 may therefore wish to consider claiming the remittance basis for the tax year ended 5 April 2017 (or possibly earlier) if the RBC is less than the additional CGT that would be payable without rebasing. Any claim would need to be made within the permitted timeframe. We can help with this.

Very importantly rebasing is not available to trustees or companies.

The April 2017 rebasing provides valuable relief from CGT, but there are pitfalls as highlighted and planning points which I will try to illustrate using the following headings and some examples.

Conditions on moveable assets

The asset must be personally held on 5 April 2017 and disposed of after that date. It must not have been situated in the UK between 16 March 2016 (or acquisition if later) and 5 April 2017. For details of certain exemptions, please see our previous article, 'The good news part 1: Capital Gains Tax (CGT) rebasing'

Example 1

Klaus moved to the UK from Germany in April 2002. He will be UK deemed domiciled from 6 April 2017 as an LTR. He paid the remittance basis charge for the year ended 5 April 2017.

In 2008, Klaus acquired artwork worth £500k for his German property. Klaus imported the artwork for his London home in 2014. In June 2016, he decided that it was better suited to his German property and returned it.

In May 2018, Klaus sold the artwork for £800k. It was worth £750k in April 2017.

The asset was situated in the UK between 16 March 2016 and

5 April 2017 so is disqualified from rebasing. It does not meet any of the exemptions for assets brought to the UK for public access or repairs. Neither is it a personal use asset. Klaus will pay UK CGT on the gain of £300k.

Spousal transfers

Assets transferred between spouses are deemed to take place at no gain/loss for CGT purposes but can potentially qualify for rebasing.

Example 2

In 2000 Carlo acquired a property in Rome for £3m. On 5 April 2017 it is worth £5m. Carlo transferred a 50% share to his wife in 2003. The disposal is at no gain/loss so their base cost is £1.5m each. The couple sell the property in April 2018 when it is worth £6m. Both are LTRs.

Without rebasing, CGT is due on a gain of £3m (£6m-£3m) or £1.5m each. With rebasing this falls to £1m (£6m-£5m) or £500k each.

The gain may be taxable in Italy and local advice should be sought. A claim for double tax relief may be appropriate.

The timing of spousal gifts can be crucial and Inheritance Tax (IHT) implications must also be considered carefully before gifts are made between spouses with differing domicile statuses.

Example 3

John is UK domiciled and purchases shares in a Spanish company in 2014. He transfers these to his foreign domiciled wife Maria in March 2017. The spousal no gain/no loss provisions apply for CGT although only part of the gift is exempt for IHT due to the limited exemption which is available for transfers to a non-UK domiciled spouse. Maria is a LTR who has previously claimed the remittance basis and paid the RBC. She becomes deemed domiciled on 6 April 2017 and sells the Spanish shares in December 2017. Maria is entitled to rebasing upon her disposal.

If John had transferred the shares to Maria two months later in May 2017 the spousal no gain/no loss provisions would still have applied for CGT but Maria would not have met the conditions for rebasing upon the later sale because she did not own the shares on 5 April 2017. The gift would however have been fully exempt for IHT.

Indirectly held assets

Assets held under nominee or bare trust arrangements or in a transparent ownership vehicle such as a partnership or LLP will also qualify.

Non-reporting funds

HMRC have confirmed that units held personally in an offshore non-reporting fund that may give rise to Offshore Income Gains (OIGs) will also qualify even though they are subject to Income Tax.

Foreign losses

As a brief reminder, losses arising to foreign domiciliaries on non-UK assets are not allowable unless an election is made within the required timeframe following a claim for the remittance basis. The election provides for foreign loss relief based on strict ordering rules.

Once an individual becomes deemed domiciled, losses on subsequent disposals of worldwide assets are allowable without restriction.

If an individual ceases to be UK deemed domiciled by remaining non-UK resident for six complete tax years, they will be treated as a new arriver and may make a foreign loss election once more.

Opting out of rebasing

Rebasing applies on an asset by asset basis and can be disapplied if a claim is made within the specified timeframe. This will be helpful in cases where the asset was standing at a loss on 5 April 2017 compared to its base cost. The election is irrevocable.

Example 4

Bruce bought shares in an Australian company in 2012 for £300k. They are worth £275k in April 2017 but dropped to £250k in March 2018 when Bruce sold them. He is a deemed domiciled LTR and qualifies for rebasing.

Bruce's loss without rebasing would be £50k (£250k-£300k). With rebasing the loss is £25k (£275k-£250k). Bruce should opt out of rebasing to maximise loss relief.

Temporary Non-Residents (TNR) CGT

Individuals who become non-UK resident but return to the UK within a five year period are subject to TNR rules, see our recent article '***returning to the UK tax charges on overseas property***'. There is transitional relief for individuals who left the UK before 8 July 2015 and fall within the TNR rules after realising foreign gains, and become deemed UK domiciled on arrival. They may claim the remittance basis on those gains in the year of their return to the UK, without paying the RBC.

Example 5

Pierre left the UK in April 2015 to study in France and returned to the UK April 2019.

Pierre is deemed UK domiciled from April 2019 as a LTR but is considered TNR for tax years ending April 2016, 2017, 2018 and 2019. In 2017 he made gains on the sale of US listed shares. The proceeds of the disposal remain in his US bank account.

Pierre may claim the remittance basis in 2019/20 to shelter this gain. He will not be required to pay the RBC.

Interaction with mixed fund cleansing

The mixed fund cleansing provisions discussed earlier in this edition can be used to remit the clean capital trapped in the disposal proceeds of a foreign asset that has been subject to 2017 rebasing.

Example 6

Nikola acquired £300k of Greek listed shares in April 2010. The market value on 5 April 2017 is £500k and on sale in March 2018 is £600k. The acquisition was made with clean capital and foreign income and gains subject to the remittance basis.

April 2017 rebasing applies. The proceeds of £600k will consist of three distinct layers:

1. Capital gain post April 2017 - £100K (£600K-£500K) – taxable on the arising basis, so this can be remitted to the UK without further tax consequence.
2. Capital gain to April 2017- £200K (£500k-£300k)- exempt, so clean capital; and
3. Base cost - £300k - mixed funds so potentially taxable if remitted.

Nikola can remit 1) and 2) to the UK by making a direct transfer to a UK account.

Nikola may remit the clean capital portion of 3) if she takes advantage of the cleansing provisions first (see earlier article). Otherwise she should keep the funds offshore.

Given the fact relief is so valuable we advise that foreign assets are reviewed and April 2017 valuations sought to see if rebasing will be beneficial. Valuations may be more difficult to obtain as time passes.

The relief is particularly important if you need to dispose of assets acquired with mixed funds and wish to remit disposal proceeds to the UK tax efficiently using cleansing provisions. The deadline for cleansing is 5 April 2019, so the clock is ticking.

There is no single solution that works for everyone and we recommend early action to maximise the benefit of this and other reliefs.

IF YOU WISH TO DISCUSS ANYTHING IN THIS ARTICLE, PLEASE GET IN TOUCH WITH PAVANDIP SINGH DHILLON OR YOUR USUAL MERCER & HOLE CONTACT.

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