HARRIS & TROTTER LLP

Non-Dom's in the UK

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The Billionaire

- London lies 3rd on the list of cities with most Billionaires (92).
- Out of the top 100 richest people in the world, only 3 are from the UK.
- So why do so many Billionaires live in London?

What is a Non-Dom?!

- A non-dom is a UK tax resident who is not domiciled in the UK.
- An individual's domicile is usually the country in which they have their 'permanent home'.
- There are three types of domicile to be aware of for personal tax purposes:
  - Domicile of origin (usually follows the father).
  - Domicile of dependency (up until the age of 16).
  - Domicile of choice (provided links with the former domicile are severed as much as possible).

- A taxpayer will be deemed to be UK domiciled if they were UK resident for at least 15 of the 20 years ending immediately before the current tax year.

NON-DOMS DON’T HAVE TO PAY TAX ON THEIR WORLDWIDE INCOME

Rules: Arising

- Individuals who are UK resident are normally taxed on the arising basis of taxation.
- The arising basis of taxation means that all an individual's worldwide income and gains are taxable in the UK.
- Therefore, even if an individual's foreign income and gains have already been taxed in another country, they might still be taxable in the UK.
- An individual in the UK who is taxed on the arising basis must declare all of their foreign income and gains on their UK Self-Assessment tax return.

BUT NOT NON-DOMS!

- Non-Dom's can choose to only pay tax on a remittance basis, meaning that the only things subject to UK tax will be;
  - UK Derived income, and;
  - Profits remitted to the UK.
- But this comes at a cost, known as the remittance basis charge.

Nothing in life is free (Remittance Basis Charges)

- From 6 April 2017 the remittance basis charge changed to 2 levels of charge:
  - £30,000 for non-domiciled individuals who have been resident in the UK for at least 7 of the previous 9 tax years immediately before the relevant tax year.
  - £60,000 for non-domiciled individuals who have been resident in the UK for at least 12 of the previous 14 tax years.

- There is no charge for non-domiciled individuals who have been resident in the UK for less than 7 of the previous 9 tax years immediately before the relevant tax year.

What is a remittance?

Un-clean capital which is brought into the UK by the UK tax resident.

Cleansing pre-arrival

- One of the challenges faced by non-dom's is identifying money that can be brought to the UK without triggering a UK tax liability (Clean capital).
- Funds derived from certain sources, e.g. gifts from family members, or foreign income and gains generated prior to UK arrival, represent "clean capital" which can, in theory, be remitted to the UK free of tax.
- However, once clean capital becomes mixed with foreign income or gains arising whilst the individual is UK resident, it is difficult to split out the capital and remit clean capital to the UK.
- The mixed fund rules work against the taxpayer. Remittances to the UK from a mixed fund account are deemed to represent foreign income and gains in priority to clean capital. In effect, elements taxable at the highest rates are remitted first.

Cleansing pre-arrival

HOW DOES CLEANSING WORK?

- Splitting out overseas mixed funds into their constituent parts.
- Where an amount of clean capital can be identified within a mixed account, it will be possible to nominate the clean capital and separate it from the mixed fund by transferring it into a separate overseas account containing nothing else.
- The clean capital can then be remitted to the UK free of tax. It is necessary to quantify the amount of capital in the mixed fund first, and to be able to substantiate this to HM Revenue & Customs.

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HOW CAN WE HELP?

Structuring pre-arrival to the UK

- Maximising the clean capital prior to becoming tax resident in the UK.
  - Re-valuing property, investments etc.
  - Issuing unpaid dividends, maximising director's loan accounts.
  - Redeemable preference shares.

- Opening offshore companies (primarily in the Isle of Man) to house investments in a 0% tax jurisdiction.

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Assistance post arrival to the UK

- Opening a UK bank account (the most difficult task!).
- Assisting with immigration.
- Finding a place to live.
- Assisting with the management of any offshore structuring.
- Filing of their UK tax affairs.
- Assisting in extracting profits from the UK to offshore 0% tax vehicles.

A working example

- Ozgur is a Turkish Billionaire (drinks on him) looking to relocate to the UK.
- Ozgur's business affairs are complicated and the majority of his assets are held in a BVI offshore company.

Prior to coming to the UK

- We prepare accounts for all of Ozgur's companies and revalue his assets as high as possible.
- We then issue the maximum dividend possible in each company and pass the dividend all the way up to the ultimate holding company.
- The ultimate holding company then declares an unpaid dividend to Ozgur (ensuring there is no tax liability in Turkey).
- This dividend is then converted into a redeemable preference share at par.
- A balance sheet of Ozgur's other remaining assets is created as at the date of his arrival in the UK.

Once in the UK

- Ozgur holds £1,000,000,000 in redeemable preference shares. Ozgur can therefore remit money into the UK up to the value of £1bn **without paying any tax.**
- Ozgur continues to trade using his offshore BVI company, which is centrally managed and controlled offshore and taxed at 0%.

Arriving / Leaving the UK

Days spent in the UK	Impact of ties on residence for arrivers	Impact of ties on residence for leavers
Fewer than 16 days	Always non resident	Always non resident
16-45 days	Always non resident	Considered UK resident if 4 ties or more
46-90 days	Considered UK resident if 4 ties or more	Considered UK resident if 3 ties or more
91-120 days	Considered UK resident if 3 ties or more	Considered UK resident if 2 ties or more
121-182 days	Considered UK resident if 2 ties or more	Considered UK resident if 1 tie or more
183 days or more	Always resident	Always resident

Family tie

Work tie

Country tie

Accommodation tie

90 day tie