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Should I Stay?

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A vertical image on the left side of the slide showing light trails from a road at night, curving upwards and to the right. The background of the slide is a solid dark blue color.

Or rather, 'Why Should I Go'

- Perceived attractions of relocation
 - Is the grass always greener?
- Outline of UK taxation and residence
- Outline of structuring opportunities
- Tax benefits for UK resident
 - Non domiciliaries
 - UK domiciliaries
- The attractions of the UK as a relocation jurisdiction
- Why go?



Why Stay?

- Much talk of 50% income tax rate
 - BUT consider mitigation opportunities
 - Expected life span on increased rates?
 - Potential disadvantages associated with relocation
- Attractions of maintaining UK residence:
 - Efficient tax planning options available
 - Potential problems of relocation
 - Stable (relatively) business environment
 - Time zone attractions
 - Rate speculation



UK taxation – an overview

- The starting point
 - UK taxation generally follows UK residence – NB not worldwide system
 - UK income tax and capital gains tax apply on arising basis to UK residents
 - NB remittance basis for non domiciliaries

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UK residence

- No absolute statutory test
- UK resident if spend more than 183 days/year in the UK
- NB A day counts if present in the UK at midnight (post April 2008)
- BUT otherwise
- ‘it is not simply a question of the number of days you are physically present in the UK during a tax year although this is an important consideration’
 - Family, business, property and social aspects relevant
 - A grey area and much turns on existing case law and non statutory Guidance

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Ordinary residence

- Distinct from residence
- ‘your residence in the UK is typical and not casual’
 - May be non-ordinarily resident for initial three year period
 - May become ordinarily resident on 91-day averaging test



UK Income Tax for UK domiciled taxpayers

- If you are UK resident:
 - Income tax applies at up to 50% from April 2010 on all income over £150,000
 - 32.5% for dividend income
 - Deemed income tax treatment applies to non reporting/non distributor status funds (and some other assets) e.g., gains from hedge funds
 - Five year non residence rule for deemed income gains

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UK Capital Gains Tax for UK domiciled taxpayers

- Applies at flat 18% rate to all gains realised by UK residents, whether onshore or offshore
- 5 year non residence rule for realising capital gains offshore

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Inheritance Tax for UK domiciled taxpayers

- Situs rather than residence based:
 - Applies to ALL UK situs assets, irrespective of residence or domicile
 - Applies at 40% to all assets above nil rate band ('NRB')
 - Potentially exempt transfers ('PETs') permit tax neutral lifetime gifting in many cases



The remittance basis – The UK as onshore tax haven?

- UK resident non domiciliaries
 - Benefits of remittance basis
 - UK income tax and capital gains only applies to assets remitted onshore
 - Can shelter offshore income and gains
 - Highly attractive for those with offshore wealth
 - How to be a remittance basis user ('RBU')
 - Non domicile status
 - Automatic remittance basis for first 7 out of 9 years of residence
 - Thereafter £30,000 to be taxed on remittance basis



Non domiciliaries and income tax

- UK income tax applies to all UK source earnings, investment and trading income
- Focus on maximising offshore profits and keeping UK profits to the level required for UK expenditure
 - Consider employment structuring arrangements
 - Double Tax Treaties
 - Deferred capital consideration – e.g. EBTs, share incentivisation

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Non domiciliaries and income tax – cont...

- For UK investment income
 - Consider use of deferral structures, e.g. offshore insurance bonds
 - Potential tax efficient exit if non resident



Non domiciliaries and CGT

- UK source gains directly held taxed on arising basis, at 18% rate
- BUT UK source gains held within offshore trusts deferred until remitted
- Structuring opportunities:
 - Where directly held consider deferral structures, such as OEICs and AUTs
 - Where indirectly held consider offshore trust structures



Non domiciliaries and CGT cont...

- Offshore trusts
 - Pre April 2008 possible to remit gains realised within trusts tax free
 - Remains possible to remit pre April 2008 gains in the like manner
 - Rebasing election

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IHT and non doms

- Applies only to UK situs assets until deemed domiciled
- Acquire deemed domicile status when resident 17 out of 20 years
- Excluded property trusts established prior to deemed domicile shelter non UK assets
 - Thereafter IHT applies to worldwide estate
 - Combine EPTs with lifetime gifting after deemed domicile status acquired



In summary for non doms

- With proper structuring no UK taxation on offshore income and gains
- Opportunity to remit pre April 08 gains within trust structure tax free
- Thereafter offshore gains remitted at between 18-28.8%
- UK income tax mitigation opportunities
- IHT can be minimised
 - Not unreasonable to speak in 'tax haven' terms

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Why come to the UK?

- If not currently UK resident:
 - Automatic remittance basis for NO charge for 7 years
 - Accumulate income and gains offshore
 - UK taxation restricted to onshore income and gains
 - Pre-immigration planning to minimise UK tax exposure
 - Can remit pre residence capital tax free
 - Highly attractive as a relocation jurisdiction



Structuring opportunities for UK doms

- Overall strategy
 - Invest for gains – 22% differential
 - Maintain flexibility
 - Investigate employment income structuring possibilities
- Income tax
 - Consider deferral structures for investment income – offshore insurance bonds
 - Consider seeking to realise capital gains over income assets - synthetics
 - For employment income:
 - Deferral through EBTs
 - Pay 18% CGT rate on properly structured capital incentivisation measures

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Structuring opportunities for UK doms cont

- Capital Gains
 - Invest for gains where possible
 - Consider deferral to maximise the benefits of the rate differential
 - OEICs, AUTs



In summary for UK doms

- If remain UK resident
 - Invest for gains
 - Structure employment income
 - Defer
 - Important not to lose sight of beneficial opportunities through excessive focus on 50% rate



Why, or rather why not, stay?

- Despite high income taxes,
 - Mitigation possible
 - May not remain in place beyond the short to medium term
 - Only applies to UK income remitted onshore for non doms
 - CGT rates are attractive
 - Exiting not as simple as may appear
 - May need to remain non resident for five years in some cases for effective planning
 - Significant potential upheaval

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So, should I stay or should I go?

- Do not let the tax tail wag the lifestyle, family and business dog
- And remember the grass here is very green