



Guide to Relocation Planning: Coming to or Leaving The United Kingdom

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PREFACE

It is recognised that this Guide will not provide a complete solution to detailed questions which clients and their advisers may have. It is intended to provide an overview of the subject matter covered and is, therefore, designed as a starting-point for a more detailed and comprehensive discussion of the issues with clients and their advisers.

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Appleby does not provide UK legal or tax advice. However Appleby understands tax issues and maintains a wide range of contacts in all the world's leading jurisdictions. We are able to effect introductions or to obtain detailed tax advice on client's behalf as required.

Appleby also works closely with clients' principal advisors in the UK and elsewhere to provide effective solutions for clients on the move.

Introduction

The period since the end of 2007 has been witness to a time of almost unprecedented turmoil in global financial markets and although the harrowing sights of the great depression of the 1920s have not been visible on the streets, the underlying financial indicators have been unequalled by anything that has occurred since those days. A number of US and UK household name banks have failed, unemployment has risen to record levels, the world is gripped by recession and perhaps most surprisingly a number of developed countries have been identified for possible failure, Iceland, Greece, Spain, Portugal, and for a time, Ireland to name but some.

The result has been a huge level of support provided for the financial services industry, and banks in particular, by the Governments of the World's leading developed nations, in turn contributing to massive budget deficits and the prospect of years of high taxation, stringent spending cuts and limited growth in those countries. The United Kingdom is a case in point with a 2010 budget deficit in the region of £180 billion. These countries must now impose levels of taxation not seen for decades in an attempt to make ends meet; the United Kingdom faces taxation at record levels, following on from falling levels of taxation since the early 1980s.

Although the difficulties of relocation should not be underestimated, the world is now a smaller place for both commerce and travel, and it is now relatively easy to move between countries. Many jurisdictions have opened their doors to those simply seeking a lifestyle that can be relied upon to provide peace and security and, increasingly, to those who are not prepared to see the fruits of their endeavours prejudiced, relief from taxation.

The eagerly awaited UK election is now in the past, and with an almost unique political landscape now in place, the UK may perhaps look forward to a hard future but with some small measure of optimism.

1. Coming to the United Kingdom

One might ask why anyone should want to reside in the United Kingdom against this background, but the fact remains that the UK is to a great extent what it has always been, a low tax jurisdiction for those foreign individuals or families who are in the United Kingdom for limited or even longer periods, take the trouble to seek advice, and are prepared to follow that advice.

However the UK offers an attractive and almost unique environment for those persons who are fortunate enough to have the choice of where and how to conduct their lives, and lifestyle, cultural and sporting opportunities at all levels are readily available to those who seek them.

The system of taxation in United Kingdom is complex, highly developed and, based on motivation that seems clear, geared towards providing a stable economic platform for high net worth individuals from overseas. This remains the case despite the introduction in 2008 (effective from 5th April 2009) of sweeping new rules which have removed some of the previous advantages, and indeed recently announced proposals to review those changes and the rules generally.

The system of taxation is predicated on the twin concepts of domicile and residence and this section of the Guide is aimed primarily at those persons who can claim a foreign domicile through birth or choice, a description that historically applies to a significant percentage of the wealthiest families residing in London or elsewhere in the UK. The following fundamental advantages continue to apply:-

- 1) An individual with a foreign domicile may reside in the UK paying only limited amounts of income tax. This is achieved through the remittance of pure capital to the United Kingdom either before the individual arrives in this country or during the period of residence.
- 2) This situation may continue for a period of seven years from the date of arrival, after which the individual would be required to leave the United Kingdom for four years before returning to enjoy the same advantages.
- 3) Alternatively after seven years the individual may elect to pay an annual charge of £30,000 in order to continue to protect all unremitted foreign income from UK taxation (assuming the individual continues to live off pure capital and pays tax on any UK income).
- 4) Such an individual would be required to pay UK tax on both income and capital gains that arise in United Kingdom. Provided these simple rules are followed foreign income and gains may continue to escape UK taxation.
- 5) For those paying only occasional visits to the UK, the question of acquiring UK residence may not even arise. The basic rule requires a person to be here for an average of more than 90 nights over a four-year period, or for a period in excess of 182 days in any one tax year, in order to acquire UK resident status for tax purposes. These periods are now measured by reference to a person's physical presence in the UK at midnight at the end of any given day.
- 6) For such persons the use of offshore trusts and companies may permit capital investment in the United Kingdom that would be free of capital gains tax on realisation.
- 7) Provided fairly straightforward steps are taken before arriving in the United Kingdom long-term protection is available against UK inheritance tax on death. This protection will also apply to those persons with a foreign domicile who subsequently live in England for more than 17 years.
- 8) As for the ownership of residential property in the UK, protection from inheritance tax may be afforded through the simple expedient of bank gearing to reduce the taxable value of the property to zero and through more complex arrangements involving offshore trusts and SPVs.

There is no doubt that the new provisions introduced in 2008 have removed some of the advantages that previously applied for the benefit of individuals living in the UK with a foreign domicile, particularly where distributions from offshore trusts are concerned. This is a complex area of law where more than ever expert advice is needed.

However the basic advantages outlined above continue to be readily available for foreign persons wishing to come to the United Kingdom to live or invest, whether for seven years or longer. These arrangements are not difficult to achieve, and they are based on long-standing provisions of UK tax law. They do however require the discipline to adhere to the advice that is provided. **It is also the advance element of planning that is absolutely crucial to success.**

2. Leaving the United Kingdom

For every person wishing to come to the United Kingdom it is now clear that there will be a person wishing to leave; principally those who generate significant levels of income or capital gains in United Kingdom through work or investment. It is clear that certain UK businesses are considering relocating abroad to avoid both taxation and regulation and many of their employees will want to go with them. Bankers have become

a favourite target for both the Revenue and the Press and the authorities have imposed stringent levels of taxation on high performing employees, and indeed their employers, to the point where the level of taxation is now felt to be unacceptable.

Leaving the United Kingdom is relatively straightforward, but if a permanent new existence is sought elsewhere there are certain basic rules which must be followed:

- 1) To effectively shake off UK resident status for tax purposes an individual must leave the United Kingdom with the firm intention of remaining abroad for at least three years, and preferably with full-time employment abroad. The rules are easier for foreign persons with a foreign domicile who may have been resident in the UK.
- 2) If an individual returns to the United Kingdom within five full tax years of having emigrated for tax purposes he or she may be assessed to capital gains tax on any gains realised during the period of residence abroad on assets held at the time of emigration.
- 3) For those determined to achieve foreign tax status they must be outside United Kingdom for at least three years (or, in the case of long-term UK-residents, three full tax years) before they may acquire a new foreign domicile (a domicile of choice) for inheritance tax purposes.
- 4) With care it may be possible to maintain some form of continuing residence in the UK, but caution must be exercised to follow the 90 day (or rather night) rules and this position may be better achieved by a person who has full-time employment outside United Kingdom. Again this result is considerably easier to achieve for a person with a foreign domicile, who has not been resident in the UK, but who wishes to spend time in the UK without being employed there.

3. Global Destinations

In a short Guide such as this it is not possible or appropriate to address at any length the global destinations that await the wealthy individual or family.

In broad terms however the choices may be summarised as follows:

The Search for a New Life.

For those individuals, perhaps young professionals, who seek a lifestyle change for their families there are several developed countries that offer strong incentives for persons seeking long-term relocation. Australia, New Zealand, Canada and the United States are all English-speaking developed jurisdictions with infrastructures that are still able to accommodate young professional families looking for a new life based on traditional values. These countries also offer attractive conditions for retired persons of independent means. However these jurisdictions concentrate on quality of life, safety and opportunity for advancement rather than the provision of serious fiscal savings for the very wealthy, and would not usually qualify solely on the basis of the tax incentives.

Continental European Alternatives.

For those wealthy families, perhaps more typically business owners and those in their middle years, who wish to remain connected with their way of life in Europe there are also a number of alternatives closer to home, the best known of which is probably Switzerland. With its forfait system for wealthy individuals it provides a place to live in comfort and safety, based on a fixed annual tax charge agreed

with the fiscal authorities. It is then possible for long periods of time to be spent travelling and in other European jurisdictions visiting family and friends and attending to business needs.

International Financial Centres (or IFCs).

The third alternative home for those seeking to relocate are the traditional “offshore” centres which offer, at a price, sun, luxury and in many cases a favourable tax regime. However their continued existence and success as offshore jurisdictions depends upon the imposition of certain immigration or financial-based entry requirements meaning that for the most part these jurisdictions are available only to the very wealthy.

Some of these jurisdictions are far removed from the person’s original home base, and often there is a perception that cultural activities are missing. However with modern travel and communications the traditional IFCs continue to offer a very attractive base for the world’s wealthiest families. Bermuda, for example, has been popular for decades as a relocation destination, offering many opportunities for a good quality of family life and the ease of direct connections to London and the east coast of the US. Cayman also offers more to those who wish a less expensive option for purchasing real estate to establish a base for their families and business ventures. Nearer to the UK and Europe, the Isle of Man, Jersey and Guernsey offer British lifestyles, culture and timezones as well as capped income tax liability and the absence of capital taxes.

Appleby has already advised in relation to a number of high profile situations and is ideally placed to both manage the procedures for relocation and provide administrative services through its network of overseas offices in the world’s leading financial centres.

For more specific advice on Relocation Planning, we invite you to contact on of the following:

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Appleby is the leading provider of offshore legal, fiduciary and administration services. With an unparalleled presence in the key offshore jurisdictions of Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey, Isle of Man, Jersey, Mauritius and the Seychelles, the group offers advice on offshore law. We also have offices in the international financial centres of London, Hong Kong, Zurich and Bahrain.

Over 800 lawyers and professional specialists deliver sophisticated, specialised services, primarily in the areas of Corporate and Commercial; Litigation and Insolvency; Private Client and Trusts; and Property. We advise global public and private companies, financial institutions, and high net worth individuals, working with them and their advisers to achieve practical solutions, whether in a single location or across multiple jurisdictions.

This publication is intended only to provide a summary of the subject matter covered. It does not purport to be comprehensive or to provide legal advice. No person should act in reliance on any statement contained in this publication without first obtaining specific professional advice.

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