

UK Taxation Basis

GUIDE 2 OF 2

One of the key areas that can cause confusion is the arising and remittance basis of taxation and to whom both taxation basis can apply. This guide reviews the various bases that can be used and key considerations.

Arising basis of taxation

Under the arising basis of taxation, individuals are subject to UK taxation on their worldwide income and gains. Individuals who are UK resident and domiciled will be taxed on this basis, whereas non-UK domiciled individuals will have a choice to elect to be taxed on the arising basis as outlined below.

If you're a UK resident and, for example, you have a rental property in Hong Kong/Singapore, you'll be liable for UK tax on the rental income you receive from that property even though you'll be paying Hong Kong/Singapore tax on the profits. Similarly, if you sell shares in a company that's registered overseas, you'll be liable for UK tax on any gains you make from the sale. Foreign tax paid may be allowable as a credit against the UK tax payable.

Remittance basis of taxation

The remittance basis of taxation is applicable to non-UK domiciled individuals who are resident in the UK. When claimed, individuals are liable for UK tax on UK sourced income and gains on an arising basis and only on foreign income and gains that are remitted to or enjoyed in the UK.

Whether to make a claim for the remittance basis can be made on a year-by-year basis. The claim is usually made via an individual's tax return, and whilst claiming the remittance basis is almost 'free' for the first 7 years, after 7 years of residency an individual will need to pay the remittance basis charge.

The reason the first 7 years is not completely free, is that an individual who claims the remittance basis will lose their personal allowance (currently £12,570) and their capital gains annual exemption (currently £6,000). Therefore, if an individual has foreign income and gains that exceed these allowances, a claim for the remittance basis would generally be beneficial.

The remittance basis charge (RBC) starts at £30,000 a year where the taxpayer has been resident in the UK for at least 7 of the previous 9 tax years. This increases to £60,000 a year once the taxpayer has been resident for at least 12 of the previous 14 tax years.

Once an individual has been resident for 15 out of the previous 20 tax years, they become deemed UK domiciled and are no longer able to claim the remittance basis of taxation.

No claim required

There are two circumstances where a non-UK domiciled individual can access the remittance basis without making a formal claim:

- Where their unremitted foreign income and gains for the tax year are less than £2,000. The remittance basis will apply automatically without a loss of the taxpayers personal allowance or annual exemption.
- They have no UK income or gains (other than taxed UK income of less than £100), make no remittances to the UK during the tax year and have been resident for less than 6 out of the previous 9 tax years. An individual would not be required to file a self-assessment return.

Key considerations

Whilst foreign income and gains are taxed when remitted to the UK, 'Clean Capital' (non-UK monies that do not represent income or gains) will not suffer tax when remitted to the UK.

- Users of the remittance basis will need to segregate clean capital from income and gains. This can be complex and requires multiple bank accounts to be maintained.
- Income remitted is subject to non-savings rates (20%/40%/45%) regardless of its composition. Therefore, dividends remitted would be taxed at higher rates under the remittance basis, rather than the dividend rates (8.75%/33.75%/39.35%) under the arising basis.
- The definition of 'remittance' is wide ranging and so advice is required.
- There are complex rules relating to foreign losses and how they can be offset against gains an individual makes

Choosing the right basis of taxation

Whether to choose the arising or remittance basis of taxation if you are non-UK domiciled will depend on your individual facts and circumstances. It's important to seek professional tax advice to ensure that you're paying the correct amount of tax and complying with all relevant reporting requirements.

In addition, it's important to plan your tax affairs carefully to ensure that you're making the most of any tax reliefs and allowances that are available to you. This can help to reduce your tax liability and ensure that you're not paying more tax than you need to.

Disclaimer: The content of this communication is for information purposes only. Bentley Reid believes that, at the time of publication, the views expressed and opinions given are correct but cannot guarantee this and viewers intending to take action based upon the content of this communication should first consult with the professional who advises them on their financial affairs. Neither the publisher nor any of its subsidiaries or connected parties accepts responsibility for any direct or indirect loss suffered by a recipient as a result of any action or inaction, in reliance upon the content of this communication.