New Quadrant
PARTNERS

So you want to leave the country?

I am seeing many clients who are concerned about the present political and economic climate in the UK. These individuals - some UK domiciled, but in particular non-UK domiciled who are worried about a future election, a possible wealth tax, increases in taxes generally, the potential for further measures against the favourable non-dom regime and, of course, Brexit, have led to an increase in enquiries about leaving the country now or if an election were called.

These are, of course, mostly wealthy clients who have the resources just to go and make their home elsewhere. Resident non-doms could go “home”, wherever that might be but they and others are considering carefully the various options open to them. As the UK tightens up its tax regime for non-domiciled individuals, other countries are introducing favourable regimes in the hope of enticing those disaffected with the UK to move to their country and bring their money with them. A potential migrant will need to consider not just how to extricate himself from the UK, but where is the best place to move to, taking account not only of tax matters, but immigration requirements, availability of any special tax regime, longevity of such a regime, climate, lifestyle, infrastructure, education and so on. Low tax is all very well, but the new jurisdiction must be a nice place to live.

Some of the jurisdictions with special tax regimes include old favourites like Switzerland, and new players such as Italy as well as Portugal, Malta, Cyprus, Israel and Jersey. Other countries have traditionally been low tax jurisdictions, such as the Bahamas, Singapore and the British Virgin Islands. There should be somewhere here for all tastes!

The government has, over the last few years, come to recognise the contribution that non-doms make to the UK economy. In the last year for which figures are available (2014-15) non-doms paid a fairly chunky £9.3 billion in tax and national insurance. This ignores the contribution made by their businesses and other funds introduced into the economy which have not necessarily been taxable on coming to the UK. Other countries are understandably keen to get their hands on this.

So what does the would-be migrant need to do now?

Making contingency plans

I referred previously the concerns of many non-domiciled clients which are leading them to consider becoming non-resident.

The key issue is to make contingency plans ahead of time so that they know what they have to do if they wish to leave the UK and just as important, if they are not going “home”, they need to start the process which will allow them to enter the new country of residence.

Leaving the country is one thing. Becoming non-resident for tax purposes is another. In many ways, it is easier to achieve certainty as to one's residence status following the introduction of a statutory residence test in 2013. At least now, I can advise clients that if they follow the rules they can be sure that they will be outside the UK tax net.

The statutory residence test is complicated and there are a number of routes to becoming non-resident. All require careful consideration and accurate day counting and most require some forward planning.

A person who leaves the UK part way through the tax year can fall into the "split year trap". They might think they are becoming non-resident when they leave but unless they satisfy stringent conditions (some of which have to be satisfied in the following tax year) they could find that they remain resident for tax purposes for the entire tax year of departure.

I can advise clients on the best way of becoming non-resident in their circumstances, what they can do now to set themselves up to go at short notice and how to ensure that they do not fall into the split year trap. I can also help with the transition to the new place of residence.

Structuring investments

Non-doms, and indeed UK doms, who are considering leaving the UK should also consider their investment strategy and how to own their investments.

One critical question is, if you are leaving the UK, where are you going to go? What is the tax regime in the new country? Are there any favourable regimes for new residents and if so what do you have to do? We work closely with firms in many destination jurisdictions to provide advice on all these issues.

In thinking about investment strategy now, some of the things to bear in mind are:

- What sort of investments should I acquire?
- Are they liquid if I need to sell them and go?
- How long will it take me to realise my investments?
- Where should I invest?
- How is my investment risk linked to the concerns I have about remaining in the UK?
- Should I hold my investments directly or through a structure whether that is a company, trust or private OEIC?
- What are the tax consequences of each and what would be the consequences on each of my becoming non-resident?
- What is the tax treatment in my intended destination country?

Again, we can advise on all these issues and, where appropriate, work with our contacts in other jurisdictions to implement any structuring.

Marilyn McKeever, Partner