NAVIGATING TAX PLANNING

AND INVESTMENT OPPORTUNITIES IN THE UK

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INTRODUCTION

Investing in the UK comes with both opportunities and challenges, particularly in the realm of tax planning. Recent developments, including the implementation of the Trust Registration Services (TRS) and the Register of Overseas Entities (ROE), have had a significant impact on high net worth individuals considering UK investments. Understanding these regulatory changes is crucial for investors to make informed decisions and optimize their tax strategies. Hubbis recently spoke to Laurence Lancaster, Group Head of Tax for The Sovereign Group, who delved into the intricacies of these developments and provide essential guidance for individuals looking to invest in the UK.

LAURENCE LANCASTER
THE SOVEREIGN GROUP

» Trust Registration Services (TRS) and Disclosure Obligations

The TRS has introduced a comprehensive registration requirement for trusts holding UK assets, even if established in overseas jurisdictions. Overseas discretionary trusts owning shares in UK companies now fall within the scope of TRS. Consequently, investing in UK-listed assets can trigger the need for registration under the TRS, regardless of an individual's residency status. However, concerns have been raised regarding the impact on clients solely based overseas but having trusts with minimal UK connections, except investments in (say) UK listed shares. Understanding the widening scope of the TRS is essential for effective tax planning.

Register of Overseas Entities (ROE) and Compliance

The ROE, which opened in August 2022, mandates registration for overseas entities owning any form of UK property. Identifying beneficial owners has proven challenging under the ROE regime, with non-compliance carrying severe consequences, including criminal charges and restrictions on property disposals. The legislation, originally aimed at addressing Russian property ownership, now essentially encompasses all overseas entities holding any type of UK land. It is important to consider the unique requirements and potential implications of the ROE when investing in UK property.

Inheritance Tax (IHT) Mitigation

There remain various planning solutions available for IHT mitigation. For non-UK domiciles the principal solution is an excluded property trust (EPT). If they wish to invest in residential property then other solutions should be considered such as life-time gifting, fixed interest trusts and / or life insurance.

For UK domiciles the use of a trust is tricker but lifetime gifting and life insurance remain viable options. Also, family investment companies (FICs) may provide an effective alternative to a trust structure. FICs can be used to hold standard investments as well as UK property provided it is let out to third parties.

Pre-Arrival Tax Planning Checklist

For individuals planning to return to the UK and aiming to minimize tax liabilities, a pre-arrival tax planning checklist is essential. Resigning from overseas directorships and extracting income before becoming UK resident can help mitigate UK tax liabilities once UK resident. Asset rebasing, compliance checks, and evaluation of loan arrangements are further considerations to optimize tax planning before returning to the UK. By proactively considering these factors and seeking professional

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advice, individuals can minimize potential tax burdens.

Advantages for Non-Resident Investors

Despite the evolving tax landscape, especially recent increases in stamp duty land tax (SDLT), the UK still offers advantages for non-resident investors. Non-residents are generally exempt from capital gains tax on disposals of most types of UK assets, except for UK property. The UK's liberal approach to property ownership allows overseas entities and other structures to own UK assets, providing flexibility and choice for investors. Understanding the advantages and limitations is crucial when assessing investment opportunities in the UK.

Bringing it all together

Investing in the UK requires careful consideration of the evolving tax environment and regulatory changes. The implementation of the TRS and ROE has brought new challenges and disclosure obligations. However, planning opportunities remain, but any plan must accommodate rather than look to circumvent these new regimes. It is important to stay informed, seek professional advice, and understand the advantages and limitations that the UK offers for non-resident investors. By navigating these complexities, individuals can make informed decisions and maximize their investment potential in the UK. ■

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Find out more about Laurence Lancaster

Laurence (LLB, LLM, TEP) is a non-practising UK barrister, specialising in UK private client and pensions taxation. His typical clients are high net worth individuals who require tax mitigation strategies and tax advice. His specialist areas include advising on individuals' UK residence and domicile status; UK tax treatment of trusts and other structures including close companies and life insurance policies; the UK's pension tax regime; taxation of UK residential property; estate planning; and double taxation treaty advice. As Head of Tax for The Sovereign Group, he helps devise internal tax policies and strategy with a particular focus on UK tax compliance.

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