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High Net Worth Heaven

INTRODUCTION

The recent financial problems experienced in most of Western Europe and the United States have led to a surge of calls for higher taxation to be imposed on High Net Worth (HNW) individuals as governments scramble to balance their budgets.

Allied to this has been an interest in what alternatives are available and a move towards greater competition by jurisdictions to attract the increasingly mobile HNW to their shores. This article seeks to spell out a number of options that are currently available. It does not seek to weigh up non tax issues, like quality of life, but simply briefly spell out those that can be pursued. We invite you to contact should you wish to explore any of these options in more detail.

The first point that should be noted is that some of the schemes are more suitable for those who are already wealthy or can make a living from activities outside of the country of residence, whilst others are suitable for those with high incomes but who are still earning a lot currently and have an exposure to current activities. We will highlight these issues where appropriate.

1. UK Resident Non Domiciled Status

The UK's resident non domiciled (res non dom) system is one of the best known in the world and with good reason. If an individual was born elsewhere and can successfully aver that his domicile is somewhere other than the UK, then he can move to the UK and only be taxable on UK source income. The rules are complex and we do not propose to discuss them in detail here, but essentially a pot of capital can be introduced into the UK tax free and be used to set up home and to live off for the foreseeable future. Last year saw the introduction of a levy of £30 000 pa payable after year 7 in order to maintain the status and an increase to £50 000 after 10 years. Whilst income can be earned tax free outside of the UK, it becomes taxable as soon as it is remitted into the UK. As such the system is better suited to those who are already wealthy or whose business activities are clearly outside of the UK. A welcome change has recently been mooted that an investment into a UK business will not be considered a remittance, as failing this, the somewhat bizarre result is that res non dom's are encouraged to invest anywhere but the UK.

Despite all the talk and threats of change to the system, the res non dom scheme remains one of the best known and used systems available in the world for HNW to live completely tax free if they arrange their affairs correctly.



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2. Ireland Resident Non Domiciled Status

What is not as well known is that Ireland also operates a similar scheme to that operating in the UK. If an individual has resident non domiciled status in Ireland then they are only taxable on income remitted into Ireland as well as Irish and UK sourced income.

Ireland will also tax capital gains made outside of Ireland on the remittance basis. An important anomaly with regards to the Irish system concerns split contracts. If an individual is res non dom in Ireland and earns a salary paid offshore from a foreign employer then the remittance basis applies to that income, ie it is not currently taxable in Ireland. This aspect is interesting to people such as hedge fund managers who could potentially earn income from outside of Ireland from a foreign employer and remit tax free to Ireland.

3. Malta Resident Non Domiciled Status

Malta also operates a res non dom scheme in terms of which non domiciled residents are only taxable on income remitted to Malta as well as Maltese source income. Capital gains, however, are not taxable in Malta at all whether remitted or not. There is also no levy payable after a set period as with the case in the UK.

Of interest with Malta is the recent introduction of the resident scheme in terms of which income can be remitted to Malta at a flat rate of 15% provided a minimum amount of tax of €20 000pa is paid.

It follows that Malta offers two significant advantages over the UK and Irish schemes. The first is the fact that Capital Gains are not taxed at all, and the second being the reduced tax rate on income, which makes it very attractive to those who are still earning a lot of taxable income as opposed to having already made their wealth.

4. Switzerland

Switzerland has attracted a lot of attention recently as a potential substitute location for hedge fund managers moving out of the UK. It is indeed a valid but quite expensive alternative location. It is somewhat difficult to spell out the situation in Switzerland as it depends on the canton involved. However, in general the Swiss operate a system of a lump sum payment known as the forfait fiscal in lieu of normal tax. The amount of the payment is calculated by agreement and is typically worked on a multiple of their living expenses. This system is attractive for those with substantial incomes arising outside of Switzerland. The beauty of the system is that it is clear cut and not subject to complex rules. Its use, however, has become somewhat controversial and expensive over the years. We understand that the current cost in Zurich is likely to be in the region of \$100 000pa.

5. Israel

Israel has recently joined the list of countries offering incentives to new arrivals, but without the complexity of establishing a lack of domicile. In essence, new immigrants are not subject to tax on foreign source income or gains for a period of 10 years from the date of their arrival in Israel. Returning residents can claim the exemption for a period of up to 5 years.

Although this will presumably have limited application the beauty is that it costs nothing, and is available without too much fanfare or proof of non dom status. The relief would appear to apply even if the income is remitted.

6. Cyprus

Cyprus is not quite in the same league as the others but it does still have some interesting points of note. There is no Capital Gains Tax and worldwide income is taxed at a maximum marginal rate of 30%. However, the first 20% of any income derived from an office or employment in Cyprus is exempt for a period of 3 years if the residence was outside of Cyprus before the commencement of employment. This effectively drops the tax rate to 24%. Also recipients of a pension based on services rendered abroad may elect to have a separate flat rate of tax at 5% apply to pensions in excess of €3,420. This makes Cyprus a very attractive place to retire especially when combined with Cyprus residence scheme where residence may be obtained by purchasing property worth in excess of €300 000.

7. Channel Islands

Most of the Channel Islands are similar but out of interest we highlight the Isle of Man here as it is one of the easiest in which to obtain residence. The Isle of Man tax rate is 10% with a higher rate of tax of 20% on income over £10 500pa and a tax cap of £115 000pa and is payable on worldwide income. There is no capital gains tax at all. In order to establish residence in the Isle of Man 6 months residence pa is required or an amount of 90 days pa for a period of 4 years. Once again this is an interesting alternative for individuals with really high incomes.

8. British Virgin Island/Cayman etc

The situation in the BVI/Cayman is the simplest of the lot as there is no income tax or capital gains tax at all. It therefore suits those earning a lot of current income as well as those who have already made their wealth. For those earning income the main issue in both locations is going to revolve around obtaining work permits more than tax issues. The lack of double tax treaties also means that it is more difficult to establish residence than in some of the other countries highlighted.

9. Gibraltar

Gibraltar operates a special tax system for qualifying high net worth individuals. In order to qualify the individual must have residential accommodation available for his exclusive use in Gibraltar. The individual should also not carry on a trade or business or employment other than ancillary duties.

Once falling under the scheme, the individual is only taxable on Gibraltar-source income and other income remitted to Gibraltar.

The individual is then only taxable on the first £ 80,000 of income only, provided that there is an annual minimum tax payable of £22,000. The maximum amount of tax payable is GIP 29,880.

An election may also be made that the income of their spouse be deemed to be theirs for purposes of the scheme.

10. Hong Kong

We have also added in Hong Kong here as it has been one of the most successful low tax regimes for a very considerable period of time. Personal income is taxed at a flat rate of 17%, and importantly only on the basis of source. Non source income is not taxable in Hong Kong at all. Capital gains are not taxable at all but income from sale of property etc if conducted as a trade will be taxable. Furthermore if activities are conducted outside of Hong Kong they are potentially not taxable even if derived from employment.

This tax system has made Hong Kong the powerhouse that it is today and remains one of the world's most attractive both in the low rates and its simplicity.

11. Singapore

The marginal tax rate in Singapore is 20% and there is no Capital Gains Tax putting Singapore in a similar position to that of Hong Kong and the Channel Islands. Also residents are only taxable on Singapore source income or income remitted to Singapore. ie: the same position as in Malta but without the annual levy.

Singapore also operates a Financial Investor Scheme in terms of which permanent residence can be obtained by way of investment of either:

- A: the applicant is to place at least SGD 5 million of financial assets with a financial institution regulated by the MAS in Singapore.
- B the applicant is to hold at least SGD 3 million of assets and a Sentosa Cove bungalow on Sentosa Island.

12. Portugal

In 2009 Portugal introduced its own variation of the resident non domiciled scheme but styled as a regime for non-habitual residents. It provides for a 10 year tax exemption of all passive income earned in tax treaty countries or from countries not on Portugal's black list, and a complete or partial tax exemption from active income such as employment income or personal services. Interestingly non-habitual residents may enjoy a flat rate of tax of 20% on their Portuguese sourced income, making it an interesting country for those individuals in a high income stage of life.

13. Others

Other examples abound and we will highlight these in future if they become popular, but to name but a few are: Bermuda, Mauritius, Monaco etc.

Key Contact:

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