



Brief guide: Using the remittance basis of taxation

What is the remittance basis?

Most UK residents are taxed on their worldwide income and capital gains (the 'arising basis'). However, if you have a non-UK domicile you can choose to be taxed only on your income and gains arising within the UK and on the income and gains from elsewhere in the world that you bring (or 'remit') to the UK, by electing for the 'remittance basis'.

Domicile is a complex topic and needs to be considered carefully but can be likened to a sense of belonging to a State or Country (often a place of birth of the taxpayer and / or their parents), even if they have been resident elsewhere for a period of time. HMRC have been known to have an increasing interest in questioning domicile status and so this position should be kept under review.

A remittance (such as cash transfer to the UK but see below for other examples) will be taxable if the funds are derived from overseas income or gains of a tax year for which the remittance basis has applied. If you make an election to use the remittance basis, you will lose your personal allowances for income taxes and Capital Gains Tax annual exemption. Once you have been resident for seven tax years you will pay a remittance basis charge of £30k (this rises to £60k after twelve years). The remittance basis is no longer available for taxpayers resident in the UK for at least 15 out of the previous 20 tax years.

What is a remittance?

If a remittance only happened when money was transferred either from an overseas bank account to a UK one or by bringing your cash onshore, it would be easy to find workarounds to avoid having to pay tax on your overseas income. However, it is often more complicated than that. In certain situations, non-UK domiciles may unwittingly trigger taxable remittances, for example:

1. Using a credit card issued by an overseas bank to pay for living expenses in the UK.
2. Paying your UK tax liability out of your overseas income or gains.
3. Paying for services in the UK out of your overseas income or gains.
4. Buying a portable asset overseas, using non-UK income or gains, and then bringing it into the UK.
5. Taking out a loan overseas to buy UK assets and funding loan repayments with your overseas income or gains. Interest payments may also be caught subject to transitional provisions for pre-2008 loans.
6. Gifting money from your overseas income or gains to your spouse, minor children or minor grandchildren who then spend the gift in the UK.
7. Transferring funds to the UK from an account which contains a mixture of any or all of capital, income, salary, gains. You cannot simply assume that the remittance will be purely from capital.
8. An offshore trust or offshore company (where you would be considered to be the 'Ultimate Beneficial Owner') transfers funds either to your UK account or pays for services that you received in the UK.
9. An offshore trust or offshore company distributes funds/assets to you and then you bring such funds/assets to the UK or instead use to repay any overseas loan which was used to acquire UK assets.

10. An offshore trust or offshore company (where you are simply a beneficiary) distributes funds to you which you bring to the UK or use abroad to pay for services provided to you in the UK or use to repay an overseas loan which was used to acquire UK assets.

Please note that this is not an exhaustive list. A longer one compiled by HMRC can be found here <https://www.gov.uk/hmrc-internal-manuals/residence-domicile-and-remittance-basis/rdrm33050>

What funds can I use in the UK without paying tax?

Clean capital or UK-taxed funds can be used in the UK. This includes:

1. Income or Gains realised before you were UK resident for tax purposes.
2. Funds which are passed to you as a gift or inheritance from another individual.
3. Funds which have been taxed in the UK on the arising basis.

It is possible to bring otherwise taxable funds into the UK, without triggering a remittance, by virtue of making qualifying investments claiming Business Investment Relief – BUT any proceeds from a future sale of the investment would need to be quickly transferred offshore to avoid a remittance charge at that point.

How do I know whether funds held offshore can be remitted?

Unless your accounts have been strictly maintained to segregate different sources of income, capital and capital gains they will constitute 'mixed funds'. The UK tax legislation applies strict rules to determine how the payments out of such mixed funds (including to purchase investments) are allocated between the different elements. These components must then be tracked between different accounts or on the purchase/sale of assets.



This can produce unwelcome results for the taxpayer by deeming that untaxed income or gains is remitted in priority to clean capital or taxed funds, while offshore transfers are allocated across both taxable and non-taxable funds. On the other hand, for those now taxed on the arising basis, the likelihood of triggering a taxable remittance may be reduced by any UK remittances being matched first to income, gains and capital from later tax years. The message here, however, is that the facts of any likely scenario must be examined in order to identify the specific risks. In some cases, it may be more cost-effective to take an overly prudent approach rather than undertaking complex and costly analysis for which full records may not be available, whereas for others such detailed analysis may greatly aid planning going forward.

What if I stop being taxed on the remittance basis?

The income and gains from previous years, which have not been taxed in the UK, will be treated as a taxable remittance if the funds are brought into the UK. Therefore, once the remittance basis has been applied to an individual's UK tax affairs, the impact of potentially taxable remittances must still be considered for all subsequent years unless it is clear that such taxable funds have been exhausted.

How we can help

The above is a guide only and is not intended to be a substitute for individual advice or to provide exhaustive coverage of the remittance basis. If you are affected by the issues discussed above please contact us for advice.

We would be pleased to help with further advice in this area. If you would like to discuss any of these matters further please our tax partner, Phil Moss, philmosslubbockfine.co.uk or our tax director Aidan Meade, aidanmeadelubbockfine.co.uk.

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LubbockFine
Chartered Accountants

Advice that adds up

Paternoster House, 65 St Paul's Churchyard
London EC4M 8AB

Telephone 020 7490 7766. Fax 020 7490 5102
www.lubbockfine.co.uk

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