

Briefing document

Remittance basis charge

Introduction

The Remittance Basis Charge (RBC) is payable by UK resident non-UK domiciled individuals who pay tax on the remittance basis due to making a claim for the remittance basis to apply, and who have been UK resident for a sufficiently long period to be within the scope of the charge.

This note summarises the circumstances in which the RBC may be payable, and points to consider when deciding whether or not to claim the remittance basis and pay the RBC. The Appendix contains a flowchart illustrating key factors to consider.

The remittance basis

Where the remittance basis applies, UK source income and gains are taxable as they arise, but most types of foreign income and gains are only chargeable if they are remitted to (brought into) the UK, whether this is in the tax year in which the foreign income or gains were made or a later tax year.

If the remittance basis does not apply the arising basis applies instead, under which worldwide income and gains are taxable.

Claiming the remittance basis

Deciding whether or not to pay tax on the remittance basis is an annual decision. There is no minimum period over which the remittance basis must apply.

The remittance basis can be claimed by individuals who are legally non-UK domiciled and who are not deemed UK domiciled for income and capital gains tax purposes. An individual is deemed UK domiciled if he or she:

- Was UK resident in at least 15 of the previous 20 tax years ('long-term UK residence'), and/or;
- Is UK resident, was born in the UK and has a UK domicile of origin ('formerly domiciled residents').

Remittance basis claims are only relevant if the remittance basis does not apply automatically. The remittance basis applies automatically if in a given tax year a UK resident, legally non-UK domiciled individual:

- Has less than £2,000 unremitted foreign income and gains in the tax year, whether or not deemed UK domiciled (i.e. deemed UK domiciled individuals are automatically taxable on the remittance basis if this condition is met), and/or;
- i) Has not made any taxable remittances to the UK; ii) has no UK gains and UK source income of at most £100 taxed investment income, iii) is not deemed UK domiciled and; iv) either, was UK resident in 6 or fewer of the preceding 9 tax years, or is under 18 throughout the tax year.

It is possible to opt out of the automatic remittance basis and pay tax on the arising basis instead. This may be preferable in some circumstances, such as where foreign dividends or interest received will be remitted (see below).

Effect of claiming the remittance basis

As noted, claiming the remittance basis means that most foreign income and gains are only chargeable if and when they are remitted to the UK. The points below should also be borne in mind.

Personal allowances

Personal allowances are lost if the remittance basis is claimed. These include the capital gains tax annual exemption and income tax personal allowance, to the extent it is available. The personal allowance is tapered for individuals with income in excess of £100,000, and is reduced to nil for individuals with income of at least £125,000 (based on the 2020/21 personal allowance of £12,500).

Remitted dividends and interest

Dividends that are taxable as they arise are taxable at rates of 0%, 7.5%, 32.5% or 38.1%, depending on the level of the individual's income. This applies to both UK dividends and to foreign dividends taxable on the arising basis. Similarly, interest that is taxable on the arising basis can potentially be taxed at 0% up to certain limits. Dividends and interest taxable on remittance are taxable as general income at rates of 20%, 40% or 45% (or 19%, 20%, 21%, 41% or 46% for Scottish residents).

Foreign capital losses

Remittance basis claimants are only able to claim relief for foreign capital losses if an election is made in order for loss relief to be available. If the election is not made the individual cannot claim relief for foreign capital losses even in tax years to which the arising basis applies, until and unless the individual becomes UK domiciled or deemed UK domiciled. This is a complicated area which is not explained in detail in this note. Please contact your usual Deloitte contact or the contact at the end of this note if you wish to discuss this point.

The amount of the RBC

The RBC is payable by individuals who both claim the remittance basis and who meet the minimum residency requirements. The amount of the charge depends on how an individual has been UK resident, as follows:

- If the individual was UK resident in 7 of the previous 9 tax years, the RBC is £30,000.
- If the individual was UK resident in 12 of the previous 14 tax years, the RBC is £60,000.

Paying the RBC

Ordinarily, remittances of remittance basis foreign income and gains to the UK by a UK resident, non-UK domiciled individual are taxable. There is an exemption in respect of the RBC, such that remittances of remittance basis foreign income and gains remitted to the UK in order to pay the RBC are not taxable.

This exemption is only available if the funds are transferred directly from the non-UK domiciled individual's offshore account to HMRC.

The exemption is **not** available if the foreign funds are first transferred to the individual's UK bank account, before onward transfer to HMRC. In such cases, the foreign income and gains remitted to the UK are taxable.

Nominating income and/or gains

When the RBC is paid, the remittance basis claimant must nominate all or part of their foreign income and/or gains for the year as having been subject to UK taxation. The effect of the nomination is to treat a sufficient amount of the individual's foreign income and/or gains as having been subject to taxation to generate an additional tax liability of £30,000 or £60,000 (depending on the amount of the RBC, as set out above).

If the amount nominated is insufficient to give rise to an additional tax liability equal to the amount of the RBC, the individual is deemed to have nominated sufficient income in order to do so.

In practice, it is common for individuals to nominate a notional amount of funds as having been subject to the RBC. This is because remitting nominated income or gains to the UK results in the actual source of funds being disregarded when remittances are made to the UK. Instead, the individual's entire offshore funds are amalgamated, and remittances are (broadly) deemed to originate from whichever type of fund gives rise to the highest tax liability on remittance.

There is an exception from this reordering of remittances. Individuals are able to remit up to £10 of nominated income or gains from a given tax year without triggering the reordering rules. If the amount nominated for each tax year in which the RBC is paid is £10 or less, the reordering rules can never apply.

Payments on account

In certain circumstances, individuals are required to make payments on account, which are instalments of the following tax year's income tax liability. Payments on account are relevant if 20% or more of the income tax due for the year is collected by making a payment to HMRC, instead of tax being collected at source (for

example, income tax is withheld on salary paid to employees through PAYE). Nominating or being deemed to nominate income as having been subject to the RBC can therefore create or increase payments on account.

It is possible to make payments on account to HMRC using the above explained exemption for remittance of foreign funds directly to HMRC in order to pay the RBC. Care should be taken, as a taxable remittance may arise if funds are remitted to the UK and the RBC is not then payable (for example, if the remittance basis is not claimed). In some circumstances the funds can be exported from the UK, with the result that they are not taxable as remitted. Conditions apply, including time limits. Please contact your Deloitte contact for details if this is relevant.

Deciding whether or not to claim the remittance basis and pay the RBC

A number of factors should be taken into account when deciding whether or not to claim the remittance basis and pay the RBC. The points to consider include the points set out below.

Tax liability in the year of potential claim

The tax liability in the tax year under consideration depending on whether the remittance or arising basis apply should be considered. In some cases the individual's level of foreign income and gains will be sufficiently high or low to provide a clear indication as to whether or not there is merit in claiming the remittance basis and paying the RBC. In other cases the decision may be less immediately clear.

By way of indication, an additional rate (45%) taxpayer with taxable income in excess of £150,000 would incur an income tax liability of £30,000 if he or she received a further £66,667 of income, and £60,000 if additional income of £133,333 were received. This assumes that no foreign tax for which the UK would allow a tax credit has been paid on the income, and that the income is not dividend income.

Higher and additional rate taxpayers pay 20% capital gains tax on most chargeable gains beside gains made on disposal of residential property, to which a 28% capital gains tax rate applies. To generate a capital gains tax liability of £30,000 or £60,000, non-residential property gains of £150,000 or £300,000 would need to be made respectively. For residential property gains, the comparable figures are £107,143 and £214,285. It is again assumed that no foreign tax has been paid.

Likelihood that funds will be remitted

The extent to which foreign income and gains are likely to be needed in the UK should be considered. In particular, consideration should be given to the individual's living expenses, and funds available to pay them.

Overseas tax position

Where relevant, the tax liability in an overseas jurisdiction(s) may need to be considered. This would involve considering whether or not the overseas jurisdiction would allow relief in respect of the payment of the RBC against the foreign tax liability.

Compliance

If tax is paid on the arising basis of taxation, the individual's worldwide income and gains must be calculated and disclosed to HMRC. If tax is paid on the remittance basis of taxation, UK source income and gains must be disclosed to HMRC, but most foreign income and gains only need to be disclosed to HMRC if they are remitted to the UK. You may wish to bear in mind the time and expense associated with obtaining and analysing foreign information for UK tax purposes and disclosing this information to HMRC.

HMRC may request further information if they wish to enquire into an individual's tax position.

Find out more...

This note reflects the law in force as at 6 April 2020. Please be aware that it does not cover all aspects of this subject. To find out more about any aspect of the above, please discuss with your usual Deloitte contact. If you do not have a usual contact, please contact Michelle Robinson (michellerobinson@deloitte.co.uk).

For further information visit our website at www.deloitte.co.uk.

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Appendix

This flowchart is intended to provide guidance as to whether or not i) the remittance basis is available, ii) the remittance basis applies automatically, and iii) if not, if the remittance basis can and should be claimed. This flowchart is broadly indicative and full consideration should be given to your facts and circumstances.

