PUMP COURT
TAX CHAMBERS

CONNECTING TAX FACTORS FOR INDIVIDUALS

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CONNECTING FACTORS FOR INDIVIDUALS - two questions

How should people previously not UK connected be taxed when they first arrive in the UK – the entry point: should they get any special reliefs – options:

(i) only gains and income accruing or arising after arrival here are taxed. A rebasing.

(ii) an exemption from income tax, CGT/IHT for a limited period after arrival.

(iii) no reliefs - what if they die in the first year of UK residence? Should they pay IHT on their worldwide estate?

(iv) How long should any special reliefs for arrivers last? Should they be targeted to particular sectors?

How should people be taxed when they leave/sever connections with the UK?

(i) Exit charges – a deemed disposal for CGT of all assets; Canada, France

(ii) A tail – gains taxed on disposals for a certain period after departure; Ireland

(iii) Suspension – no CGT or income tax provided no return within 5/6 years.

What about IHT – should they immediately be outside the IHT net?

Consider compliance

CONNECTING FACTORS FOR MOBILE INDIVIDUALS

- What connecting factors can be used – residence, habitual/ordinary residence, domicile or citizenship or a combination of any of these?
- Should different connecting factors be used for different taxes? E.g. IHT imposed only on those with more substantive connections
- In the UK – the connecting factors are **residence** (not ordinary residence which was abolished in 2013) and **domicile**. Remittance basis - don't bring your money here. Highly complex regime which works for the well-advised Somewhat regressive tax regime after 7 years' residence as you pay a lump sum for the privilege of not bringing your money into the UK Time limited in some respects to 15 years except for trusts. Intrusive and lengthy enquiries into domicile
- Four types of **deemed domicile** for IHT purposes and two for income tax and CGT so clearly as a connecting tax factor, common law domicile does not work well.

CONNECTING FACTORS FOR INDIVIDUALS

- Is **citizenship** rather than residence, ordinary or habitual residence or domicile a better way of taxing those with connections to a country? Considered and dismissed by HMRC in a 1988 consultation on foreign doms.
- But simple, bright line, no tax motivation to emigrate; you still have to pay if you are a US citizen wherever you live subject to treaty relief.
- If every country did it then the world would get complicated. Treaty relief not always effective in relieving double taxation. Administratively burdensome – everyone has to do a tax return and IRS has to process it. Non-resident citizens do not receive the same benefits as US resident citizens

  Domicile a rather crude concept – can exempt those who have quite close UK links and only have a foreign domicile of origin by historical accident. Can equally tax those who have had no connection to the UK for many years e.g. UK dom emigrates and lives abroad in different countries for 40 years. He never lives in the UK again but will still retain his UK domicile as it has not been replaced. Not really how people operate their lives

WHAT DO WE WANT TO ACHIEVE?
Encourage the superwealthy to move and spend money here.

- **Switzerland:** pay a lump sum or forfait and then special regime granting exemption from normal tax. No wealth tax. No tax on any other income or gains   Also acquire certain residency rights. Better access to the property market in Switzerland   Forfait varies by canton and wealth. Not available to Swiss citizens or if married to a Swiss citizen. Not time limited. Cannot work Negotiated lump sum
- **Italy:** 2017-– fixed lump sum of E100,000 pa; no exemption for gains on disposals of close company shares within first 5 years; normal tax (up to 43%) on Italian earnings.   No tax on foreign income whether or not remitted. Inheritance and gift tax exemption on assets located abroad. Open to anyone not previously Italian resident for 9 out of 10 years. Time limited to 15 years and you can revoke (but not opt in again) Non-EU citizens can access fast-tracking of visas and residence.

WHAT DO WE WANT TO ACHIEVE?
Encourage high earners or entrepreneurs to move here by giving special exemptions

- **Israel** – 10 years exemption on foreign income and gains but not Israeli earnings from arrival if been non-Israeli resident for more than 10 years; minimal disclosure. Simple. Management and control breaks for those managing companies

- **Spain** – impatriates regime. Entrepreneurial activity; start ups; E600K Spanish income is taxed at 24%; 47% on balance. Rate on carried interest halved No foreign income or gains taxed. Remit anything into Spain from trusts or elsewhere; wealth tax only on Spanish assets (and even then quite limited depending on where you live) Lasts maximum 5 years

- **Italy** - from 2016 a special tax regime for those non-resident for at least two years before arrival who commit to living in Italy for at least two years and work in Italy for at least 183 days. Open to all workers now including self-employed. 70% -90% of income exempt for first five years. Aim is to attract “human capital” to Italy. No tax exemption for foreign assets or foreign income or gains.

Best options?

- Long stay residence test e.g. last ten out of 15 years of UK residence But creates a cliff edge. Phased approach
- What do you do about IHT? Trusts?
- Have a statutory domicile test? The more ties you have to the UK the fewer tax advantages you are allowed but do you abolish the remittance basis?
- Clear on objectives - aim to raise more money, encourage inward investment or simply to encourage the “right” people to move here?
- Who are the right people?
- What are you trying to achieve?
- Stability is everything; time limited simple exemptions are better than a series of complex reliefs which over promise and under deliver