



Trusts - Clean Capital Maintenance

The benefits and flexibility delivered by Trusts make them a highly attractive option for clients across the globe. Trusts provide a flexible method for the protection of personal, family and institutional assets. Trusts may also be used in a wide variety of other situations, and more specific applications, such as in ring-fencing and the effective distribution of clean capital.

Background

As a general principle, UK resident individuals are subject to taxation on their worldwide income and gains. The UK tax position has, however, historically favoured individuals with UK non-domiciled status.

The Finance Act 2008 introduced the Remittance Basis Charge (RBC) which specifically applied to UK non-domiciled individuals who had been resident in the UK for 7 or more years out of the last 9. The intent of the RBC was to charge those individuals a fee (currently £30,000 per annum with a £50,000 charge being introduced for individuals resident for 12 years or more) for retaining favourable tax treatment of foreign income and gains. The result of an RBC election is that foreign income and gains are taxed only upon remittance to the UK.

HMRC deem foreign remittances to the UK to be made in a predetermined order. Generally speaking, remittances are considered first to be comprised of income, followed by gains and then capital.

Given the significant difference in UK rates of taxation on income and gains and, most importantly, the UK treatment of remittances of "clean capital", it is of paramount importance to ensure proper segregation. In this context "clean capital" refers to assets held by

an individual before becoming UK tax resident. It may also include subsequent inheritances or gifts (which are neither income or capital in nature).

Care must therefore be taken to preserve "clean capital" as to ensure that UK capital remittances are not tainted by either income or gains.

Whilst it is relatively straightforward to segregate income from gains, the segregation of gains from capital is far more problematic without specific planning (and simply not possible if an investment portfolio, for example, is held personally in an individual's name). A properly structured Trust arrangement provides a solution to the segregation problem and a number of other benefits too.

Advantages

- A means to ensure distributions of "clean capital"
- Allows tax efficient and effective distribution to UK non-resident beneficiaries
- Capital Gains Tax planning
- Inheritance Tax planning opportunities
- Roll-up of investments

For further information contact

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Please note Ardel Trust Company (Guernsey) Limited are not tax advisors and it is essential for all interested parties to consult their own professional advisors on all tax and legal matters in connection with the establishment of such an arrangement. We would be delighted to make introductions to professionals familiar with the establishment of Double Trust arrangements to assist and provide the necessary professional tax and legal support.

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