6.4 Remittances home

6.4.1 General considerations

One of the questions most frequently asked by British expats is whether they will end up with a tax liability in the UK if they remit funds back to the UK. This is an issue particularly for those expats whose family who have remained in the UK and who need to be supported, and for those with UK mortgages or other liabilities that need to be paid.

For an individual who is non-resident, the answer is "no" – the amounts he transfers back into the UK will not attract UK tax. If he is non-resident the remittance basis of taxing overseas income and gains (see **8.7**) does not apply – it only applies to resident individuals who are not UK domiciled (see **2.1**). Hence, any overseas income received while the individual is non-resident – interest on foreign bank accounts, dividends from foreign companies, rental income from rental property located overseas, and so on – will not attract UK tax if the money is later remitted into the UK, even if the person is resident at the time.

Whether earnings are taxable in the UK depends on the individual's circumstances at the time the earnings are earned, and on what they are "for". This means that if the individual was not resident at the time the work was performed, and if it was performed overseas and not in the UK, then none of the earnings will be taxed in the UK. Such earnings will therefore not attract UK tax if remitted back to the UK, even if the individual is once more resident in the UK at the time of the remittance. This would apply, for example, to a bonus that related to an individual's time working overseas, but that was received after he had returned to live in the UK and so was resident again (assuming it was a straightforward bonus with no conditions attached).

Even for earnings that are for work performed in the UK when the individual was non-resident, or all the individual's earnings when he was resident in the UK (e.g. in the year of departure or arrival that does not qualify for split-year treatment and where exemption is not available under a double tax treaty), remitting these earnings into the UK will not cause an additional UK tax liability to arise. This is because these earnings will already have been taxed in the UK,

regardless of whether or not they are brought into the country. If earnings are exempt from UK tax under a double tax treaty, bringing them into the UK will not cause the loss of this exemption.

The only time the remittance basis of taxing overseas income and gains will be relevant is for an individual who is domiciled overseas but resident in the UK. This will not be the case for most British expats living overseas (see **8.7**).

6.4.2 Exchange/currency controls

UK expats are generally used to free movement and transfer of capital sums anywhere they choose. The UK does not impose capital transfer restrictions (although this has not always been the case). Other countries do impose exchange control restrictions and non-adherence could result in the expat being in serious trouble.

Exchange control was introduced into the UK shortly before the outbreak of the 1939/45 war but was abolished on 24 October 1979. Since then, an individual has been able to transfer money in and out of the UK without restriction, subject to adhering to money laundering regulations. Some other countries still need official government authorisation to import and export currency.

When going abroad to work, an individual may be paid:

1. wholly in the local currency; or
2. partly in the local currency with the rest in US dollars or in sterling.

In the case of (1) above, there may be some compensation if there is an alteration in the exchange rate such that the currency falls below a benchmark, but this would be determined according to the contract terms (see **1.3.2** – Employment contracts). Countries can devalue their currency on an economic whim, e.g. Switzerland which devalued its currency in 2011 because it was massively overvalued. These sorts of unilateral actions by a country can, of course, cause financial difficulties for the expat resident in that country on a local salary.

British expats should become adept at familiarising themselves with the exchange rates on a monthly or even daily basis when considering transfers of currency to and from the UK. Retaining a UK bank account is beneficial for keeping credit facilities open and

ensuring the credit on return to the UK. Currency exchange rate fluctuations can cause financial difficulties whilst abroad, and a slump in a foreign currency's value can last for several years (see the example below). Fluctuations in exchange rates can make a big difference to an expatriate's income, especially where substantial outgoings are involved such as rents, medical bills and schooling costs.

Example

The 1997 Asian financial crisis resulted from a series of currency devaluations, together with the Thai currency market failing because of the Thai government's decision not to peg the local currency (baht) to the US$. This had a contagious effect and spread throughout South Asia, resulting in stock markets dropping and in escalating economic problems. Currencies dropped by as much as 38%, and some stock markets fell 60%. The effect also spread to Western countries, but not to such a large extent.

Consider, therefore, the internationally mobile employee (IME) having been offered a job in Singapore in the early part of 1997. Suppose that he arrived just at the time of the float of the Thai baht, to see the Singapore dollar depreciate against the US dollar from US$1.43 to US$1.75 in January 1998, i.e. a decline of 18.3% (which was less than other regional currencies: 70% in the case of Indonesian rupiah and 35% for the Philippine peso). This would have an impact on the individual's standard of living and throw into question his or her ethos of going to work abroad. One saving grace would be that assets in a UK bank account could help supplement the shortfall in the host country in such circumstances (see **6.2.3** – Keeping UK accounts).

Also, whilst the UK cannot introduce exchange control restrictions without Parliamentary approval, other less developed nations can do so on a whim, which would affect the ability of expats to move capital in and out of the country.

About 20% of the world's countries impose exchange control restrictions. The list of countries with such restrictions will most likely grow and, as happened in Cyprus, currency withdrawal restrictions can be implemented through the banks overnight or over a weekend, so that all accounts are frozen by the government.

Certain articles of agreement in the International Monetary Fund allow countries classed as "transitional economies" to use exchange control restrictions, such as article 14, section 2 below:

> "A member that has notified the Fund that it intends to avail itself of transitional arrangements under this provision may, notwithstanding the provisions of any other articles of this Agreement, maintain and adapt to changing circumstances the restrictions on payments and transfers for current international transactions that were in effect on the date on which it became a member."

6.4.3 Currency gain taxation

Currency other than sterling is a chargeable asset and its disposal can give rise to a chargeable gain or an allowable loss. Foreign currency bank accounts can also give rise to chargeable gains or allowable losses for periods up to 5 April 2012, but now exemption is available to individuals in respect of currency acquired for personal expenditure outside the UK.

Often currency will be acquired and/or disposed of in the course of a transaction involving other chargeable assets, for example, on the sale of shares or a house abroad for foreign currency. It is important to recognise the currency as a chargeable asset in its own right and to deal with it accordingly.

The *Knight* UK tax case (see below) highlighted the importance of correctly accounting for capital disposals in foreign currency. The two taxpayers, under the Lichtenstein Disclosure Facility, stated that they had purchased a Swiss property in August 1998 and disposed of the property in January 2010, and this included a number of expenses incurred in relation to the property. This was all done in Swiss francs.

The taxpayers calculated the gain in Swiss francs, then multiplied the gain by the exchange rate applicable at disposal to produce the chargeable gain in sterling. HMRC contended that the correct method was to convert each item into sterling at the appropriate exchange rate in force when the item was earned/incurred, then to calculate the gain in sterling. It had already been decided previously that the HMRC method was the correct method and the case was lost. In practice this would have the effect in the example below.

Example

Lewis lives and works in London. He purchases a house in Provo in the Turks and Caicos Islands for US$1million (the local currency used is the US$) when the exchange rate is £1 to US$1.5. He then sells the property a few years later, just after Brexit, for US$1.5 million when the exchange rate is £1 to US$1.2.

He appears to have made a gain of half a million US$, exchanged at US$1.2 to £1 = £416,666. He also incurred legal expenses, estate agents' fees and advertising costs, as well as an airfare from London, travelling to Provo to sign over the title deeds on exchange of contracts. Stamp duty was paid by Lewis at 10% on the original purchase price.

When the house was acquired, its sterling equivalent after allowable deductions was US$1 million @ 1.5 = £666,666. When sold, the figure after deductions was equivalent to US$1.5 million @ 1.2 = £1.25 million. So the gain is actually £583,334 (i.e. £1.25 million – £666,666) not £416,666!

The exchange rate used would be the spot rates on the days of purchase and disposal. HMRC's periodically published average rate of exchange should not be used in this instance.

The Turks and Caicos Islands do not impose capital gains tax but Lewis has to report the chargeable gain on his self-assessment return and pay the tax by 31 January following the tax year of sale.

Taxpayers should ensure they account for non-sterling items correctly when calculating CGT. Also, allowable expenses and disbursements would include professional fees (solicitors, estate agents), stamp duty and advertising, but the airfare would not necessarily be allowed.

Law: TCGA 1992, s. 38(1)

Cases: *Bentley v Pike* [1981] STC 360; *Knight v HMRC* [2016] UKFTT 819 (TC)

Guidance: CG 78310-78314, 78315