

US citizens face double tax under new regime



By Vanessa Houlder

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US citizens living in Britain are likely to face double taxation under the new tax regime for foreign residents, according to advisers who warn that the changes could trigger a fire sale of assets.

Details of plans to remove some tax advantages offered to foreigners living in Britain, which were set out in draft legislation on Friday, would also severely hit the wealthiest foreigners who use offshore trusts, according to advisers. "It is effectively retrospective, draconian and more severe than we thought it would be," said Andrew Tailby-Faulkes of Ernst & Young.

In 26 pages of complex legislation that closes numerous loopholes, the Revenue signalled that non-domiciled residents would be taxed in the same way as British residents, with the exception of offshore income and capital gains that are never brought into the UK. By reforming the archaic and controversial rules for non-domiciles, the government said it wanted to balance fairness and competitiveness.

Keith Johnston, head of policy at the Society of Trust and Estate Practitioners (Step), said that the tax changes affecting offshore trusts held by non-domiciled residents would prompt disinvestment from the UK.

"We are aware that, because of the changes to the capital gains tax regime, advisers are proposing clients review their UK investments held offshore, such as commercial property. We estimate these investments are worth between £75bn and £125bn and many clients will seriously consider relocating themselves and their businesses."

Americans required to pay £30,000 (\$59,000, €40,000) to keep their offshore income out of the UK tax net were offered little hope that the charge could be offset against their US tax, Step said.

"We don't think there is enough clarity for the US to give relief," said John Riches, deputy chairman. He said that, despite lobbying, the government had not structured the £30,000 levy on resident non-domiciles in a way that made it clear that it was automatically allowed as a credit against their foreign taxes.

Step also said it had "major concerns about the retrospective nature of the proposals as drafted". It said that beneficiaries who had received capital payments from offshore trusts set up by their parents or grandparents would be subject to capital gains tax whether they had brought the money into the UK or not.

Louise Somerset of RBC International Wealth Planning said that a lot of clients had already asked for a meeting to discuss moving: "It seems to be a very aggressive piece of legislation."

Trust experts said the clampdown on offshore trusts went even further than they expected. Stuart Skeffington of Withers, the law firm, said: "In particular, it looks as if you can't access any capital within an offshore trust without paying at least 18 per cent tax, even if you are non-UK domiciled and pay the £30,000. This will put offshore trusts in a worse position than outright ownership."

Blow to maritime services

London's maritime services business, which employs 14,000 people, will be hit by the changes in the tax treatment of foreign residents, according to the Baltic Exchange, which represents shipowners, brokers and charterers.

Jeremy Penn, chief executive, said the changes would give added momentum to the migration of shipowners away from the UK.

He said that the foreign shipping community was particularly dismayed by the changes because of a perception that it broke with informal assurances given by all the main political parties. "There is a feeling that the covenant is broken."

Concerns that the maritime services industry would be badly affected by a change in tax rules for foreign residents were raised in a much-cited 2002 report for the Baltic Exchange, which warned that tax changes would drive Greek shipowners abroad, triggering up to 4,500 job losses, mostly in the City of London.

Cliff Pratten, the economist

Carolyn Stepler of KPMG said she was particularly concerned that the Revenue had warned the draft legislation was a “work in progress” and “not in its final form”. “We are now getting too close to 5 April to allow taxpayers and their advisers due time to assimilate and reorganise their affairs to be able to comply.”

Leonie Kerswill of PwC said some aspects of the draft legislation were unexpectedly harsh. She said a US citizen whose pension arrangements were held in a US trust would face double taxation on gains, if money was brought into the UK. “I can’t believe that is the intention of the legislation.”

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who wrote the report, yesterday criticised the forthcoming changes as damaging to the competitiveness of the financial services industry. “The government’s proposals are the equivalent of the German government imposing handicaps on German machine tool and car manufacturers or the Japanese government devising policies to weaken its steel and shipbuilding industries.”

He said the Treasury had failed to acknowledge the importance of retaining wealthy investors in the UK. He also criticised the measures as unfair because the same £30,000 charge would be levied on non-domiciled residents with modest foreign incomes as those with higher foreign incomes.

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