PLANNING OPPORTUNITIES USING OVERSEAS BONDS FOR UK RESIDENT BUT NON-UK DOMICILED INDIVIDUALS

CASE STUDIES

The information contained in these fictional case studies is based on our understanding of current law and taxation practice in the Isle of Man, the UK and Ireland as at 1 May 2024. This could change in the future. Tax treatment is subject to individual circumstances and your client should always seek independent and individual tax advice. All figures are based on 2024/25 tax year.

Please note that, within the UK Budget of 6 March 2024, there were some proposals to change the current domicile-based IHT system to a residence-based IHT system with a total removal of the remittance basis from April 2025. These potential changes and the Budget commentary should be taken into account before undertaking any planning in this area.

CASE STUDY 1

Bennie is a Swedish national living and working in London who has been tax resident in the UK for the last 10 years. He earns £250,000 p.a. in the UK and is an additional rate taxpayer.

Bennie also has foreign income:

- Foreign bank interest (gross) - £140,000
- Foreign dividend income (gross)- £60,000
- Bank account balance - £2,500,000
- Investment portfolio value - £2,000,000

In 2024/25 Bennie remits £50,000 of his foreign bank interest to the UK.

WHAT IS HIS INCOME TAX LIABILITY ASSUMING HE IS TAXED ON THE ARISING BASIS?

TAXED ON THE ARISING BASIS	NON SAVINGS	SAVINGS INTEREST	DIVIDENDS
UK EARNED INCOME	£250,000		
FOREIGN BANK INTEREST		£140,000	
FOREIGN DIVIDENDS			£60,000
LESS PERSONAL ALLOWANCE	(£0)	Bennie is entitled to a Personal Allowance but it is tapered to £0 as his income exceeds £125,140	
TAXABLE	**£250,000**	**£140,000**	**£60,000**
NON SAVINGS £37,700 @ 20%	£7,540		
NON SAVINGS £87,440 @ 40%	£34,976		
NON SAVINGS £124,860 @ 45%	£56,187		
SAVINGS £140,000 @ 45%		£63,000	
DIVIDENDS £500 @ 0%			£0
DIVIDENDS £59,500 @ 39.35%			£23,413
TOTAL TAX PAYABLE			£185,116

utmost™ WEALTH SOLUTIONS

UL PR 0218 | 05/24

WHAT IS HIS INCOME TAX LIABILITY ASSUMING HE IS TAXED ON THE REMITTANCE BASIS?

TAXED ON THE REMITTANCE BASIS	NON SAVINGS	SAVINGS INTEREST	DIVIDENDS
UK EARNED INCOME	£250,000		
FOREIGN INCOME REMITTED*	£50,000	*Remitted foreign income is taxed as non-savings income even if that income was, in fact, foreign savings or dividends	
TOTAL	**£300,000**		
LESS PERSONAL ALLOWANCE	(£0)	Bennie is not entitled to a Personal Allowance as he is claiming the remittance basis	
TAXABLE	**£300,000**		
NON SAVINGS £37,700 @ 20%	£7,540		
NON SAVINGS £87,440 @ 40%	£34,976		
NON-SAVINGS £174,860 @ 45%	£78,687		
REMITTANCE BASIS CHARGE	£30,000		
TOTAL TAX PAYABLE	£151,203		

HOW MIGHT AN OVERSEAS INVESTMENT BOND HELP?

If Bennie held cash deposits and an investment portfolio within an overseas investment bond it could provide some effective tax planning opportunities as well as ease some administrative issues.

› The investment bond is non-income producing

› No need to account for tax on the arising basis in respect of:

– Savings interest or

– Dividend income arising within the investment bond.

We should now conduct new calculations to assess:

› The impact of the arising basis of taxation

› The benefit to Bennie of the remittance basis, and

› The relative merits of paying the remittance basis charge.

USING AN INVESTMENT BOND BUT TAXED ON THE ARISING BASIS

	NON SAVINGS	INVESTMENT BOND	INCOME ARISING TO BENNIE
UK EARNED INCOME	£250,000	Cash deposit	£0
		Investment portfolio	£0
LESS PERSONAL ALLOWANCE	(£0)	Bennie is entitled to a Personal Allowance but it is tapered to £0 as his income exceeds £125,140	
TAXABLE	**£250,000**		
NON SAVINGS £37,700 @ 20%	£7,540		
NON SAVINGS £87,440 @ 40%	£34,976		
NON SAVINGS £124,860 @ 45%	£56,187		
TOTAL TAX PAYABLE	£98,703	TOTAL TAX PAYABLE	£0

£86,413 tax saved compared to previous arising basis calculation and £52,500 less than the remittance basis.

UL PR 0218 | 05/24

CAN WE IMPROVE THE SITUATION?

As already explained, Bennie could hold cash deposits and an investment portfolio, he also wants to bring £50,000 p.a. into the UK to support his standard of living.

What if Bennie did not remit £50,000 of his bank interest but took a partial surrender (withdrawal across all policies) from his investment bond instead?

Amount invested in the investment bond - £4,500,000

Amount required in the UK - £50,000

A withdrawal from the bond of 1.1% of original premium invested would meet Bennie's £50,000 need. As the withdrawal is within the 5% annual tax-deferred entitlement there would be no chargeable event arising on this withdrawal.

USING AN INVESTMENT BOND WITH A £50,000 WITHDRAWAL

	NON SAVINGS	INVESTMENT BOND	INCOME ARISING TO BENNIE
UK EARNED INCOME	£250,000	Premium	£4,500,000
FOREIGN INCOME REMITTED	£0	Withdrawal	£50,000
TOTAL	**£250,000**		
LESS PERSONAL ALLOWANCE	(£0)	Bennie is entitled to a Personal Allowance but it is tapered to £0 as his income exceeds £125,140.	
TAXABLE	**£250,000**		
NON SAVINGS £37,700 @ 20%	£7,540		
NON SAVINGS £87,440 @ 40%	£34,976		
NON-SAVINGS £124,860 @ 45%	£56,187		
TOTAL TAX PAYABLE	£98,703	TOTAL TAX PAYABLE	£0

This strategy results in £52,500 tax saved compared to the previous remittance basis calculation.

CASE STUDY 2

Camille is Portuguese and living in London. She has been resident in the UK for the last 11 years and has no UK earnings. Instead, she currently lives off income remitted to the UK from her overseas investments.

Camille's foreign income:

› Foreign bank interest (gross) - £170,000
› Foreign dividend income (gross) - £60,000
› Bank account balance - £4,500,000
› Investment portfolio value - £2,000,000

In 2024/25 Camille remits £150,000 of her foreign income to the UK.

WHAT IS HER INCOME TAX LIABILITY ASSUMING SHE IS TAXED ON THE ARISING BASIS?

	NON SAVINGS INCOME	SAVINGS INTEREST	DIVIDENDS
UK EARNED INCOME	£0		
FOREIGN BANK INTEREST		£170,000	
FOREIGN DIVIDENDS			£60,000
LESS PERSONAL ALLOWANCE	(£0)	Camille is entitled to a Personal Allowance but it is tapered to £0 as her income exceeds £125,140	
TAXABLE	**£0**	**£170,000**	**£60,000**
SAVINGS £37,700 @ 20%		£7,540	
SAVINGS £87,440 @ 40%		£34,976	
SAVINGS £44,860 @ 45%		£20,187	
DIVIDENDS £500 @ 0%			£0
DIVIDENDS £59,500 @ 39.35%			£23,413
TOTAL TAX PAYABLE			£86,116

WHAT IS HER INCOME TAX LIABILITY ASSUMING SHE IS TAXED ON THE REMITTANCE BASIS?

	NON SAVINGS INCOME	SAVINGS INTEREST	DIVIDENDS
UK EARNED INCOME	£0		
FOREIGN INCOME REMITTED*	£150,000	*Remitted foreign income is taxed as non-savings income even if that income was, in fact, foreign savings or dividends	
TOTAL	**£150,000**		
LESS PERSONAL ALLOWANCE	(£0)	Camille is not entitled to a Personal Allowance as she is claiming the remittance basis	
TAXABLE	**£150,000**		
NON SAVINGS £37,700 @ 20%	£7,540		
NON SAVINGS £87,440 @ 40%	£34,976		
NON SAVINGS £24,860 @ 45%	£11,187		
REMITTANCE BASIS CHARGE	£30,000		
TOTAL TAX PAYABLE			£83,703

In the above scenario it WOULD be beneficial to Camille to claim remittance and pay the RBC. However, the benefit is marginal and Camille should review the situation annually.

UL PR 0218 | 05/24

HOW MIGHT AN OVERSEAS INVESTMENT BOND HELP?

Camille could hold cash deposits and an investment portfolio. If Camille held her £6,500,000 combined overseas cash deposits and investment portfolio within an overseas investment bond it could provide some effective tax planning opportunities as well as ease some administrative issues.

› The investment bond is non-income producing

› No need to account for tax on the arising basis in respect of:

– Savings interest or
– Dividend income arising within the investment bond.

By way of example, let's consider the following strategy:

› Camille invests £6,500,000 into an overseas bond

› She does not remit any of her foreign income

› Instead she draws £150,000 p.a. as a partial surrender from her investment bond which is within the 5% annual tax-deferred entitlement so does not give rise to a chargeable event.

To understand Camille's tax position we need to establish whether the initial investment into the investment bond was made with "clean" capital or "tainted" funds.

1) CLEAN CAPITAL INVESTED

	NON SAVINGS INCOME
UK EARNED INCOME	£0
FOREIGN INCOME REMITTED	£0
BOND WITHDRAWAL	£150,000
TOTAL	**£150,000**
LESS PERSONAL ALLOWANCE	(£0)
WITHDRAWAL TREATED AS CAPITAL	£150,000
TAXABLE	**£0**
TOTAL TAX PAYABLE	£0

Camille is not entitled to a Personal Allowance as she is claiming the remittance basis

A very significant tax saving to either the arising or remittance basis examples above.

TAINTED ASSETS

What if the funds for the investment bond initial investment come from assets comprising not only capital but also previously unremitted income and gains?

Let's assume the funds available for Camille to invest are from:

› Her overseas bank account which includes both capital and rolled up interest

› Previous disposal of her investment portfolio the proceeds of which comprise capital as well as income and gains.

These funds were built up post 5 April 2008.

Bank account

› £4,000,000 capital

› £500,000 income.

Portfolio

› £1,150,000 capital

› £400,000 income

› £450,000 capital gains.

2) MIXED FUNDS INVESTED

	NON SAVINGS INCOME		
BOND WITHDRAWAL	£150,000		
TOTAL	**£150,000**		
WITHDRAWAL TREATED AS CAPITAL	(£0)		
WITHDRAWAL TAXED AS INCOME	£150,000	Withdrawals are taxed as income first, until unremitted income has been fully taxed, then taxed as gains. Only once all income and gains have been taxed will future withdrawals be treated as capital.	
WITHDRAWAL TAXED AS CAPITAL	£0		
No Personal Allowance or CGT annual exemption as remittance basis claim has been made			
TAXABLE	**£150,000**		
NON SAVINGS £37,700 @ 20%	£7,540		
NON SAVINGS £87,440 @ 40%	£34,976		
NON SAVINGS £24,860 @ 45%	£11,187		
REMITTANCE BASIS CHARGE	£30,000		
TOTAL TAX PAYABLE	£83,703		

PLANNING STRATEGY

The above example illustrates it would be advisable, if possible, to segregate overseas capital, income and gains. Investing clean capital into a bond provides a highly tax efficient method of bringing funds into the UK. Unremitted income and gains could also be invested into separate investment bonds.

Although any funds remitted to the UK from the bonds containing previously unremitted income and gains would attract tax charges there would be no further accrual of income or gains once invested within the bond – as the bond is a non-income producing asset that does not give rise to a capital gain (or CGT) on disposal.

Camille could use withdrawals from these bonds to cover non-UK expenditure:

› Maintenance of her overseas estate
› Spending money when outside the UK.

CGT AND UK RESIDENCE

UK resident and UK domiciled individuals are liable to CGT on UK gains on an arising basis on their worldwide assets.

UK resident but non-domiciled individuals are liable to CGT on gains on their UK assets on an arising basis, but either on an arising or remittance basis with respect to gains on their non-UK assets.

UL PR 0218 | 05/24

CASE STUDY 3

Philippe is a non-UK domicile but has been resident in the UK for the last eight years. He earns a salary in the UK of £75,000 and is a higher rate taxpayer. He has some foreign income from his overseas investments.

In 2024/25 he sells an investment portfolio in Italy for £500,000 as he is concerned about volatility in the stock markets and wants to reduce his exposure to risk. He realises a gain of £100,000 but he does not bring any of the sale proceeds into the UK.

WHAT IS HIS CGT LIABILITY IF TAXED ON THE ARISING BASIS?

TAXED ON THE ARISING BASIS	CGT LIABILITY
DISPOSAL PROCEEDS	£500,000
GAIN	£100,000
ANNUAL EXEMPTION	(£3,000)
TAXABLE GAIN	**£97,000**
TAX @ 20%	£19,400

The remittance basis of taxation applies automatically to those individuals whose unremitted income and gains are less than £2,000. Those whose income/gains are greater than this can claim the remittance basis under ITA 2007 809B. Where a claim is made, the claimant **loses both their Personal Allowance and their Capital Gains Tax Annual Exemption.**

It is necessary therefore to consider the relative benefits of avoiding UK tax on overseas gains vs paying a remittance basis charge and losing the CGT Annual Exemption.

WHAT IS HIS CGT LIABILITY IF TAXED ON THE REMITTANCE BASIS?

THE REMITTANCE BASIS OF TAXATION	CGT LIABILITY
DISPOSAL PROCEEDS	£500,000
GAIN	£100,000
GAIN REMITTED TO UK	£0
TAXABLE GAIN	**£0**
REMITTANCE BASIS CHARGE	**£30,000***
TOTAL TAX LIABILITY	£30,000

*Philippe would be liable to a £30,000 RBC as he has been resident in the UK for at least seven out of the previous nine years.

In this scenario, it would not seem beneficial to Philippe to claim the remittance basis as the charge would exceed his liability to CGT on the arising basis.

HOW MIGHT AN OVERSEAS INVESTMENT BOND HELP?

Philippe could have invested into his portfolio via an overseas investment bond, creating investment and tax planning opportunities.

- As a non-income producing asset the investment bond would not create any foreign income
- Philippe could manage his portfolio within the investment bond without liability to tax
- He could rebalance his portfolio, switch funds and even sell his holdings completely without realising a capital gain
- The wide investment choice available would include cash accounts where Philippe could hold the disposal proceeds until he is ready to re-enter the investment markets
- As the bond generates neither income* nor capital gains Philippe benefits from not paying tax on an 'arising basis' of **£19,400**
- Philippe could also avoid the need to claim the 'remittance basis' and pay the remittance basis charge of **£30,000 / £60,000 in the future**.

*chargeable gains realised on bond/segment surrender or excess partial surrenders would, of course, be taxable as income and taxable on the arising basis.

TAXATION OF CAPITAL GAINS

	UK GAINS	FOREIGN GAINS
RESIDENT & DOMICILED	Arising	Arising
RESIDENT BUT NON-DOMICILED	Arising	Arising or, Remittance Basis
NON-RESIDENT	Not liable but CARE with regards to temporary non-residence & disposal of UK residential property after 5 April 2015	Not liable but CARE with regards to temporary non-residence & disposal of UK residential property after 5 April 2015

TAXATION OF OVERSEAS BOND

- Virtually tax free growth within the investment bond, although there may be some withholding tax in respect of foreign income
- No income arising in the hands of the investor except for chargeable gains irrespective of the income generated by the underlying investments
- No capital gains tax on selling or switching of underlying assets
- Liable to income tax, on an arising basis, in respect of chargeable gains
- Excluded property for IHT purposes as a non-UK situs asset owned by a non-UK domicile
- There may be some liability to income tax and/or capital gains tax where withdrawals from the bond are remitted to the UK and the initial premium originated from previously untaxed income or gains.

INHERITANCE TAX

So far we have considered the income tax and capital gains tax issues associated with being a UK resident but non-domiciled individual but they also have a unique position when it comes to Inheritance Tax (IHT).

UK domiciled individuals are liable to IHT on their worldwide assets whereas non-UK domiciled individuals are only liable to IHT on their UK assets.

An overseas investment bond taken out with an insurer based outside the UK is a non-UK situs asset and, as such, excluded property in respect of a non-UK domiciled individual.

EXCLUDED PROPERTY TRUSTS

An excluded property trust is not really defined by the terms of the trust itself but more by the nature of the property settled into the trust at outset and the domicile of the person making the settlement. **The conditions of an excluded property settlement are set out in s48(3) IHTA ‘84 and effectively state that where a person settles non-UK property into a trust when they were non-UK domiciled this will be an excluded property trust.**

However, the important feature with excluded property trusts is that the property will **remain** excluded property even if that person becomes UK domiciled (or deemed domiciled) in future.* Such trusts can therefore be used by persons who are moving to the UK to reduce their future exposure to UK IHT should they either become deemed domiciled or establish a UK domicile of choice.

The trustees do not have to be overseas to secure the IHT advantages of an excluded property trust.

The assignment of an overseas bond (a non-UK asset) into trust by a non-domiciled settlor would create an excluded property trust.

*Changes in the Finance Act 2017 were introduced affecting individuals who were formerly domiciled who settle trusts containing overseas property. That property will not be considered excluded property if they return to become UK resident at any time in the future.

CASE STUDY 4

Sophia is married to Nick and they live in Surrey with their two children. Nick was born in the UK and has always lived there and therefore has a UK domicile. He works as a successful corporate lawyer in London.

Sophia is an Italian National and she has been living in the UK since she married Nick ten years ago. Sophia is an investment banker and also works in London. Sophia and Nick hope to retire early to Italy but have not yet set a target date for doing so.

Nick and Sophia have saved and invested for years as they aspire to have a comfortable early retirement. They have invested in a number of tax wrappers:

› They have made significant contributions to their pensions

› Fully subscribing their ISAs each year

› They also hold share portfolios.

In addition, on their adviser's advice, Sophia has invested her annual bonuses into a single premium overseas bond. Her adviser explained that, as a non-UK asset, this should be excluded property in the hands of a non-UK domicile such as herself.

NICK AND SOPHIA'S ASSETS:

ASSET	NICK (UK domiciled)	SOPHIA (non-UK domiciled)
MAIN RESIDENCE (JOINT TENANCY)	£500,000	£500,000
CASH CURRENT ACCOUNT	£35,000	£30,000
CASH DEPOSIT	£70,000	£50,000
PERSONAL CHATTELS	£120,000	£100,000
ISA PORTFOLIOS	£450,000	£400,000
SHARE PORTFOLIOS	£100,000	£100,000
OVERSEAS BOND (NON UK SITUS)	£0	£2,000,000
TOTAL	£1,275,000	£3,180,000

The IHT position:

Nick dies first, with his estate passing to Sophia.	£1,275,000 estate, less NRB and exemption £650,000* £625,000 at 40% = £250,000 Net estate £1,025,000
Sophia dies second, with her estate passing equally to the children.	£2,205,000 estate** less NRB £572,500***, £1,632,500 at 40% = £653,000 Net estate £1,552,000 plus £2,000,000 bond
TOTAL IHT	**£903,000**

* Non dom exemption £325,000 + NRB £325,000

** Overseas bonds of £2,000,000 currently excluded property, £1,180,000 estate plus £1,025,000 from Nick = £2,205,000

*** £325,000 + £247,500 RNRB or TRNRB (£350,000 - £102,500 tapering)

Sophia dies first, with her estate passing to Nick.	£1,180,000 estate (bond held overseas), spousal exemption, no IHT. Net estate £1,180,000 plus £2,000,000* overseas bond = £3,180,000
Nick dies second, with his estate passing to the children.	£4,455,000** estate, less NRBs £650,000***, £3,805,000 at 40% = £1,522,000 Net estate £2,933,000
TOTAL IHT	**£1,522,000**

* Overseas bond currently excluded property

** £1,275,00+£3,180,000 = £4,455,000

*** NRB £325,000 x 2, no RNRB or TRNRB as tapered to £0

UK DOMICILE OF CHOICE/DEEMED UK DOMICILE & ELECTION FOR UK DOMICILE

As Nick, a UK domicile, is married to a non-UK domicile there is a limit on the spousal exemption on transfers from him to Sophia. As well as his NRB he has a limited spousal exemption of £325,000, however, Sophia could elect for UK domicile for IHT purposes. If Sophia made such an election the full inter spousal exemption would be available. The election can be made during the lifetime of the UK domiciled spouse/civil partner or within two years of their death.

› The person's spouse or civil partner must be domiciled in the UK at the time the election is made or

› The person's spouse or civil partner died on or after 6 April 2013 and was domiciled in the UK.

Should Sophia make an election for UK domicile should Nick pre-decease her while she is non-UK domicile?

The IHT position if Sophia becomes UK domiciled, is deemed domiciled or makes UK domicile election

Nick dies first, with his estate passing to Sophia.	£1,275,000 estate, spousal exemption, no tax, net estate £1,275,000
Sophia dies second, with her estate passing to the children.	£4,455,000, estate*, less NRBs £650,000**, £3,805,000 at 40% = £1,522,000, net estate £2,933,000
TOTAL IHT	**£1,522,000** a potential increase of £579,000 compared to Sophia not electing for UK domicile.

*Overseas bond now included as not excluded property at date of death.

**NRB £325,000 x 2 but no NRB or TRNRB as tapered to £0 due to size of estate.

A UK domicile election does not seem appropriate for Sophia.

THE BENEFITS OF AN EXCLUDED PROPERTY TRUST

To qualify as an excluded property trust, the settlor must be non-UK domiciled when the trust is established. The settlor transfers non-UK assets (although note special treatment for authorised unit trusts/OEICs).

Under current legislation, the value of the investment held subject to the trust will not be included in the taxable estate of the settlor for IHT purposes.

The settlor, settlor's spouse/civil partner and children can be beneficiaries of the trust and, even if the settlor subsequently becomes UK domiciled, they can benefit without infringing the gift with reservation of benefit rules.

IS AN EXCLUDED PROPERTY TRUST A SOLUTION FOR SOPHIA AND NICK?

Sophia settles the overseas investment bond into an excluded property trust before she acquires a UK domicile, which if not before (domicile of choice) will be at the start of her 16th year of UK residency.

ASSET	VALUE	OWNER
MAIN RESIDENCE	£1,000,000	Nick/Sophia
CASH CURRENT ACCOUNT	£65,000	Nick/Sophia
CASH DEPOSIT	£120,000	Nick/Sophia
PERSONAL CHATTELS	£220,000	Nick/Sophia
ISA PORTFOLIOS	£850,000	Nick/Sophia
SHARE PORTFOLIOS	£200,000	Nick/Sophia
OVERSEAS BOND		Excluded property trust
TOTAL	£2,455,000	

IHT bill on second death after assignment into excluded property trust:

£2,455,000 - £772,500 (NRB+RNRB)* = £1,682,500 x 40% = £673,000 IHT.

This represents a £230,000 reduction from £903,000 current position.

This represents a £849,000 reduction from £1,522,000 position should Sophia become UK domiciled.

* NRB entitlement = 2 X £325,000 + RNRB of £122,500 (RNRB tapering applies as estate is over £2,000,000. RNRB reduced by £455,000/2, i.e. £227,500. RNRB including transferred RNRB would be £350,000 for 2024/25 so RNRB is reduced to £122,500).

Other documents on the taxation of non-domiciles, including a comprehensive **Guide to Domicile, Remittance Basis and Excluded Property**, are available from our website **www.utmostinternational.com**. These cases studies should be read in conjunction with this guide and the relevant product guides prior to considering any investment.

A WEALTH *of* DIFFERENCE

www.utmostinternational.com

Calls may be monitored and recorded for training purposes and to avoid misunderstandings.

Utmost International Isle of Man Limited is registered in the Isle of Man under number 024916C. Registered Office: King Edward Bay House, King Edward Road, Onchan, Isle of Man, IM99 1NU, British Isles. Tel: +44 (0)1624 643 345. Licensed by the Isle of Man Financial Services Authority.

Utmost Wealth Solutions is registered in the Isle of Man as a business name of Utmost International Isle of Man Limited.

Utmost PanEurope dac is regulated by the Central Bank of Ireland (No 311420). Its registered office is Navan Business Park, Athlumney, Navan, Co. Meath C15 CCW8, Ireland. Utmost PanEurope dac is a Category A Insurance Permit holder with the Jersey Financial Services Commission.

Utmost Wealth Solutions is registered in Ireland as a business name of Utmost PanEurope dac.

UL PR 0218 | 05/24