

Mixed Account Cleansing Opportunity

Spring 2018

This relief allows non-UK domiciles to “cleanse” overseas accounts which contain mixed funds. This opportunity is limited to qualifying transfers made between 6 April 2017 to 5 April 2019. Whilst an attractive option where funds have become mixed, accurate records are required to complete an accurate account analysis.

From the 2017-18 UK tax year onwards, there are new rules for long term resident non-UK domiciled individuals, after being resident in the UK for 15 of the past 20 years long term residents will be deemed to have a UK domicile for all UK tax purposes.

Many long-term residents will have offshore account structures which were not created with the effects of deemed domicile in mind. The remittance basis allowed for foreign income and foreign gains to be kept offshore, being taxable only on remittance. Remittances of foreign income and gains on which the remittance basis has been claimed will remain taxable if these funds are brought to the UK.

The relief is available to all non-UK domiciles, (except those born in the UK with a UK domicile of origin) who have previously claimed the remittance basis. There is no requirement to have paid the Remittance Basis Charge.

Cleansing is only available to CASH accounts, it is not possible to cleanse mixed funds held within asset values, although assets may be sold and the cash proceeds then unmixed. Mixed funds arising before 2007-08 (under the old rules) may also be cleansed, as can accounts held by ‘relevant persons’ such as trustees and offshore companies.

Cleansing is achieved by making a nominated transfer

- + The transfer must be of cash
- + The transfer must be made to another offshore account
- + transfer must take place by 5 April 2019
- + taxpayer must make a nomination to HMRC
- + the taxpayer must record the calculation of the transfer

The effect of the nomination overrules the more penal standard mixed fund composition rules for that transaction.

Whilst multiple cleansing transfers can be made, there can only be one cleansing transfer between a pair of accounts, if you wish to cleanse further funds from a mixed account – this cannot be directly to an account which has already received funds from that account.

There are rules regarding how the composition of a transaction is made between offshore accounts and on transfers to the UK. Whilst there are legislative provisions to determine the composition of a remittance to the UK, there are many uncertainties regarding offshore transactions the rules of which have been formed from case law.

Accurate records will be required of transactions occurring within an account to be able to accurately trace the composition of funds.

If a cleansing transfer over nominates clean funds then this risks the nominated transaction and may potentially mix previously clean funds.

Given the near deadline and the lack of detailed guidance from HMRC particularly where involving the practicalities of account transactions a pragmatic approach may need to be taken.

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