

Non-domiciled UK resident people – Ways of buying a property in the UK without remitting funds.

David Anderson solicitor and Chartered Tax Adviser and Graeme Perry solicitor both at Sykes Anderson LLP Solicitors and Chartered Tax Advisers explain how offshore money of a UK resident non-domiciled person can be used to buy property in the UK without a charge to UK income tax arising.

Note UK resident, non-domiciled taxpayers are people who live permanently in the UK but broadly because they were born abroad or have significant foreign connections only pay tax on their foreign income and capital gains if they bring the money into the UK. This is called the “remittance basis” of taxation.

Q. I am UK resident non-domiciled and have funds offshore which I would like to use to buy a property in London. My advisers have told me that I cannot do this because I will be remitting the funds to the UK and will incur an income tax charge on everything I remit. Is this correct?

A. Yes. If you simply bring the funds into the UK you will be taxed on the remittance basis. However you can structure the purchase by way of a loan from an offshore bank. This will involve depositing your money with the offshore bank and then having a separate loan from the bank to buy the property.

Q. In other words a back to back loan?

A. Yes. You will give the bank the security of the deposit of money with them and may also need to give the bank a security by way of a mortgage over the London property as well.

Q. Is the loan deemed to be a remittance?

A. No not if it is on commercial terms.

Q. What about paying the loan interest?

A. Your options are to pay the interest out of income arising in the UK on which you pay UK tax. If you do this it is straight forward though you are paying out of taxed income.

Q. Can I use offshore income to pay the loan interest?

A. Yes. However in this case there will be a deemed remittance of the loan interest and also any capital you pay off.

Q. How can this be? The money never comes into the UK.

A. The UK rules deem there to be a remittance because you have used the offshore income to provide you with a UK house.

Q. Can I arrange a set off with the bank so that the interest arising on the money I have deposited with them as security, is set off against most of the interest I have agreed to pay on the loan and I simply pay a very small amount of interest (effectively the bank's "turn") out of my UK taxed income?

A. This is less clear from the rules and the UK Revenue's comments. It probably works if the interest you earn on the deposited funds is simply reduced and you pay a lower rate of interest on the loan as a result. This is because your funds are not being "used" or depleted. The funds stay the same; it is just the interest on them which is being foregone as part of the set off. However if interest is credited to the deposited funds then immediately used to service the debt, there would be a remittance.

Please note that tax law is a complex subject and you should not rely on this article without professional advice on the facts of your case.

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