WHO CAN BENEFIT FROM OFFSHORE TAX PLANNING?

In general, UK resident / UK domiciled individuals cannot benefit from offshore tax planning when acquiring UK property. However, if you fall into any of the following categories, you may well be able to do so:

- **UK resident, non-UK domiciled individuals**. Domicile is a general law concept. Broadly speaking you are domiciled in the country you regard as your permanent home.
- **Individuals resident but not ordinarily resident in the UK**. This status is likely to apply to you if your period of residence in the UK will be for less than three years.
- **Non-UK residents.** You are likely to be non-resident of you spend less than 183 days in the UK in a tax year or less than 90 days per tax year in the UK over an average of 4 years.

How can you benefit?

INCOME TAX

UK resident, non-domiciled individuals and UK resident but not ordinarily resident individuals are only taxable on their non-UK income if this is remitted to the UK. Such individuals should consider taking out an offshore mortgage to purchase UK property as this can help reduce the need to bring funds into the UK where they may be taxed.

The mortgage interest can be set against any taxable UK rental income, reducing the UK tax liability for non-UK resident landlords.

CAPITAL GAINS TAX

Individuals who are resident in the UK are not normally subject to capital gains tax on the sale of their principle private residence.

However, UK resident, non-domiciled individuals who own UK property that does not qualify for this exemption may benefit from holding their assets through an offshore trust or company structure. Similarly, non-UK residents may also benefit, depending on the tax legislation in the country they are resident in.

INHERITANCE TAX

The value of a UK property is included in an individuals estate for UK inheritance tax purposes, regardless of whether he is resident or domiciled in the UK or not. Accordingly, if the value of the property is over the current exemption of £325,000 the excess could be subject to UK inheritance tax at up to 40% on the individual's death.

Securing an offshore mortgage on the property can reduce this potential liability. Alternatively, non-UK domiciled individuals can avoid any inheritance tax liability by holding the property through an offshore trust/company structure.

Note: *An individual resident in the UK for 17 out of 20 tax years is automatically deemed to be UK domiciled for inheritance tax purposes (but not for income tax or capital gains)*

Planning

1. Offshore mortgage

The simplest way to acquire a UK property is for this to be done by the individual in his or her own name, financed by a mortgage.

Even if the individual has sufficient resources to finance the purchase personally, using a mortgage may be sensible if it avoids the need to make remittances of taxable income or gains to the UK. However, rather than use a UK mortgage, consider an offshore mortgage.

For UK resident, non-UK domiciled individuals and resident but not ordinarily resident individuals, the principle advantage of an offshore mortgage is that the payment of interest (but not capital) out of non-UK income is not regarded as a taxable remittance to the UK. This could represent a saving of up to 40% on the interest costs of the mortgage.

For all individuals, whether resident in the UK or not, the value of the property will be included in their estate for UK inheritance tax purposes. If the value of the UK property is over £325,000 it may be subject to UK inheritance tax on the individual's death. This potential liability can be reduced if a mortgage is used to purchase the property, as the value of a UK estate will be reduced by the amount of mortgage secured on the property.

2. Ownership through an Offshore Trust and Company Structure

This planning is more complicated and there are both set up costs and on-going fees to take into account. Accordingly, the planning is likely to be restricted to property with substantial values (typically in excess of £250,000) and commercial property where the capital gains tax exemption on the sale of principal private residences is not available.

UK Tax Implications

INCOME TAX

The rental income is taxed in the UK but any interest paid on the offshore mortgage can be offset against this together with any other costs of maintaining the property.

Any overall profit is normally taxable in the hands of the company at 23%. In certain cases the profit may be taxable on the individual instead if they are resident in UK.

The Inland Revenue will restrict the amount of interest deductible from the rent if the loan is not on arms length terms. For example, if the property is purchased by a 100% loan, the Revenue might only allow 75% of the interest paid as being a more usual arms length loan.

If a non-resident landlord does not notify the Inland Revenue and file annual UK tax returns the tenant is required to deduct 20% withholding tax from the rent and pay this over to the tax authorities, unless the rental income is below £100 per week.

Structuring the funding and ownership of the property can therefore achieve real tax savings.

CAPITAL GAINS TAX

A sale of the property by the company is not subject to UK Capital Gains Tax, even if those proceeds are remitted to the UK.

INHERITANCE TAX

Because a non-UK company owns the property it is not regarded as a UK asset and so is not subject to UK inheritance tax.

RESIDENT	UK RESIDENT		NON-UK RESIDENT	
	UK Domicile	Non-UK Domicile	UK Domicile	Non-UK Domicile
Offshore Mortgage				
Payment of interest from non-UK Income not regarded as a Taxable remittance to the UK	no	yes	n/a	n/a
Mortgage deductible from value of UK property for UK Inheritance tax	yes	yes	yes	yes
Offshore Trust/Company Structure				
Mortgage interest deductible from rental income	yes	yes	yes	yes
No capital gains on sale of property	no	yes	yes	yes
Property excluded from UK estate for inheritance tax	no	yes	no	yes