

Brexit means Brexit? Not quite...

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Whilst many who were worrying about the consequences of a possible Corbyn win will have breathed a sigh of relief on election night, EU nationals living here, about to move to these shores or with significant UK investments might be wondering what exactly lies ahead and how easy to digest Boris Johnson's 'oven ready' deal will prove to be.

Regardless of what shape Brexit will take, the UK is most likely to retain a pre-eminent status as a 'go to' destination for wealthy individuals and families. With arguably the world's most highly developed legal infrastructure and unrivalled expertise in finance, technology and numerous other sectors, the UK remains one of the most attractive places to settle and do business in the world, particularly for those in need of high-calibre personnel and leading advisers.

Tax

Among the larger European economies, the UK remains a business friendly and relatively low tax jurisdiction.

Those moving to the UK can enjoy an extremely benign personal taxation regime, especially for the first years of residence. The UK 'res non dom' regime remains a blueprint for other jurisdictions who have introduced similar regimes in a bid to attract the world's wealthiest. Taxpayers who are resident in the UK but not domiciled here can claim the remittance basis of taxation for up to 15 tax years. In a nutshell, this means that those taxpayers are not taxed on their non-UK sourced income and gains unless they bring them into the country. Whilst countries like Italy or, most recently, Greece have introduced similar regimes, the UK is unique in the fact that it allows the remittance basis to be claimed free of charge for the first seven years (after which there is a £30,000 charge per year, rising to £60,000 from the thirteenth year of continuous UK residence).

The Labour Party, as well as the Liberal Democrats, had promised to abolish this system of taxation for resident non-domiciled individuals. The Conservative victory in the general election has secured it for the foreseeable future.

It is also worth noting that the UK has no wealth or property taxes, nor is there a gift tax on recipients, as is the case in many other European jurisdictions.

Competitive rates of capital gains tax ('CGT') mean non-professional investors investing in residential and commercial real estate find the UK to be an attractive prospect. The consequences of CGT being extended to non-residents have been mitigated by rebasing from April 2015 for residential property and from April 2019 for other real estate, so gains accrued over many years by non-residents will still enjoy favourable tax treatment.

On top of this, UK taxpayers can enjoy a low 10% (rather than 20%) rate of CGT on capital gains which qualify for entrepreneurs' relief ('ER') or investors' relief ('IR'). This relief allows taxpayers who invest their own money into a business of which they are a director or employee in the case of ER, or invest for at least three years in the case of IR, to benefit from a lower tax rate, thereby incentivising entrepreneurial activity – another example of the UK's pro-business outlook.

Corporation tax, too, remains competitive at 19% (despite the abandoned promise to lower this even further to 17%). In addition to this, the UK stands out for not imposing a withholding tax on outbound dividends and offering a generous participation exemption for incoming dividends. This freedom to transmit dividends cross-border without incurring any tax in the UK makes it a popular jurisdiction for companies looking to set up an international headquarters.

Finally, it is important not to forget that the UK enjoys one of the most well-developed collections of double taxation treaties in the world, not just in relation to income, capital gains and corporation taxes but for estate and gift tax too. In Europe, the jurisdictions covered by a comprehensive set of double taxation treaties with the UK which also covers estate and gift tax include Italy, France, Switzerland, the Netherlands and the

Republic of Ireland. This network is especially important for wealthy individuals based in the UK whose assets and interests are spread worldwide.

Estate planning

Another key advantage of the English and Welsh jurisdiction that may be of interest to many Europeans living in the UK is what is known as 'testamentary freedom'. This means that individuals are generally free to dispose of their property as they wish through their Will, without any forced heirship rules governing how property should be distributed (although claims can be brought against an estate by limited categories of applicants subject to being able to demonstrate financial need). For individuals considering a move from continental Europe, where forced heirship regimes are more common, this may prove very attractive, particularly as EU law now provides that almost all EU countries must respect the choice of deceased individuals to have the law of their new country of residence apply to their estate after death.

Immigration

The one area in which EU nationals are likely to experience some limited inconvenience, at least in the short term, is in relation to their UK immigration status. With the Conservative majority it is unlikely that there will be significant further extensions to the Brexit process and we expect that the post-Brexit immigration rules will become much clearer in the coming months.

However, these issues are not insurmountable, especially if steps are taken sooner rather than later. Those who have already moved to the UK and are looking to secure their immigration status may have more than one route available to them to achieve this, including through the EU Settlement Scheme and the existing rules on Permanent Residence. Each case is different and requires a bespoke approach – we are well equipped to advise you on the best route to take. In any event, it is advisable to act now in advance of Brexit in order to 'bank' any status to which you might be entitled.

It should also be noted that children who were born in the UK to a parent from a country in the European Economic Area may have an automatic right to British citizenship. The rules differ depending on when the child was born and advice should be taken in order to guide the application process efficiently. Many individuals may be pleasantly surprised that their children have an automatic right to become British citizens and we can help you secure both their and your status in order to bring certainty and comfort in the run up to the UK's departure from the EU.

We are here to help


If you are an EU national living here or considering moving to the UK or have questions in relation to your UK investments, we are best placed to help you plan sensibly and make the most of the UK's advantageous regime for new arrivals and longer-term residents alike.

Authors

Michael Rutili

SENIOR ASSOCIATE | LONDON

Private client and tax


 +44 20 7597 6619

 michael.rutili@withersworldwide.com

Tracy Evlogidis

PARTNER | LONDON

Immigration


 +44 20 7597 6030


 tracy.evlogidis@withersworldwide.com

Ed Cubitt

TRAINEE SOLICITOR | LONDON

Private Client

 +44 20 7597 6266

 ed.cubitt@withersworldwide.com