

## Tax Insights

# Mixed Funds Cleansing

Are you a UK resident, non-domiciled individual with a mixed fund account? Would you like to clean this account by separating the different components of the account and potentially bring some of this money to the UK tax free?

If you are not domiciled in the UK, have claimed the remittance basis in the past and have mixed funds, you now have a two-year window closing on 5 April 2019 to cleanse your offshore mixed funds and potentially remit some of your funds to the UK with no further tax implications. But who qualifies for this cleansing provision and what is classified as a mixed fund?

## Remittance Basis

As a UK resident for tax purposes, generally you will be taxable on the arising basis. This means that the you will be liable to pay UK tax on your worldwide income and gains as they arise or accrue.

However, if you are UK resident but not domiciled in the UK, you can claim to be taxed under the remittance basis. Under the remittance basis, you will only be liable to UK tax on income and gains arising/accruing in the UK and foreign income and gains that you remit (bring) into the UK. This effectively excludes your foreign income or gains from the scope of UK tax, provided you do not bring it to the UK.

A claim for the remittance basis will also mean a loss of your entitlement to your UK personal allowance and annual exempt amount. Furthermore, depending on how long you have been a resident in the UK, you may also have to pay a remittance basis charge to claim the remittance basis. If, however, you have unremitted foreign income and gains arising in a tax year that is less than £2,000, you can make a claim for the remittance basis without having to pay the remittance basis charge or lose your entitlement to your allowances.

In the event you remit any foreign income or gains which have been exempt from UK tax under the remittance basis, you will be liable to UK tax on the remitted amounts. Where the foreign income or gains are remitted from a mixed fund, there are special ordering rules that must be applied to the remittance. These ordering rules are designed so that you will be worse off if you remit any funds from a mixed fund into the UK.

## What is a mixed fund?

A mixed fund is an overseas fund of money which contains more than one type of income or gains, or income or gains from more than one tax year. A typical example would be an offshore bank account which contains different types of income such as dividend, bank interest and earnings or gains.

If you use the remittance basis and you make a remittance from a mixed fund, income and gains are regarded as remitted to the UK in a specified order (ordering rules):

- employment income (including UK employment income)
- untaxed foreign income and gains are regarded as remitted before taxed foreign income and gains and capital
- income and gains and capital from the current year are regarded as remitted before income and gains and capital from each previous year in turn

Due to the complexity of the ordering rules around mixed funds, you may have been penalised in the past for any remittances you made from a mixed account. Alternatively, you may not have touched your mixed fund account. The opportunity to clean your mixed fund is something you should consider so you can avoid having this issue going forward.

## Cleansing of your mixed funds

This is an opportunity with a two-year window beginning on 6 April 2017 to segregate the different identifiable components of your mixed fund into their constituent parts. To cleanse a mixed fund, transfers of the various components in the account must be made to another offshore account(s). Once the funds have been segregated, you can remit any clean funds you may have held in the mixed fund. Clean funds are any funds which can be remitted to the UK without any further tax implications. This can include income or gains that have already been taxed in the UK, foreign income or gains that arose prior to you becoming UK resident for tax purposes or inheritances.

### Who can benefit from the mixed funds cleansing provision?

If you are non-domiciled and have been taxed on the remittance basis in any year from 6 April 2008 to 5 April 2017, you will qualify for the cleansing opportunity. You do not qualify for the cleansing provision if you were born in the UK with a UK domicile of origin. This cleansing opportunity will still be available even if you become deemed domiciled in the UK for tax purposes on 6 April 2017.

To cleanse your mixed fund, you must be able to identify the make-up of your mixed funds, any unidentifiable amounts in the mixed funds cannot be cleansed.

### Why have the government introduced this cleansing provision?

They have introduced this provision so that individuals will be encouraged to bring money into the UK for various reasons, examples are for;

- Setting up a UK investment portfolio
- Investment into the UK property market
- General living expenses in the UK

## Practical examples of cleansing a mixed fund

### Example 1

Mr A has a mixed fund containing:

- 2012 to 2013 foreign income £1 million
- 2013 to 2014 foreign income £2.3 million
- 2014 to 2015 foreign income £1.5 million

**Total £4.8 million**

- 2010 to 2011 foreign gain £500,000
- 2011 to 2012 foreign gain £750,000
- 2012 to 2013 foreign gain £2.5 million
- 2013 to 2014 foreign gain £1.5 million

**Total £5.25 million**

On 10 January 2018 Mr A nominates and transfers to an already existing account (containing only foreign gains) £4.5 million. He keeps sufficient evidence which shows the transfer consisted of:

- £1.5 million 2013 to 2014 foreign gain
- £2.5 million 2012 to 2013 foreign gain
- £500,000 2010 to 2011 foreign gain

The £750,000 foreign gain from 2011 to 2012 remains in the original mixed fund for the time being, as it cannot be identified.

The segregation of the foreign income from the foreign gains will be useful when Mr A decides to remit any funds into the UK, he can remit his foreign gains which are taxable at 20% as opposed his foreign income which would be taxable at 45%, without being penalised by the ordering rules.

## Example 2

Hamid is a qualifying individual. He has been continually resident in the UK since the tax year 2001 to 2002 and has always assessed himself on the remittance basis. Hamid has 4 offshore bank accounts:

- Isle of Man (IOM)
- Jersey
- Switzerland
- BVI

All these accounts are mixed fund accounts and are made up as below:

### IOM account

- 1999 to 2000 £900,000 foreign earnings
- 2003 to 2004 £100,000 foreign income
- 2003 to 2004 £500,000 inheritance
- 2007 to 2008 £200,000 foreign gain

### Jersey account

- 2008 to 2009 £500,000 inheritance
- 2010 to 2011 £600,000 foreign gain
- 2011 to 2012 £500,000 foreign income
- 2014 to 2015 £500,000 UK employment income

### Switzerland account

- 2009 to 2010 £300,000 foreign earnings
- 2013 to 2014 £900,000 foreign gain
- 2015 to 2016 £100,000 foreign income
- 2015 to 2016 £400,000 UK employment income

### BVI Account

- 2009 to 2010 £100,000 foreign gain
- 2009 to 2010 £50,000 foreign income
- 2010 to 2011 £2 million inheritance

Hamid wants to buy a new house in London in the near future and thinks he may need to remit some of his offshore funds for this purchase. He decides to take advantage of the cleansing provisions to simplify his finances going forward.

He decides to set up 3 new receiving accounts and nominates the following transfers into them on 2 October 2017:

- **account 1** - £900,000 (total UK employment income from the Jersey and Swiss accounts)
- **account 2** - £650,000 (total foreign income from the 3 accounts, Jersey, BVI and Swiss)
- **account 3** - £1.6 million (total foreign gain from the 3 accounts, Jersey, BVI and Swiss)

Hamid leaves his £500,000 inheritance in the original Jersey account, the £2 million inheritance in the original BVI account and the £300,000 foreign earnings in the original Swiss account. These accounts have been cleansed.

On 12 December 2018 Hamid cleanses his IOM account. He transfers the 2003 to 2004 £100,000 foreign income into the existing account – account 2. Due to banking procedures the 2007 to 2008 foreign gain doesn't transfer to the receiving account – account 3 until 14 December 2018.

Hamid transfers the 2003 to 2004 inheritance into his original Jersey account, leaving the balance of £900,000 foreign earnings in the original IOM account. As Hamid has nominated all these transfers under the cleansing provisions he has successfully cleansed his IOM account.

If he wants to safeguard the 3 new accounts and his other 4 cleansed accounts from becoming mixed fund accounts in the future, Hamid will have to ensure that any funds accruing in each account (for example, interest) are paid into a separate account to prevent 'tainting' of the funds.

## How we can help?

To qualify for the cleansing provision, you must be able to identify the various components of your mixed fund, particularly your clean capital. We can help with this analysis and advise you on what clean capital can/should be brought into the UK. Also, we can guide you on how to go about remitting your money to the UK. It is important that the steps taken in cleansing a mixed fund are in accordance with UK tax legislation to avoid any remittances being taxed under the ordering rules.

For further information or to arrange a meeting with our expert team today, please contact:



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