Private Wealth Newsletter 2024

First Edition

TAX FROM EVERY ANGLE

Editors' note

Elliott Murray
Managing Editor, Geneva
+41 22 707 98 39
Elliott.Murray@bakermckenzie.com

Phyllis Townsend
Co-editor, London
+44 20 7919 1360
Phyllis.Townsend@bakermckenzie.com

On behalf of Baker McKenzie's Global Wealth Management Practice Group, it is our pleasure to present the Q1 2024 edition of the Private Wealth Newsletter to our clients, friends, colleagues and readers across the world.

On the one hand, our lead feature article by Marnin Michaels examines whether or not the current trends in wealth planning are more reruns of past strategies and how that impacts global families. On the other hand, our co-editor, Phyllis Townsend, and her colleagues in London provide a crucial update on the UK Chancellor's shock announcement that the long-standing "res non-dom" regime will be abolished, showing that nothing lasts forever, and discusses what comes next for current and future UK residents.

Continuing our PWN meets series, Ashley Crossley, head of our Wealth Management practice in London, pays us a visit to introduce himself and share his views on the key issues affecting high-net-worth families today, as well as the impact of the abolition of the "res non-dom" regime, a perfect complement to the previously mentioned article. We encourage you to read both articles, listen to Ashley's interview, and consider how history can repeat itself or even be made in the context of working with successful families.

Elsewhere in this edition, we have published articles on the trend in Argentina of families reconsidering their tax residencies and on a recent US Tax Court decision that could have a wide ranging impact on non-US funds and other entities investing in the United States, as well as updates on further enforcement initiatives of the US IRS and new guidance on Canada's trust reporting rules.

We hope you find something interesting, informative or thought-provoking in this edition, whether it be one of our feature articles or a piece from the Around the World section, compiling relevant and important cases, and legislative developments from across the world.

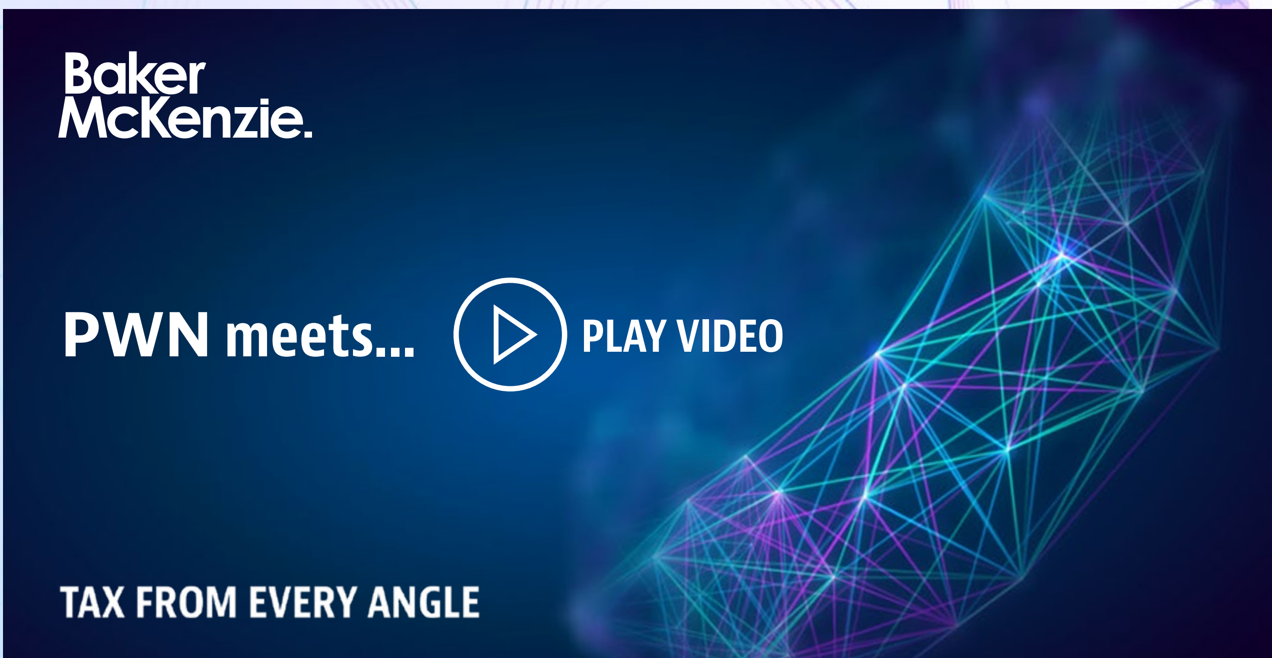
Our editors, Elliott Murray and Phyllis Townsend, or any of the authors listed throughout the newsletter, can be contacted with any feedback or questions.

Content

PWN meets...

In the latest instalment of our series of interviews, Ashley Crossley talks to us about his experience of working at the Firm and involvement with Wealth Management.

Ashley Crossley
Partner
London



Article

Wealth Planning in 2024

I do not claim to have any special intuition on wealth planning techniques in 2024, but some current planning ideas appear to be out of playbooks from the last five decades of my life (yes, I'm in my 50s). It seems that many planning techniques were invented in response to global trends, such as inflation, rising interest rates and political/economic instability, and then reemerge in conjunction with the circular nature of these trends. I highlight below a few of the major wealth planning concepts being used in 2024 that I believe are based on "retro" planning strategies dating as far back as five decades.

The 1970s: planning for instability

The 1970s brought an assortment of political turmoil and instability. Inflation was rising and had approached 15% by the end of the decade. The US still utilized the gold standard until 1973. There were multiple wars — most notably the Vietnam War, notwithstanding the détente period between the US and the Soviet Union, and normalized relations between the US and China. Henry Kissinger[1] was popular. Most countries had very high tax rates, and everyone knew that enforcement was very low. Undeclared funds were the norm, and the "black" cash economy was still the mainstay. Governments in the West were often very liberal leaning with fear of a communist/socialist takeover.

The most common planning for global families during the 1970s was preparing for an exit. It was not uncommon for affluent families to fly their wives to the US during their eighth month of pregnancy to give birth, believing it would enable the family to move to the US if an exit became necessary. Families prepared to move quickly and often maintained alternative citizenships and residencies, as well as banking relationships, in other stable countries. While this concern heightened over the next 30 years, by the early 2000s it ceased to be at the forefront of most people's thinking.

Fast forward 50 years, the geopolitical instability of the 1970s has come back with a vengeance. Savvy clients are again exploring alternative citizenship and residency options - and maintaining readily accessible cash in more stable jurisdictions is a paramount concern. Some of this thinking reemerged in the aftermath of the COVID-19 pandemic, but the events of the war in Ukraine have also caused people to ask questions. What if my country of residence gets hit with sanctions? What should I be thinking about now and planning to avoid in advance? Should I open and diversify a banking relationship? Should I form a trust or migrate an existing trust? If so, where?

None of these planning techniques are new. These current ideas are just a recycling of prior planning concepts that were common during the 1970s.

1. Henry Kissinger was the secretary of state under Presidents Nixon and Ford and is credited with fashioning the détente policy with the Soviet Union, initiating the opening of relations with China and negotiating the Paris Peace Accords that ended US involvement in the Vietnam War.

The 1980s: planning for inflation

When one asks most people about the 1980s, they will remember it as the era of Ronald Reagan and Margaret Thatcher and the fall of the Soviet Union's hegemony over Eastern Europe. Yet 40 years later, many seem to have forgotten that hyperinflation was a major issue throughout most of the West. For instance, inflation peaked in the US in March 1980 at close to 15%[2]. Although current interest rates are not on the same level as interest rates during the 1980s, the recent rate hikes to curb inflation following the COVID-19 pandemic have generated similar concerns.

Inheritance taxes were also super high during this era. For example, in the US, the federal estate and gift tax rate remained at 70% during the early 1980s, with the basic exclusion amount set at less than USD 200,000. Clients sought ways to shift appreciating assets to younger generations in a manner that avoided these taxes. It was 1984 when Richard Covey pioneered a technique known as a grantor retained income trust[3] (GRIT) to minimize or even avoid these high inheritance taxes caused by a devaluation of currencies. With the typical GRIT, the grantor would transfer property to a trust and retain an income interest for a number of years, which typically was shorter than the grantor's life expectancy, and the remainder would then pass to the grantor's descendants. The value of the remainder gift to the children would equal only a small portion of the value of the original principal, and, if the grantor survived the term, post-transfer appreciation escaped transfer tax. Congress found this estate planning strategy abusive, and six years later enacted Internal Revenue Code Section 2702, which curbed its use by valuing the grantor's retained interest at zero and thereby increasing the value of the transferred remainder interest.

Forty years later, a spin-off of this technique (the grantor retained annuity trust (GRAT)), discussed below, is still being used to divest assets from older, wealthier generations and transfer them to younger generations so that the appreciation occurs in the hands of the younger generations.

1990s planning: the first tech boom

The 1990s was a relatively quiet time. Although the Asian financial crisis gripped much of East and Southeast Asia during the mid-to-late 1990s, it was eclipsed by the first tech bubble during the same time frame. Geopolitically, the UK returned Hong Kong to China following the end of the 99-year lease under the idea of "one country — two systems."[4]

The world also experienced the inklings of the first war on terror (i.e., the 1993 bombings of the World Trade Center in New York and the 1998 bombings of the US Embassies in Africa), but, all in all, it was a relatively quiet time.

The 1990s was also when the GRAT became widely used with the blessing of Congress in the form of statutory enactment. Although the GRAT concept had originated with Richard Covey in 1984 with the GRIT, and the explosion of its use occurred in the 2000s, the GRAT as a mainstay tool started in the 1990s after Congress enacted legislation that it deemed would curb abusive practices with GRITs. Richard Covey found a major loophole in the legislation that paved the way for GRATs.[5] This planning technique, particularly for US persons, was a very effective way of shifting wealth at a low cost to future generations or, to quote Richard Covey, "make a big gift look small."

While GRATs are a creature of statutory enactment in the US, creative practitioners have applied the GRAT concept successfully in other jurisdictions. The GRAT remains one of the most important planning techniques ever invented, and I have used GRATs, or some variation thereof, to shift wealth in more than 10 countries. Today, as the markets have started to turn again in favor of growth, GRATs once again have become very popular planning techniques to shift appreciating assets to future generations.

Other similar arrangements also evolved from the GRIT, including qualified personal residence trusts, grantor retained unitrusts, charitable remainder annuity trusts, charitable remainder unitrusts, charitable lead annuity trusts and charitable lead unitrusts.

---

2. See "Federal Reserve History — The Great Inflation," by Michael Bryan, available at https://www.federalreservehistory.org/essays/great-inflation.

3. See "How the ultra-rich avoid paying taxes," Meghna Chakrabarti and Jonathan Chang, podcast available at https://www.wbur.org/onpoint/2023/02/09/how-the-ultrarich-avoid-paying-taxes.

4. See "Hong Kong and the UK: What's the History Between the Two?", available at https://www.bbc.co.uk/newsround/52907269.

5. Richard Covey created a pair of USD 100 million zeroed out GRATs for Audrey Walton, sister-in-law of Walmart founder Sam Walton, which the IRS challenged and lost in the US Tax Court. See Walton v. Comm'r, 115 T.C. 41 (2000).

The 2000s: the emergence of the large information reporting penalties

During the early 2000s, President Bush oversaw the largest tax reforms (commonly referred to as the "Bush tax cuts")[6] since the Internal Revenue Code's last major overhaul in 1986. Despite the tax reductions, this legislation also included a revenue generator in the form of revised penalties for the failure to report foreign bank accounts (FBAR). The penalty for the willful failure to file an FBAR was increased to 50% of the unreported account on the date it should have been reported (previous violations were capped at USD 100,000 per account). Non-willful violations also became subject to a potential penalty, but it was capped at USD 10,000. Previously, non-willful violators were not subject to any penalties.[7]

These penalties were essentially irrelevant because enforcement was lacking. There were no information exchanges, and it would be another four years before the calls for transparency rose to the forefront. Nonetheless, this was the first instance where people started to think about the significance of information disclosure, which has since developed into a prevalent topic. Today, while tax issues are significant, the penalties for failure to properly disclose information to taxing authorities (even on a non-willful basis) can be even more harsh.

The 2010s: kindness before the instability

Looking back on this window of time, the first half of the decade is memorable as a period of economic recovery and regrowth following the 2008 financial crisis.

The second half of the decade was marked by global instability, which has continued to increase. In 2016, there was the UK's exit from the EU (Brexit). The Arab Spring fizzled but left bloody civil wars in Syria, Libya and Yemen, as well as the Islamic State group in Iraq. The foreshadowing of the Russian invasion of Ukraine began.

The election of Donald Trump heralded in two contradictory items: (1) lower taxes in the US; and (2) consistent tax rates globally. As a result of FATCA and CRS, the automatic exchange of information became the norm. At the same time, values exploded as capital markets raced.

The confluence of these events changed the focus of planning away from tax minimization to asset protection as the world began to look more and more scary. Asset protection trusts in politically and economically stable foreign, trust-friendly jurisdictions quickly became popular.

Conclusion

Just as global events have tended to be circular in nature over the past five decades, so have the wealth planning ideas that relate to these events. I could have begun this article with any decade between the 1970s and the 2010s, but what is interesting is how in the past 40 years the confluence of many common planning ideas, some of which are inconsistent with each other, have reemerged simultaneously as part of what a global family must consider with modern wealth planning.

This confluence makes it quite challenging for families in different parts of the world to address their needs at the same time.

AUTHOR

Marnin Michaels
Partner
+ 41 44 384 12 08
marnin.michaels@bakermckenzie.com

6. See Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, 115 Stat. 100 (7 June 2001); Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. 108-27, 117 Stat. 752 (28 May 2003).
7. The statutes and regulations, however, did not specify whether the non-willful penalty was to be applied on a per report basis or on a per account basis; however, the US Supreme Court ruled last year in Bittner v. US, 598 U.S. __ (2023), that the non-willful penalty is to be applied on a per report basis and not for each unreported foreign account.

Article

Challenges and opportunities presented by the proposed successor to the UK non-dom regime

On March 6 2024, the UK chancellor of the exchequer delivered his Spring Budget.

The announcements included changes to the way in which UK tax resident non-UK domiciled (RND) individuals, colloquially referred to as "non-doms," will be taxed in future and a new advantageous tax regime for individuals becoming UK tax resident.

While the proposed reforms represent a dramatic change to the taxation of RND individuals, there remain a number of good planning opportunities for those who wish to move to the UK and for certain RND individuals who are already UK tax resident.

Historic position

Individuals who are UK tax resident but not considered domiciled in the UK (e.g., because they were born outside the UK and/or to foreign parents) have historically been able to elect to be taxed on the remittance basis of UK taxation.

In simple terms, this meant that such RND individuals were only liable for UK income and capital gains tax on their UK source income and capital gains — and not their foreign income and gains (FIG), unless such FIG were "remitted" to the UK — and could benefit further using trusts.

In addition, such individuals (until deemed domiciled under the rules in place at the time and thereafter, using trusts) were only subject to UK inheritance tax (IHT) on their assets situated in the UK. Assets situated outside the UK were not subject to IHT.

The Conservative government led by former Prime Minister David Cameron previously announced reforms to the rules, which took effect from April 6 2017.

The effect of those reforms meant that an individual would be "deemed domiciled" for all UK tax purposes if they were UK tax resident in at least 15 of the previous 20 UK tax years.

The overall impact was that after 15 years as an RND individual, such individual was no longer eligible to be taxed on the remittance basis and would be subject to UK tax on their worldwide income and capital gains.

However, with appropriate planning, it was possible to set up structures (such as the use of "protected trusts") to mitigate the effect of becoming UK deemed domiciled and retain a good level of tax efficiency on foreign income and foreign and UK source gains.

The regime was often viewed as a significant driver in encouraging wealthy individuals to relocate to the UK, with associated benefits for the economy as a whole, albeit not without flaws, insofar that the concept of domicile is outdated and discouraged individuals from remitting their foreign income and gains to the UK.

Abolition of non-dom regime and introduction of new residence-based regime

This Budget is likely to be the last budget before a UK general election, which must take place before January 2025 (although the general election may be timed to take place following the Autumn Statement).

The opposition Labour Party had previously stated its intention to abolish the RND rules if elected, and the Conservative government's Budget proposals are therefore arguably an attempt by the Conservative Party to take control of these changes before the general election.

Under the proposal, there are changes to the taxation of FIG and to the IHT rules.

New FIG regime

The remittance basis of taxation is to be replaced with a new four-year FIG regime.

From April 6 2025, this regime will be available to individuals for the first four tax years of UK tax residence, after 10 years of non-UK tax residence.

Eligible individuals will not pay tax on FIG arising in the first four years of UK tax residence and will be able to remit these funds to the UK free from any additional tax charges.

This differs from the current rules, whereby untaxed FIG that are taxable on the remittance basis and brought to the UK are charged as a taxable remittance. The result is that individuals relocating to the UK could now build significant capital pots to fund their lifestyles within their first four years of UK tax residence, rather than needing to focus on building capital before they become UK tax resident.

It also has an advantage over the previous rules in that individuals will not be required to track the movement of their FIG through investments in the way they are required to do at present. Arguably, the new four-year FIG regime is much simpler than the current remittance-basis regime. It is speculated that this may result in the UK becoming a destination of choice for individuals who wish to sell certain asset classes (particularly non-UK businesses) in a tax-efficient manner.

Individuals who on April 6 2025 have been UK tax resident for less than four years (after a period of 10 years of non-UK tax residence) will be able to use this new regime for any tax year of UK residence in the remainder of those four years.

For example, an individual who became UK tax resident in the 2022/23 tax year, after a 10- year period of non-UK tax residence, will have been UK tax resident for up to three tax years by April 6 2025. They will be able to benefit from the new four-year FIG regime for the tax year 2025/26 because this is their fourth year following 10 years of non-UK tax residence.

Important planning opportunities are presented in proposed transitional provisions, as follows:

- For those not eligible for the four-year FIG regime and who are moving from the remittance basis to the arising basis of UK tax, only 50% of their non-UK income arising in the 2025/26 tax year will be subject to UK tax. The reduction will not apply to foreign chargeable gains. For the UK tax year 2026/27 onward, tax will be due on worldwide income and gains in the normal way.
- In relation to capital gains tax, a rebasing will be offered to individuals who have claimed the remittance basis and are neither UK domiciled nor UK deemed domiciled by April 5 2025. The effect of the rebasing will be to rebase foreign personally held assets to their value as at April 5 2019, if the asset in question was owned personally on that date.
- There will be a new temporary repatriation facility (TRF), which is aimed at providing some relief to those taxed on the remittance basis previously, while incentivizing taxpayers to remit FIG to the UK during the TRF period. In relation to FIG arising pre-April 6 2025 in a tax year for which the remittance basis was claimed, there is a two-year window (April 6 2025 to April 5 2027) during which funds can be remitted with tax at only 12%. This is compared with the usual tax rates of, broadly, 20% on gains and 45% on income. This represents a good opportunity to bring funds into the UK at a reduced rate. Importantly, the TRF will not apply to pre-April 6 2025 FIG that have arisen within a trust structure. The above rules will only apply to FIG that have arisen to an individual personally. There will also be some relaxation of the mixed fund ordering rules to make it easier for individuals to take advantage of the TRF if, for example, they have FIG in a mixed fund and are unable precisely to identify their quantum. From April 6 2027, remittances of pre-April 6 2025 FIG will be taxed at normal tax rates.

Impact for individuals with trusts and their trustees

In relation to non-UK trusts settled by non-UK domiciled and non-deemed domiciled settlors who have since become deemed domiciled (known as protected trusts), from April 6 2025 any FIG arising in the trust where the UK tax resident settlor is not excluded from benefit will be taxed on the settlor, provided the settlor does not qualify for the new four-year FIG regime.

The matching of pre-April 6 2025 FIG to trust distributions will continue, but RND individuals will no longer be entitled to the remittance basis in respect of foreign trust distributions as under current rules.

Beneficiaries and settlors who are within the four-year FIG regime will be able to receive benefits from April 6 2025 free from any UK tax charges whether or not the benefits are received in the UK. This represents an improvement from the previous position, whereby such funds could not be remitted without a tax charge. Such benefits are not matched to trust income and gains and will be subject to a modified onward gift rule. For non-settlor interested trusts or trusts with non-resident settlors, the impact of the changes should be reduced.

There will be merits to reviewing existing structures. In particular, the availability of defences to UK tax anti-avoidance rules that can attribute FIG of offshore entities to UK residents in certain circumstances is likely to become more important.

Clients may also increasingly turn to alternative planning tools such as offshore bonds (also known as life policies) to protect against the UK taxation of FIG as they arise.

In relation to international families living in the UK, where defences are not available we may see an onshoring of structures akin to that seen previously in relation to structures of domestic families following the abolition of earlier protections and with the increased opportunity to bring funds into the UK tax-efficiently.

OWR

Overseas workday relief (OWR) is an existing relief from income tax on earnings for employment duties performed outside the UK. OWR can apply to treat part of the earnings from a UK employment wholly or partly performed abroad as if it were foreign source income. There will be reform to OWR to give a three-year window for individuals (such as international executives) to work in the UK in a tax-efficient manner under simplified legislation.

IHT reform

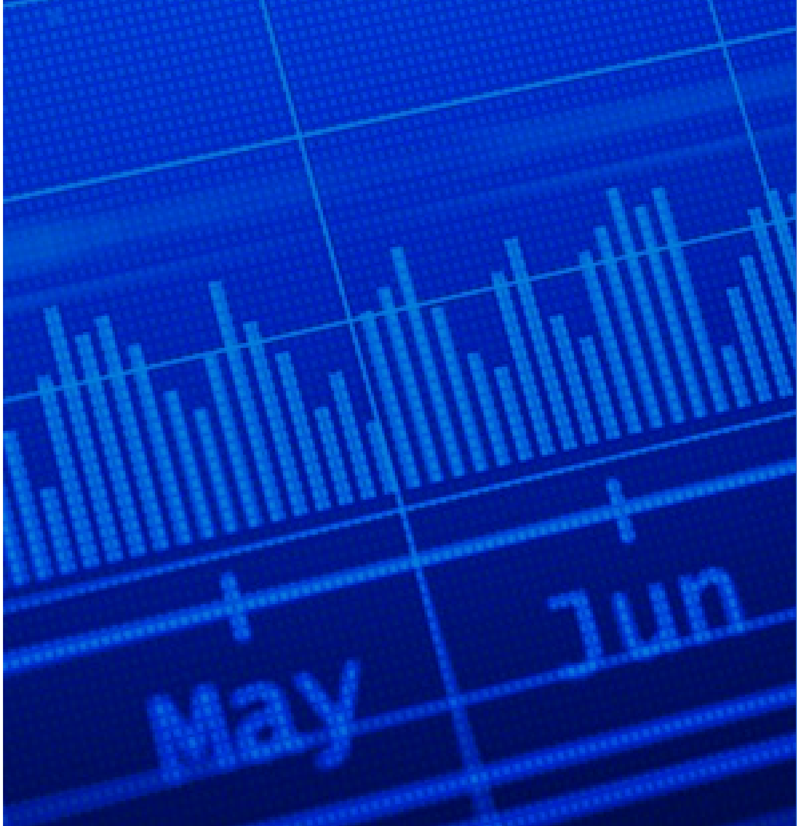
IHT is currently a domicile-based system. The UK government intends to transition IHT to a residence-based system from April 6 2025.

Although the changes are still subject to consultation, it is envisaged that the new rules will involve bringing within the scope of IHT the non-UK situated assets owned outright by an individual once they have been UK tax resident for 10 years, with a provision to keep a person's non-UK situated assets within the scope of IHT for 10 years after leaving the UK.

UK situs assets would remain in charge on the same basis as at present, regardless of residence.

It is envisaged that the new rules for chargeability of assets in a trust would depend upon whether a settlor meets the residence criteria or is within the 10-year tail provision at the time the assets are settled and/or when charges such as that on the 10-year anniversary of the creation of the trust or exit charge arises.

The treatment of non-UK assets that are transferred to trusts prior to April 6 2025 by non-UK domiciled settlors is not expected to change. Provided the assets in the settlement continue to meet the legislative requirements to be "excluded property" under current legislation, it is expected that there would be no IHT charges. This presents a possible planning opportunity to set up "excluded property settlements" prior to April 6 2025. This could provide a significant advantage to individuals relocating to the UK by allowing them to build significant capital pots to fund their UK lifestyles within the four-year period and transfer funds for investment to trusts within the 10-year period to keep non-UK assets outside the scope of IHT.



Conclusion

While the proposed reforms represent dramatic change to the taxation of RND individuals, there remain good planning opportunities for those who wish to move to the UK and for certain RND individuals who are already UK tax resident. Arguably, the proposed reforms maintain the UK's status as an attractive place for wealthy individuals to live.

For those currently living in the UK who are being taxed on the remittance basis and will not be eligible for the new four-year FIG regime, the introduction of the TRF (to bring funds to the UK at a reduced rate), the availability of the capital gains tax rebasing election and the reduction in the non-UK income arising in the tax year 2025/26 that is subject to UK tax all allow good planning opportunities to mitigate the effects of the withdrawal of the remittance basis.

It should be noted that the Conservative government is currently trailing the Labour Party in all reputable polls. It is therefore probable that a Labour government will be elected within the next 12 months, and it cannot be ruled out that they may decide to amend these proposals or replace the Conservatives' proposals entirely with their own.

However, now that the Conservative government has announced the abolition of the non-dom regime and has come up with a reasonable alternative, it may be that a Labour government will decide to adopt the Conservative Party's proposals rather than incur further legislative time in creating their own similar regime.

There is still no successor to the Tier 1 (Investor) visa category announced, which is the visa on which many of our clients relied when coming to the UK. This should be kept under review, including as to whether a route to UK immigration linked to the four-year FIG regime may be introduced, as it poses issues for clients who are not coming to the UK to work or study.

For those clients considering whether to relocate from the UK or change existing plans to move to the UK, there are a number of ordinary and preferential tax regimes available in other jurisdictions that they can consider and on which, as a firm, we are well-placed to advise.

The full client alert detailing these and other relevant changes announced in the Spring Budget 2024 can be found here here.

AUTHORS

Phyllis Townsend
Partner
+ 44 20 7919 1360
phyllis.townsend@bakermckenzie.com

Oliver Stephens
Associate
+ 44 20 7919 1611
oliver.stephens@bakermckenzie.com

Article

High wealth tax rates driving Argentine families and individuals to reconsider their residencies

Argentine wealth taxes have been applied at a very high rate for the assets located in Argentina and at a much higher rate in those cases in which the assets were located outside of Argentina. This is one of the reasons why Argentine wealthy families and Argentine wealthy individuals have been moving their tax residencies to other countries such as the case of Uruguay (please, see the article 'Leaving without leaving': Argentines are flocking to Uruguay to avoid a high tax burden (ft.com)).

I. Law 27,541 of Social Solidarity and Productive Reactivation in the framework of Public Emergency

On December 23, 2019, the National Executive partially approved and published Law 27,541 of Social Solidarity and Productive Reactivation in the framework of Public Emergency ("Emergency Law"). Congress had approved the Emergency Law during its extraordinary sessions held on December 19 and 20, 2019.

The Emergency Law amended the tax brackets and rates of the wealth tax as from FY2019, according to the following detail:

At the same time, the Emergency Law granted powers to the Executive Branch to tax assets located abroad with an aggravated rate (up to 100% of the highest rate mentioned above), reducing such rate if the assets were repatriated.

According to the Emergency Law financial assets located abroad were:

a. Foreign currency deposited on foreign financial entities and similar.

b. Corporate participations and/or similar (private securities, shares, quotas and other participations) in all type of entities, corporations or companies, with or without, incorporated, domiciled, located or placed abroad, including unipersonal entities, rights associated with the capacity of beneficiary of trusts of any type created abroad, or in private interest foreign foundations or in any other type of group of assets incorporated, domiciled, located or placed abroad.

c. Any type of financial instruments or securities, such as bonds, debentures, representative values and certificate of deposit of shares, quotas of mutual investment funds and similar, regardless of their denomination, credits and any other type of right abroad with an economic value, and any other type that is included on the regulations.

Total value of assets that exceed non-taxable earnings		Will pay	More %	On the excess of AR$
More than AR$	**To AR$**			
0	3,000,000	0	0.5%	0
3,000,001	6,500,000	15,000	0.75%	3,000,000
6,500,001	18,000,000	41,250	1%	6,500,000
18,000,001	---	156,250	1.25%	18,000,000

II. Decree No. 99/19

Decree No. 99/19 was published in the Official Gazette on December 28, 2019, regulating tax issues of Law No. 27,541.

Decree No. 99/19 established that Argentine tax residents that have assets outside of Argentina will have to assess wealth tax according to the following scale:

Total value of assets in Argentina and abroad		Total value of assets place abroad that exceed the minimum non-taxable amount against assets placed in Argentina will pay %
More than AR$	**To AR$**	
0	3,000,000	0.70
3,000,000	6,500,000	1.20
6,500,000	18,000,000	1.80
18,000,000	---	2.25

III. Law No. 27,667 (the "Law")

On December 31, 2021, the Law was published in the Official Gazette. The Law amended the Wealth Tax Act as from FY2021 for assets located in Argentina.

According to the Law, changes applied to FY2021 tax returns (considering assets as of December 31, 2021).

The new rates applied on assets located in Argentina were as follows:

Amount of assets that exceed the minimum non-taxable value:		Will pay AR$	More %	On the excess of AR$
More than AR$	**To AR$**			
0	3,000,000, including	0	0.50%	0
3,000,000	6,500,000, including	15,000	0.75%	3,000,000
6,500,000	18,000,000, including	41,250	1.00%	6,500,000
18,000,000	100,000,000, including	156.250	1.25%	18,000,000
100,000,000	300,000,000, including	1.181.250	1.50%	100,000,000
300,000,000	and beyond	4.181.250	1.75%	300,000,000

As you can see from the above, financial assets located out of Argentina are subject to the maximum wealth tax rate of 2.25% while assets located in Argentina are subject to the maximum wealth tax rate of 1.75%.

IV. Draft Law of Bases and Starting Points for the Freedom of Argentines (the "Bill of Law")

On December 27, 2023, the National Executive Power sent to Congress the Bill of Law to be discussed in the extraordinary session convened by Decree No. 76/2023.

The Bill of Law contemplated that all wealth tax rates would be reduced and the differential rates for having assets located abroad would be eliminated with effect as from the tax period 2023, inclusive (considering assets as of December 31, 2023).

The proposed tax rates were the following:

1. For the 2023 tax period, they range from 0.5%, up to 1.5%.
2. For the 2024 tax period, they range from 0.5% to 1.3%.
3. For the 2025 tax period, they range from 0.5% to 1.1%.
4. For the tax period 2026, they range from 0.5% to 1%.
5. For the tax period 2027 is 0.5%.

Taxpayers were also entitled to opt to pay the wealth tax for the tax periods 2023, 2024, 2025, 2026 and 2027 in advance until May 31, 2024 at the rate of 0.75% in a single payment. In this case, taxpayers who were to agree to the advance payment would enjoy the benefit of fiscal stability until 2038 so that they would not be subject to any increase in their tax burden beyond the rates contemplated in the Bill of Law.

The wealth tax reform was part of the Bill of Law which contemplated many other non-tax chapters such as the privatization of many state-owned companies, the de-regularization of the Argentine economy, the amendment of the labor laws, etc. The ruling party, La Libertad Avanza, with a minority in the Legislative Power, tried to gather enough endorsements for the approval of the Bill of Law. With the aim of obtaining consensus, the Bill of Law, which originally contained 664 articles, was reduced in size to about 280 articles. Among them, the chapter of the wealth tax reform was removed from the Bill of Law. After days of debate in the Congress, and even after the reduction of the size of the Bill of Law, the Bill of Law was finally not approved.

V. Pre-departure planning

1. Argentine Residence Principles

Argentine tax residents are subject to income tax on their global source income and to wealth tax on their assets located in Argentina and abroad.

Non-Argentine tax residents are subject to income tax on their local source income and to wealth tax only on certain specific assets located in Argentina.

Non-Argentine tax residents are individuals without a tax residence in Argentina.

The following taxpayers, among others, are considered Argentine tax residents and thus, subject to income tax on their global source income and to wealth tax on their assets located in Argentina and abroad:

a. Argentine nationals;

b. Foreign nationals who reside in Argentina under a permanent residence permit;

c. Foreign nationals that have been present in Argentina for a period of twelve months under temporary permits (temporary absences that do not exceed 90 days, continuous or not, do not interrupt the 12-month term).

Foreign nationals who live in Argentina for labor purposes during a period not exceeding five years (including family members) will not be considered residents for Income Tax purposes. Such individuals will be subject to Income Tax on their Argentine source income, as if they were Argentine tax residents; however, income obtained from assets or activities, located or performed outside of Argentina will not be subject to Income Tax.

1.1. Loss of Argentine Tax Residence

Argentine tax resident individuals may lose their tax residence condition if any of the following takes place:

a. Acquisition of permanent residency in a foreign country for immigration purposes; or

b. Presence in a foreign country for a continuous period of twelve months (re-entries that do not exceed 90 days, continuous or not, do not interrupt the 12-month term).

1.2. Evidence of the Loss of the Argentine Tax Residence

Argentine tax resident individuals may give evidence of the loss of their tax residence by filing with the Federal Tax Administration ("FTA") the following documentation:

a. Permanent residence certificate issued by the competent authority of the foreign State; or

b. Passport, consular certification or other reliable document that proves the departure and permanence outside of Argentina for a period of 12 months (re-entries that do not exceed 90 days, continuous or not, do not interrupt the 12-month count).

For documentation produced out of Argentina to be valid in Argentina, it must be duly notarized and apostilled. Once in Argentina, such documentation must be translated by an Argentine public translator.

The loss of the Argentine tax residence is effective as of the first day of the immediately subsequent month where the permanent residence was acquired in the foreign State or when the 12-month term had been completed, as appropriate.

The documentation will be attached at the time of requesting the cancellation of the registration of your client in the income tax and on the wealth tax.

The cancellation of the registration in the income tax and on the wealth tax will take effects as from the business day following the one on which the loss of tax residence occurred.

1.3. Double Residence

Argentine tax resident individuals who (a) having obtained permanent residency in a foreign country for immigration purposes; or (b) having lost their residency in Argentina, continue residing in Argentina or return to Argentina with the intention of remaining, will be considered Argentine tax residents for Income Tax and Wealth Tax purposes if:

a. They have their permanent home in Argentina ;

b. Having a permanent home available in both counties, their "center of vital interests" is located in Argentina;

c. If the location of their "center of vital interests" cannot be determined, if they live in Argentina for more time than the time they live in the foreign country during a period of twelve months; or

d. If they remain the same time in both countries for an equal period of time, they are Argentine tax residents if they are Argentine nationals.

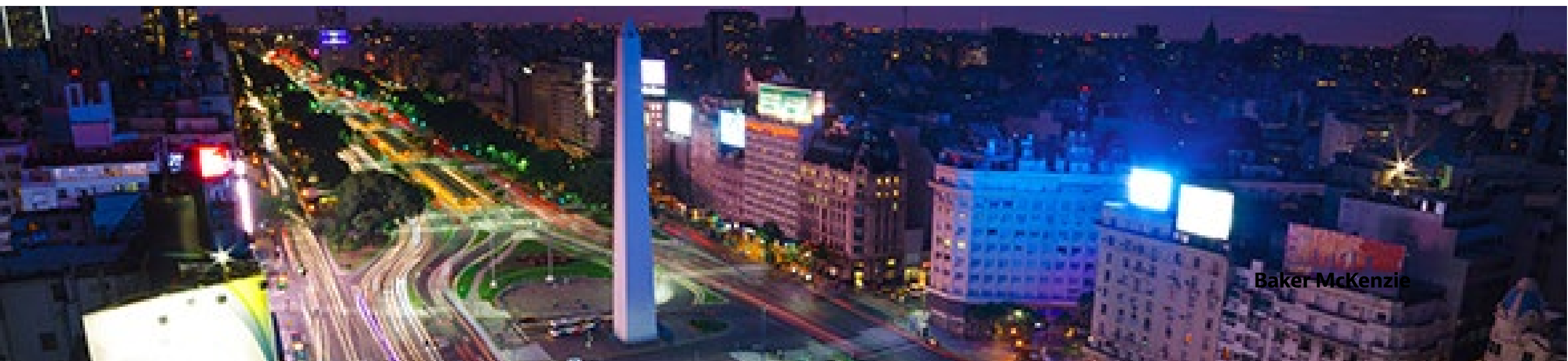
VI. Summary

The wealth tax is not a significant tax in terms of what it represents as a percentage of the collections deriving from Argentine taxes. On the other side, the high wealth tax rate is one of the reasons why many Argentine wealthy individuals and their families have moved their tax residencies to countries with a more attractive tax system.

For these two reasons, Javier Milei, from La Libertad Avanza, included in the Bill of Law the reduction of the wealth tax rates and the creation of a mechanism to advance the payment of the wealth tax corresponding to future fiscal years at a reduced rate.

AUTHOR

Martin Barreiro
Partner
+ 54 (11) 4310-2230
martin.barreiro@bakermckenzie.com



Article

US Tax Court says Cayman hedge fund engaged in US trade or business

In a November 15, 2023 opinion, the US Tax Court held that YA Global (the fund) was engaged in a US trade or business because of the activities of Yorkville Advisers (YA), the fund's US-based asset manager. The YA Global decision could have broad implications for funds, asset managers, and fund investors, especially non-US funds with US investments or US-based asset managers. The decision touches on several tax issues that are critical for funds so asset managers and investors should consider the Tax Court's approach to these issues when reviewing existing fund structures and organizing new funds.

Background

The court held that (1) YA was an agent of the fund and attributed YA's activities to the fund, (2) the fund did not qualify for the investment or securities trading safe harbors, and (3) the fund was considered a dealer rather than an investor. In turn, the fund was liable for USD 57 million in tax and penalties for failure to withhold tax on effectively connected income allocable to non-US partners.

YA Global was a hedge fund organized as a Cayman Islands limited partnership. YA was a Delaware LLC headquartered in New Jersey. The court examined tax years 2006-2009. For each of the years in question, the fund filed Form 1065 (its annual partnership return) but failed to file Form 8804 to report the amount withheld on effectively connected income.

The fund and YA entered into a management agreement whereby YA was referred to (and in practice acted) as the fund's agent in buying, selling, and general transactional matters. The court found that YA conducted extensive duties on the fund's behalf for which it received compensation in the form of a 2 and 20 compensation arrangement (2% management fee based on gross assets plus 20% carried interest).

YA was the fund's agent and YA's activities were attributed to the fund

The court held that YA was the fund's agent and YA's activities were attributed to the fund. Key to the court's decision was the degree of control that the fund had over YA's performance of its services.

YA Global, the fund itself, had no employees. It engaged YA to provide investment management services pursuant to the investment management agreement. The agreement referred to YA as the fund's "agent" and provided that the fund would promptly advise YA of any specific investment restrictions.

The court's analysis focused on the appointment of YA as an "agent" under the investment management agreement and that the agreement empowered the fund to give YA interim instructions during the term of the agreement. The court distinguished the relationship from a service-provider service-recipient relationship by focusing particularly on the right of the fund to give YA interim instructions during the course of the agreement whereas the court believed that in a service-based relationship the service recipient provides instructions only at the beginning of the engagement.

The court further rejected the argument that YA was an independent agent even though it also managed several smaller funds. Because YA worked exclusively or almost exclusively for the benefit of the fund and did not proactively seek to provide services to other customers, it did not qualify as an independent agent.

The fund was engaged in a US trade or business

After attributing YA's activities to YA Global, the court determined that YA Global was engaged in a US trade or business because of these activities. The fund provided funding to portfolio companies through various types of financial instruments. A standby equity distribution agreement (SEDA) was one such instrument pursuant to which the fund would purchase stock of a portfolio company over a fixed period at a discounted price. In addition to providing a discounted purchase price, the portfolio company would pay various fees to the fund as part of the SEDA. The fund would exercise conversion features of convertible instruments only when it was ready to sell the stock on conversion and the fund's PPM described the fees as income for services, such as due diligence, structuring, and commitment fees. The fund's communication with investors highlighted the fund's expertise in managing transactions from start to finish including identifying, sourcing, negotiating, conducting due diligence, structuring, financing, and managing the deals.

The court held that: (1) the activities YA conducted on behalf of the fund were continuous, regular, and engaged in primarily for income or profit; (2) those activities were not limited to investment, and (3) the activities were not protected under the securities trading safe harbor for trading in stocks or securities. The court did not specifically describe or name the business that the fund was engaged in, but it didn't have to. It determined that the balance of the activities taken together constituted a US trade or business.

The court determined that the fees paid by the portfolio companies went beyond payments for the use of capital (which would indicate an investment rather than a trade or business). The materiality of the fees and the fact that they would be paid to both the fund and YA demonstrated to the court that the fund was not only being compensated for capital but was also engaged in trade or business activities and where therefore distinguishable from investment activities. The manager dealt with portfolio companies directly. The manager sourced, originated, structured, and negotiated deals and the court felt that this went beyond investing. The court then further held that the fund did not qualify for the securities trading safe harbor because the fund's activities went beyond trading in stock and securities and the income of the partnership went beyond returns on the fund's capital.

The fund was a "dealer" subject to the mark-to-market regime of Section 475

Dealers in securities are generally subject to the mark-to-market regime of Section 475. This rule requires securities held in a dealer's inventory to be marked to market annually, i.e., be treated as though they were sold on the last day of the tax year, and any gain is classified as ordinary income.

Whether a taxpayer is a dealer for Section 475 purposes depends on their day-to-day activities. A "dealer in securities" is someone who regularly offers to deal in positions in securities with customers. The court determined that the fund was a dealer because it regularly held itself out as being willing and able to purchase securities from portfolio companies. The court determined that the fund regularly purchased securities from portfolio companies who were "customers" in the ordinary course of its trade or business. However, in its analysis on this point the court noted that there was no doubt that the fund held itself out as being willing and able to provide capital to portfolio companies. This would rather seem to support the view that the fund was an investor which undermines the court's position as to trade or business and dealer status because it indicates the centrality of YA Global's capital at risk.

Securities held for investment are not subject to the mark-to-market regime. To qualify for this exception from the mark-to-market rule, a security must be identified as held for investment, held as a certain hedge, or acquired or originated in the ordinary course of a trade or business but not held for sale. Rev. Rul. 97-39, 1997-2 C.B. 62, 62 provides that the identification must be made on the dealer's books and records and must clearly indicate that the identification is made for purposes of Section 475. While various documents related to its investments indicated that the fund held investments for investment purposes the court took a narrow view of the identification requirement based on Rev. Rul. 97-39. The court held that the fund did not satisfy the identification requirement because none of those statements specifically referenced Section 475. As such, the fund was subject to the mark-to-market regime for the tax years in question.

The fund was liable for failure to withhold

A partnership that has income which is effectively connected with a US trade or business must withhold tax from the effectively connected income allocable to non-US partners. The court found that YA was an independent agent of the fund and the fund's gain was attributable to YA's US office and the US office was a material factor in generating that income. Accordingly, was required to withhold tax.

AUTHORS

Paul DePasquale
Partner
+ 1 212 626 4230
paul.depasquale@bakermckenzie.com

Lyubomir Georgiev
Partner
+ 41 79 448 70 19
lyubomir.georgiev@bakermckenzie.com

Richard Lipton
Senior Counsel
+ 1 312 375 2845
richard.lipton@bakermckenzie.com

Marharyta Bahno
Associate
+ 1 212 626 4475
marharyta.bahno@bakermckenzie.com

Lily Kang
Associate
+ 41 79 372 38 00
lily.kang@bakermckenzie.com

Ryan Sciortino
Associate
+ 41 79940 49 09
ryan.sciortino@bakermckenzie.com

Article

IRS targets sports partnership losses

Legendary UCLA basketball coach, John Wooden, said "when opportunity knocks, it's too late to prepare." The IRS announced a campaign targeting partnerships in the sports industry that have significant tax losses, and it's a good time to prepare.

The Sports Industry Losses campaign focuses on whether owners of sports franchises are properly reporting losses. Valuations of sports franchises have increased exponentially in recent years. The campaign comes amidst continued IRS focus on ultra-high net worth individuals, and follows a 2023 that saw record-setting sales of sports franchises.

Passive activity losses for sports owners

Owners of sports teams generate losses in several ways. As a partner in a sports partnership, the owner may benefit from depreciation deductions relating to the stadium and other fixed assets, and may also benefit from amortization deductions for media rights and player contracts, among others. Taxpayers are subject to several limitations on their ability to utilize losses, including basis limitations, at-risk rules, excess business losses, and passive activity loss rules.

The passive activity loss rules apply to individual, trusts and estates (and limited categories of corporations), including partners of partnerships and shareholders of S corporations. Individuals and trusts owning sports franchise partnerships are subject to these rules.

The passive activity loss rules only allow the taxpayer to use passive activity losses against passive income. To the extent that the taxpayer's passive activity losses exceed passive income, the passive activity loss is carried forward indefinitely. Passive loss carryovers are generally allowed when the owner sells their interest in the team.

In sports and taxes (and comedy), timing is everything. Navigating the passive activity loss rules, and other loss limitations, can have a significant impact on the owner's tax position.

What is a passive activity?

A passive activity is a trade or business in which the taxpayer does not "materially participate." There are different tests to determine whether a taxpayer materially participates in a trade or business. Rental activities are generally always passive activities. Passive activities are trade or business activities. Income from portfolio investments is not passive income for this purpose and cannot be offset by passive activity losses.

Material participation

If an owner materially participates in a trade or business, losses from that trade or business are not subject to the passive activity loss limitation. The owner's participation must be regular, continuous and substantial. Under the regulations, a taxpayer materially participates in an activity if they can meet one of the following tests:

- More than 500 hours of participation during the year
- The individual's participation is substantially all of the participation in the activity of all individuals (including non-owners) during the year
- More than 100 hours of participation during the year but that is equal to or more than any other individual's participation
- The activity is a "significant participation activity" and the taxpayer has more than 500 hours in significant participation activities during the year
- Material participation for five out of the 10 preceding years
- Material participation in certain personal service activities for any three prior years
- The facts and circumstances demonstrate that the individual participates on a regular, continuous, and substantial basis

Whether a taxpayer materially participates in an activity is determined each year and the results may change from year to year.

Takeaways

Ownership is a significant activity requiring major time and energy commitments. Owners may be regularly meeting the participation thresholds. Documentation and recordkeeping are critical, particularly when defending or preparing in advance of an IRS examination. The IRS' Sports Industry Loss campaign is a further step targeting ultra-high net worth individuals and partnerships. Sports partnerships and owners should evaluate loss positions and loss planning opportunities for tax efficiency and mitigating risk. John Wooden also said that "failing to prepare is preparing to fail," and that's as true in tax as it is basketball.

AUTHORS

Paul DePasquale
Partner
+ 1 212 626 4230
paul.depasquale@bakermckenzie.com

Mathew Slootsky
Associate
+ 1 305 789 8967
mathew.slootsky@bakermckenzie.com

Article

Canada Revenue Agency's guidance on the new trust reporting rules

In brief

The Canada Revenue Agency (CRA) has recently published an FAQ page regarding the new trust reporting rules applicable to trust taxation years ending after December 30, 2023.

In summary, the new rules impose a filing obligation on certain trusts that previously did not have a filing requirement and subject all affected trusts to enhanced reporting requirements. They apply to nonresident trusts that previously had to file an annual income tax return - T3 Trust Income Tax and Information Return ("T3 Return") and certain trusts that are resident in Canada (including bare trusts and deemed resident trusts). Such trusts will be required to report the identity of all trustees, beneficiaries and settlors of the trust, as well as anyone with the ability to exert control or override trustee decisions over the appointment of income or capital of the trust (e.g., a protector).

On March 28th 2024, the CRA announced that bare trusts are exempt from this filing requirement for the 2023 tax year, unless directly requested by the CRA for such filing.

Background

Initially introduced in the 2018 federal budget, the new rules aim to improve the collection of beneficial ownership information related to trusts and help the CRA assess the tax liability for trusts and their beneficiaries. These rules were originally planned to come into effect in 2021, but the implementation was ultimately deferred to taxation years ending after December 30 2023.

Under the old rules, a trust generally was only required to file a T3 Return if the trust had tax payable, disposed of a capital property or distributed any of its income or capital to its beneficiaries.

A trust that had no activity during the year and no tax payable generally was not required to file a T3 Return. Bare trusts were not obliged to file a T3 Return. In addition, trusts that were required to file a T3 Return do not have to identify all of the trust's beneficiaries.

The new rules

Starting from taxation years ending after December 30 2023, the new rules require nonresident trusts that previously were required to file a T3 Return under the old rules and certain trusts that are resident in Canada, to file a T3 Return to provide additional information, including the name, address, date of birth (for individuals), jurisdiction of residence and taxpayer identification number (TIN) of the following:

- The settlor of the trust
- Each of the trustees
- Each of the beneficiaries
- Anyone with the ability to exert control or override trustee decisions over the appointment of income or capital of the trust (e.g., a protector)

The required information needs to be filed as a new schedule (Schedule 15 — Beneficial Ownership Information of a Trust) along with the T3 Return. It cannot be filed on its own.

Notably, the new rules are explicitly extended to bare trusts (i.e., trust arrangement where the trustee can reasonably be considered to act as agent for the beneficiaries).

The following trusts may be exempt from the new disclosure obligations:

- Mutual fund trusts, segregated funds and master trusts Trusts where all the units are listed on a designated stock exchange
- Trusts governed by registered plans (e.g., registered pension plans, registered retirement savings plans, tax-free savings accounts, etc.)
- Employee health and life trusts
- Lawyers' general trust accounts
- Graduated rate estates and qualified disability trusts
- Trusts that qualify as nonprofit organizations or registered charities
- Trusts that have been in existence for less than three months
- Trusts that hold less than CAD 50,000 in assets (limited to deposits, government debt obligations and listed securities) throughout the taxation year

Failure to file the T3 Return including the new Schedule 15 would result in a penalty of CAD 25 per day of delinquency (with a minimum penalty of CAD 100 and maximum penalty of CAD 2,500). If such failure is made knowingly, or if there is gross negligence, an additional penalty of 5% of the maximum fair market value of the trust's assets (with a minimum penalty of CAD 2,500) could be imposed. Existing penalties in relation to the T3 Return will continue to apply.

Bare trust

A bare trust refers to a trust arrangement where the trustee can reasonably be considered to act as agent for the beneficiaries of the trust in relation to all dealings with the trust's property. The trustee's only function is to hold the legal title of the property. The trustee has no significant power or responsibilities over the property and only acts on the beneficiaries' instructions. Examples of a bare trust include a nominee's legal title to real estate, funds held in escrow, accounts in trust (an account managed by the account holder for the beneficiary), etc.

For the 2023 tax year, bare trusts are not required to file the T3 Return and Schedule 15, unless directly requested by the CRA to do so. The CRA will further clarify its guidance on the new reporting requirements for bare trusts over the coming months.

Key message

Due to the new trust reporting and disclosure rules, trusts that had no reporting and disclosure obligations on the basis that they had no tax payable and no activity during the year could be caught under the new rules and required to file a T3 Return. Information not previously required would now have to be complied and disclosed. Trustees should work with their advisers to identify the trust arrangements that would be subject to the new reporting obligations and understand the scope of the new reporting requirements.

AUTHOR

Andrew Morreale
Partner
+ 1 416 814 3304
andrew.morreale@bakermckenzie.com

Josephine Chuk
Tax Advisor
+ 1 416 814 3302
josephine.chuk@bakermckenzie.com

Around the world

Austria - Introducing a new type of legal entity - Flexible company

Enhancing flexibility:Austria has introduced the flexible company (Flexible Kapitalgesellschaft, "FlexCo") as a new type of legal entity. After years of efforts to make its corporate law landscape more attractive to founders and venture capital investors, the Austrian legislator enacted a legislative package in December 2023. It will become effective as of 1 January 2024.

READ MORE

Authors:
Claudia Fochtmann-Tischler
Sophie Schubert
Philipp Stanek
Ladislav Bulajcsik

France - Equity warrants (Bons de Souscription d'Actions, "BSA") and management packages: New decision by the French Supreme Courty

In line with the Barrière case law of 2019 (Cass. civ. 2e, April 4, 2019, no. 17-24.470), the Supreme Court has decided on 28 September 2023, that the issuance of BSA to executives or corporate officers generates a benefit that should be included in the basis for social security contributions. In addition, the Supreme Court reverses its previous decision concerning the taxable event, requiring the benefit to be assessed at the date of sale or "realization" of the BSA.

READ MORE

Authors:
Agnès Charpenet
Julie Rueda
Guillaume DeruyPauline Thiault

France - The provision of real estate assets free of charge by a foreign company does not constitute a profit-making activity

The French Tax Supreme Court has ruled that the provision of a French real estate asset free of charge for the benefit of third parties, by a Limited Liability Company incorporated under US law, does not constitute a profit-making activity likely to subject the company to corporate income tax.

READ MORE

Authors:
Virginie Louvigne
Philippe Fernandes
Meriem Ladhari

France - New limit for the valuation of company shares subject to the French Real Estate Wealth Tax - Only debts relating to a taxable asset may be taken into account

As of the French real estate wealth tax for 2024, debts contracted by companies that do not relate to a taxable asset can no longer be taken into account for the valuation of taxable shares subject to the wealth tax. This new limit aligns the deductibility rules with those applicable to debts contracted directly by the taxpayer

READ MORE

Authors:
Philippe Fernandes
Pauline Thiault

France - Reduction of the allowance for the rental of furnished tourism properties

Article 45 of the Finance Law for 2024 modifies the tax regime applicable to the rental of non-classified furnished tourism properties by providing that the micro regime will lead to the application of a 30% flat allowance (instead of 50%), and that the latter will be applicable if gross revenues do not exceed EUR 15,000 (instead of EUR 188,700). The government has mistakenly kept this senatorial amendment and asserted that a tax instruction will enable taxpayers to benefit from the previous tax rules for 2023 income.

READ MORE

Authors:
Agnès Charpenet
Philippe Fernandes

Brazil - Brazil: Bill of Law proposes progressive rates of up to 8% for ITCMD (Estate and Gift Tax) in the state of Sao Paulo

---

Bill of Law No. 7 of 2024 ("PL 7/2024"), proposed by State Representative Donato, aims at the amendment of State Law 10.705 of 2000, which provides for Estate and Gift Tax (so called "ITCMD") in São Paulo, to establish progressive rates of up to 8%

READ MORE

Authors:
Clarissa Machado*
Flavia Gerola*

*Trench Rossi Watanabe and Baker McKenzie have executed a strategic cooperation agreement for consulting on foreign law.

United States - Notice 2024-16 confirms inbound basis bump under section 961(c)

On 28 December 2023, Treasury and the IRS released Notice 2024-16 ("Notice") announcing their intent to issue proposed regulations addressing the treatment of basis under section 961(c) in certain inbound nonrecognition transactions in which a domestic corporation acquires the stock a controlled foreign corporation (CFC) from another CFC.

READ MORE

Authors:
Matthew Jenner
Jason Law

United States - Treaty allows for foreign tax credit against net investment income tax

In Christensen v. United States, the Court of Federal Claims held that a husband and wife could credit French income taxes against their US net investment income tax. No. 20-935Y (Fed. Cl. 2023). Christensen has an immediate and direct impact on taxpayers who are subject to the 3.8% net investment income tax.

READ MORE

Authors:
Paul DePasquale
Imke Gerdes

Malaysia - Introduction of capital gains tax on profits from disposal of capital assets

Since the publication of our client alert on tax highlights of the Malaysian Budget 2024, the Finance (No. 2) Act 2023 ("Finance Act 2023") has been passed by Malaysia's Parliament and gazetted into law on 29 December 2023. The Finance Act 2023 sets out the provisions, via amendments to the Income Tax Act 1967 ("ITA"), for implementing capital gains tax (CGT) on gains or profits from the disposal of capital assets.

READ MORE

Authors:
Adeline Wong
Shaun Lee

Taiwan - Ministry of Finance Issued Letter Ruling on the Application of CFC Taxation to Trusts

The Ministry of Finance ("MOF") issued a Letter Ruling (No. 11204665340) on 4 January 2024 ("Ruling"), clarifying the current "Regulations Governing Application of Income

READ MORE

Authors:
Michael Wong
Peggy Chiu

Thailand - Board of Investment issues new investment promotion measures

On 7 February 2024, the Thailand Board of Investment (BOI) issued several investment promotion measures

READ MORE

Authors:
Pornapa Luengwattanakit
Jaywon Yi
Chana Sooppipat
Natthanit Mallikamal

Wealth management regional contacts

ASIA PACIFIC

Australia

Melbourne
Level 19 CBW
181 William Street
Melbourne Victoria 3000
Australia
Tel: +61 3 9617 4200
Fax: +61 3 9614 2103
John Walker

Sydney
Tower One - International Towers Sydney
Level 46, 100 Barangaroo Avenue
Sydney NSW 2000
Australia
Tel: +61 2 9225 0200
Fax: +61 2 9225 1595
John Walker

China

Beijing
Suite 3401, China World Office 2,
China World Trade Center
1 Jianmguomenwai Dajie
Beijing 100004,
People's Republic of China
Tel: +86 10 6535 3800
Fax: +86 10 6505 2309
Jason Wen

Shanghai
Unit 1601, Jin Mao Tower,
88 Century Avenue, Pudong,
Shanghai 200121
People's Republic of China
Tel: +86 21 6105 8558
Fax: +86 21 5047 0020
Nancy Lai

Hong Kong

Hong Kong
14th Floor, One Taikoo Place,
979 King's Road, Quarry Bay,
Hong Kong SAR
Tel: +852 2846 1888
Fax: +852 2845 0476
Steven Sieker
Pierre Chan
Noam Noked
Lisa Ma

Indonesia

Jakarta
HHP Law Firm
Pacific Century Place, Level 35
Sudirman Central Business District Lot 10
Jl. Jendral Sudirman Kav 52-53
Jakarta 12190
Indonesia
Tel: +62 21 2960 8888
Fax: +62 21 2960 8999
Ria Muhariastuti

Japan

Tokyo
Ark Hills Sengokuyama Mori Tower, 28th Floor
1-9-10, Roppongi, Minato-ku
Tokyo 106-0032
Japan
Tel: +81 3 6271 9900
Fax: +81 3 5549 7720
Edwin Whatley
Ryutaro Oka

Malaysia

Kuala Lumpur
Wong & Partners,
Level 21, The Gardens South Tower
Mid Valley City
Lingkaran Syed Putra
Kuala Lumpur 59200
Malaysia
Tel: +60 3 2298 7888
Fax: +60 3 2282 2669
Istee Cheah
Adeline Wong

Philippines

Manila
Quisumbing Torres,
16th Floor, One/NEO Building
26th Street Corner 3rd Avenue
Crescent Park West
Bonifacio Global City
Taguig City 1634
Philippines
Tel: +63 2 8819 4700
Fax: +63 2 8816 0080; 7728 7777
Kristine Anne Mercado-Tamayo

Singapore

Singapore
8 Marina Boulevard
#05-01 Marina Bay Financial Centre Tower 1
Singapore 018981
Singapore
Dawn Quek
Enoch Wan
Jaclyn Toh
Pamela Yeo

Taiwan

Taipei
15th Floor, Hung Tai Center
168 Dunhua North Road
Taipei 105405
Taiwan
Tel: +886 2 2712 6151
Fax: +886 2 2712 8292
Michael Wong
Dennis Lee
Peggy Chiu

Thailand

Bangkok
25th Floor
Abdulrahim Place
990 Rama IV Road
Bangkok 10500
Thailand
Tel: +66 2666 2824
Fax: +66 2666 2924
Panya Sittisakonsin
Nitikan Ramanat

Vietnam

Hanoi
Unit 1001, 10th floor, Indochina Plaza Hanoi
241 Xuan Thuy Street, Cau Giay District
Hanoi 10000
Vietnam
Tel: +84 24 3825 1428
Fax: +84 24 3825 1432
Thanh Hoa Dao

EUROPE, MIDDLE EAST & AFRICA

Austria

Vienna
Schottenring 25
1010 Vienna, Austria
Tel: +43 1 24 250
Fax: +43 1 24 250 600
Christoph Urtz

Bahrain

Manama
18th Floor, West Tower
Bahrain Financial Harbor
PO Box 11981, Manama
Kingdom of Bahrain
Tel: +973 1710 2000
Fax: +973 1710 2020
Ian Siddell

Belgium

Brussels
Manhattan
Bolwerklaan 21 Avenue du Boulevard
Brussels 1210
Belgium
Tel: +32 2 639 36 11
Fax: +32 2 639 36 99
Alain Huyghe
Julie Permeke

Czech Republic

Prague
Praha City Center,
Klimentská 46
Prague 110 00
Czech Republic
Tel: +420 236 045 001
Fax: +420 236 045 055
Eliska Kominkova

France

Paris
1 rue Paul Baudry
75008 Paris, France
Tel: +33 1 44 17 53 00
Fax: +33 1 44 17 45 75
Agnès Charpenet
Philippe Fernandes
Pauline Thiault
Julie Rueda

Germany

Berlin
Friedrichstrasse 88/Unter den Linden
10117 Berlin
Germany
Tel: +49 30 22 002 810
Fax: +49 30 22 002 811 99
Wilhelm Hebing

Frankfurt
Bethmannstrasse 50-54
60311 Frankfurt/Main,
Germany
Tel: +49 69 29 90 8 0
Fax: +49 69 29 90 8 108
Sonja Klein
Ludmilla Maurer

Hungary

Budapest
Dorottya utca 6.
1051 Budapest
Hungary
Tel: +36 1 302 3330
Fax: +36 1 302 3331
Gergely Riszter
Timea Bodrogi

Italy

Milan
Piazza Meda, 3
Milan 20121,
Italy
Tel: +39 02 76231 1
Fax: +39 02 76231 620
Francesco Florenzano
Barbara Faini

Rome
Viale di Villa Massimo, 57
00161 Rome, Italy
Tel: +39 06 44 06 31
Fax: +39 06 44 06 33 06

Luxembourg

Luxembourg
10-12 Boulevard Roosevelt
L-2450 Luxembourg
Tel: +352 26 18 44 1
Fax: +352 26 18 44 99
Diogo Duarte de Oliveira
Amar Hamouche
Elodie Duchene
Olivier Dal Farra
Miguel Pinto de Almeida
Andrea Addamiano
Elisa Ortuno
Christophe Martin-Raynaud

Morocco

Casablanca
Ghandi Mall - Immeuble 9
Boulevard Ghandi
20380 Casablanca
Morocco
Tel: +212 522 77 95 95
Fax: +212 522 77 95 96
Kamal Nasrollah
Keltoum Boudribila

Poland

Warsaw
Rondo ONZ 100-124
Warsaw, Poland
Tel: +48 22 445 31 00
Fax: +48 22 445 32 00
Piotr Wysocki

Qatar

Doha
Al Fardan Office Tower
8th Floor, Al Funduq 61
Doha, Qatar
Tel: +974 4410 1817
Fax: +974 4410 1500
Ian Siddell

Saudi Arabia

Jeddah
Advisers (Abdulaziz I. AlAjlan & Partners in association with Baker & McKenzie Limited)
Bin Sulaiman Center
6th Floor, Office No. 606
Al Khalidiyah District, P.O. Box 40187
Prince Sultan St. and Rawdah St. Intersection
Jeddah 21499
Saudi Arabia
Tel: +966 12 606 6200
Fax: +966 12 692 8001
Basel Barakat

Riyadh
Legal Advisers (Abdulaziz I. AlAjlan & Partners in association with Baker & McKenzie Limited)
Olayan Complex
Tower II, 3rd Floor
Al Ahsa Street, Malaz
P.O. Box 69103
Riyadh 11547
Saudi Arabia
Tel: +966 11 265 8900
Fax: +966 11 265 8999
Karim Nassar

EUROPE, MIDDLE EAST & AFRICA

Spain

Barcelona
Avda. Diagonal, 652
Edif. D, 8th Floor
Barcelona 08034
Spain
Tel: +34 93 206 0820
Fax: +34 93 205 4959
Bruno Dominguez
Esteban Raventos
Davinia Rogel
Meritxell Sanchez

Madrid
Edificio Beatriz
Calle de José Ortega y Gasset, 29
Madrid 28006
Spain
Tel: +34 91 230 4500
Fax: +34 91 391 5149
Luis Briones
Antonio Zurera
Jaime Martínez-Íñiguez
Esther Hidalgo
Bruno Keusses
Jaime Canovas
María Concepcíon

South Africa

Johannesburg
1 Commerce Square
39 Rivonia Road
Sanhurst
Sandton
Johannesburg, South Africa
Tel: +27 11 911 4300
Fax: +27 11 784 2855
Denny Da Silva

Sweden

Stockholm
P.O. Box 180
SE-101 23 Stockholm
Sweden

Visiting address:
Vasagatan 7, Floor 8
SE-111 20 Stockholm
Sweden
Tel: +46 8 566 177 00
Fax: +46 8 566 177 99
Linnea Back

Switzerland

Geneva
Esplanade Pont-Rouge 2
Grand-Lancy, Geneva 1212
Switzerland
Tel: +41 22 707 9800
Fax: +41 22 707 9801
Elliott Murray
Nathan Bouvier

Zurich
Holbeinstrasse 30
Zurich 8034
Switzerland
Tel: +41 44 384 14 14
Fax: +41 44 384 12 84
Marnin Michaels
Lyubomir Georgiev
Susanne Liebel-Kotz
Richard Gassmann
Andrea Bolliger
Caleb Sainsbury
Mathieu Wiener
Ryan Sciortino
Lily Kang
Tomislav Krmek
Christiana Desrosiers
Ivan Atochin

The Netherlands

Amsterdam
Claude Debussylaan 54
1082 MD Amsterdam
P.O. Box 2720
1000 CS Amsterdam
The Netherlands
Tel: +31 20 551 7555
Fax: +31 20 626 7949
Maarten Hoelen
Isabelle Bronzwaer

Turkey

Istanbul
Esin Attorney Partnership
Ebulula Mardin Cad.,
Gül Sok. No.2, Maya Park
Tower 2, Akatlar-Beşiktaş
Istanbul 34335, Turkey
Tel: +90 212 339 8100
Fax: +90 212 339 8181
Erdal Ekinci
Gunes Helvaci

Ukraine

Kyiv
Operating remotely
Hennadiy Voytsitskyi
Roman Koren

United Arab Emirates

Abu Dhabi
Level 8, Al Sila Tower
Abu Dhabi Global Market Square
Al Maryah Island, P.O. Box 44980
Abu Dhabi
United Arab Emirates
Tel: +971 2 696 1200
Fax: +971 2 676 6477
Borys Dackiw

Dubai
Level 14, O14 Tower
Al Abraj Street
Business Bay, P.O. Box 2268
Dubai
United Arab Emirates
Tel: +971 4 423 0000
Fax: +971 4 447 9777
Mazen Boustany
Stephanie Samuell
Reggie Mezu
Ben Phillips

United Kingdom

London
280 Bishopsgate
London EC2M 4RB
United Kingdom
Tel: +44 20 7919 1000
Fax: +44 20 7919 1999
Ashley Crossley
Anthony Poulton
Gemma Willingham
Yindi Gesinde
Phyllis Townsend
Christopher Cook
Alfie Turner
Rachael Cederwall
Luke Richardson
Pippa Goodfellow
Oliver Stephens

LATIN AMERICA

Argentina

Buenos Aires
Cecilia Grierson 255, 6th Floor
Buenos Aires C1107CPE
Argentina
Tel: +54 11 4310 2200
Fax: +54 11 4310 2299
Martin Barreiro
Gabriel Gomez-Giglio

Brazil

Sao Paulo
Trench Rossi Watanabe
Rua Arq. Olavo Redig de Campos, 105 – 31th floor
Edifício EZ Towers Torre A – 04711-904
São Paulo - SP - Brazil
Tel: +55 11 3048 6800
Fax: +55 11 5506 3455
Alessandra S. Machado
Simone Musa
Adriana Stamato
Clarissa Machado
Flavia Gerola
Marcelle Silbiger

Chile

Santiago
Avenida Andrés Bello 2457, Piso 19
Providencia, CL 7510689
Santiago
Chile
Tel: +56 2 2367 7000
Alberto Maturana

Colombia

Bogota
Carrera 11 No. 79-35 piso 9
Bogotá, D.C. 110221
Colombia
Tel: + 57 60 1 634 1500; + 57 60 1 644 9595
Ciro Meza
Juan David Velasco

Peru

Lima
Estudio Echecopar
Av. Los Conquistadores 1118
Piso 6, San Isidro 15073
Peru
Tel: +51 1 618 8500
Fax: + 51 1 372 7374
Rolando Ramirez Gaston

Mexico

Mexico City
Edificio Virreyes
Pedregal 24, 12th floor
Lomas Virreyes / Col. Molino del Rey
México City, 11040
Mexico
Tel: +52 55 5279 2900
Fax: +52 55 5279 2999
Jorge Narvaez-Hasfura
Javier Ordonez-Namihira
Lizette Tellez-De la Vega

Venezuela

Caracas
Centro Bancaribe, Intersección
Avenida Principal de Las Mercedes
con inicio de Calle París,
Urbanización Las Mercedes
Caracas 1060
Venezuela
Tel: +58 212 276 5111
Fax: +58 212 993 0818; 993 9049
Ronald Evans

NORTH AMERICA

Canada

Toronto
181 Bay Street
Suite 2100
Toronto, Ontario M5J 2T3,
Canada
Tel: +1 416 863 1221
Fax: +1 416 863 6275
Jacques Bernier
Josephine Chung

United States

Chicago
300 East Randolph Street
Suite 5000
Chicago, Illinois 60601
United States
Tel: +1 312 861 8800
Fax: +1 312 861 2899
Richard Lipton

Dallas
1900 North Pearl Street
Suite 1500
Dallas, Texas 75201
United States
Tel: +1 214 978 3000
Fax: +1 214 978 3099
Bobby Albaral

Houston
700 Louisiana
Suite 3000
Houston, Texas 77002
United States
Tel: +1 713 427 5000
Fax: +1 713 427 5099
Rodney Read

Miami
1111 Brickell Avenue
Suite 1700
Miami, Florida 33131
United States
Tel: +1 305 789 8900
Fax: +1 305 789 8953
James Barrett
Bobby Moore
Pratiksha Patel
Matthew Slootsky

New York
452 Fifth Avenue
New York, New York 10018
United States
Tel: +1 212 626 4100
Fax: +1 212 310 1600
Simon Beck
Paul DePasquale
Glenn Fox
Rebecca Lasky
Olga Sanders

Palo Alto
600 Hansen Way
Palo Alto, California 94304
United States
Tel: +1 650 856 2400
Fax: +1 650 856 9299
Scott Frewing

Washington, DC
815 Connecticut Avenue, N.W.
Washington, District of Columbia 20006
United States
Tel: +1 202 452 7000
Fax: +1 202 452 7074
George Clarke

Editorial contacts

For further information regarding the newsletter, please contact:

Laetitia Lory
Paris
+33 (0) 1 44 17 53 00
Laetitia.Lory@bakermckenzie.com

Sinéad McArdle
Belfast
+44 28 9555 5574
Sinead.McArdle@bakermckenzie.com

Elliott Murray
Managing Editor,
Geneva
+41 22 707 98 39
Elliott.Murray@bakermckenzie.com

Phyllis Townsend
Co-editor,
London
+44 20 7919 1360
Phyllis.Townsend@bakermckenzie.com

Peggy Chiu
Asia Pacific Regional Editor,
Taipei
+886 2 2715 7282
Peggy.Chiu@bakermckenzie.com

Gemma Willingham
EMEA Regional Editor,
London
+44 20 7919 1527
Gemma.Willingham@bakermckenzie.com

Martin Barreiro
Latin America Regional Editor,
Buenos Aires
+54 11 4310 2230
Martin.Barreiro@bakermckenzie.com

Rodney Read
North America Regional Editor
Houston
+1 713 427 5053
Rodney.Read@bakermckenzie.com

Baker McKenzie delivers integrated solutions to complex challenges.

Complex business challenges require an integrated response across different markets, sectors and areas of law. Baker McKenzie's client solutions provide seamless advice, underpinned by deep practice and sector expertise, as well as first-rate local market knowledge. Across more than 70 offices globally, Baker McKenzie works alongside our clients to deliver solutions for a connected world.

bakermckenzie.com