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Welcome

Oliver Biernat

Dear Reader,

Oliver Biernat is Founder and Managing Partner of Benefitax. He is a German Chartered Accountant, Certified Tax Advisor and Specialist Advisor for International Taxation with more than 30 years of experience. Since 2008, he has chaired GGI's International Taxation Practice Group (ITPG), increasing its size to more than 645 experts from 90 countries in the process. **Contact Oliver**.

With wars going on and disruptive rulers at the head of powerful countries, it is not easy to continue the efforts of tax harmonisation and exchange of information between many countries. After the US have announced that they will exit the minimum taxation rules and will even punish European groups of companies that will apply those rules on US companies, it becomes increasingly important to look at the individual tax laws of each country.

This publication aims at providing guidelines on steering your businesses in various jurisdictions tax-wise. The authors all belong to member firms of the GGI alliance and are ready to work together on cross-border issues or recommend an expert in the country of need. In this publication they summarise up-to-date developments in tax law for you so that you can react in time. If you need more information, please feel free to contact the author directly.

Topics cover among other things the question of deductibility of interest on intragroup loans in Georgia, how the European Union wants to stop evasion of withholding taxes on dividends with dividend stripping, how to use the corporate dividend exemption regime as a small company in UK, changes to the foreign resident capital gains withholding regime in Australia, tax incentives for foreign businesses in Mexico, if different tax regimes for individuals moving to Italy could be combined, risks of hiring freelancers in the Netherlands, tax pitfalls of waiver of shareholder loans in Germany, how a judgement of the Court of Justice of the European Union opened up the

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possibility of benefiting from corporate income tax (CIT) exemptions for all foreign funds invested in Poland, and finally implications from the end of the UK Non-Dom Regime.

Enjoy reading.

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Internationally controlled transactions in Georgia

Makuna Esakia

Internationally controlled transactions in Georgia

by **Makuna Esakia**

Makuna Esakia serves as the Operations Manager of the Accounting Department at TMC. She leads a team of skilled accountants, overseeing tax and financial matters to ensure compliance and efficiency. **Contact Makuna**.

Reclassification of loans as equity in internationally controlled transactions

The valuation of internationally controlled transactions, commonly referred to as **transfer pricing**, is a critical tax consideration for **Georgian companies** engaged in business activities with foreign-related entities and/or offshore companies, regardless of their relationship.

On 02 October 2024, an amendment was introduced to the instruction “on the Valuation of Internationally Controlled Transactions”, originally approved by Order No. 423 of the Minister of Finance. This amendment establishes a formal procedure for reclassifying a loan as a capital contribution.

Key changes and implications

Under the revised framework, the Georgian Revenue Service has the authority to reclassify a loan obtained from a founder or other related parties as a capital contribution if certain criteria are met. As a result, **any interest paid on such reclassified loans will be fully subject to profit tax**.

According to Georgian tax legislation, a loan encompasses various financial instruments, including:

- Credit/loan agreements;
- Overdrafts;
- Letters of credit;
- Credit lines;
- Guarantees; and
- Debt securities.

Criteria for reclassifying a loan as a capital contribution

For tax assessment purposes, the following criteria will be considered to determine whether a loan transaction should be reclassified as a

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capital contribution:

1. **Fixed repayment schedule:** Does the loan have a predefined repayment schedule for the principal and interest, aligned with market conditions?
2. **Interest obligation:** Is the borrower contractually required to pay interest?
3. **Enforceability:** Does the loan agreement include enforcement mechanisms in case of default?
4. **Borrower's capital structure:** Is the borrower's **loan-to-equity ratio** within an accepted market range?
5. **Necessity and use of funds:** Is there a genuine need for the loan, and are the funds being used accordingly?
6. **Management participation:** Does the lender have rights that influence the borrower's strategic or operational decisions?
7. **Financial capacity:** Does the borrower generate sufficient **operating profit** to meet its loan obligations?

If at least **three of these criteria** are met, the Revenue Service may requalify the loan as a capital contribution.

Effective date and business impact

This regulatory amendment **does not apply to loans issued before 01January 2025**. However, it introduces a more **stringent framework for evaluating international transactions**, significantly impacting foreign investors looking to establish and finance businesses in Georgia through loan mechanisms.

For businesses engaged in cross-border financing, understanding these changes is essential to ensure compliance tax efficiency.

The European Union's blow to dividend stripping

María Calle

The European Union's blow to dividend stripping

by **María Calle**

María Calle is an economist with a degree in Business Administration from Universidad San Pablo CEU and holds a Master's in Financial Management and Direction. She began her career at a Madrid law firm advising SMEs and freelancers, later working in banking and real estate, specialising in client service and commercial advice. **Contact María**.

What is dividend stripping?

Dividend stripping involves temporarily transferring shares of companies from a domestic investor to a foreign one so that, when dividends are paid, the withholding tax in the country of origin is avoided.

The purpose is to evade withholding tax on dividends to reduce the tax burden. When the sole purpose is to avoid withholding taxes, these actions may be considered an abuse of rights or a conflict in the application of tax regulations. This can be determined when the same number of shares is repurchased after the company has distributed dividends.

A typical case can be illustrated with the following example:

A Spanish investor purchases shares of a Spanish company that distributes dividends. Before the dividend distribution, the investor sells the shares with a repurchase option to a foreign investor. After the dividend is distributed, the Spanish investor buys back the shares, thereby avoiding part of the tax burden, or, at the very least, deferring the payment of taxes on the potential profit obtained from the price difference between buying and selling.

For this scheme to work, there must be an agreement between the buyer and seller. After the sale and repurchase transactions, the domestic and foreign investors share the benefits gained by avoiding taxation. Normally, the Spanish investor would face a 19% withholding tax on these dividends. However, for investors from other countries with double taxation agreements, the withholding tax may be reduced or even eliminated.

In summary, the Spanish investor avoids the withholding tax this way.

The European Union, however, wants to put an end to these undertakings and is making rapid progress toward implementing what it calls the **Faster Directive.**

This EU regulation proposes that "financial agreements involving securities transactions must be reported" so the legitimacy of such operations can be verified. Additionally, the directive will introduce a **"single, harmonised, electronic certificate of tax residency across the EU, digitising all processes related to the withholding of dividends and interest"**. This aims to facilitate information exchange between the various tax authorities in Europe.

The directive is justified by the intention to improve the mobility of securities in the European market, making it instantaneous; and increasing its attractiveness by removing existing obstacles which currently slow down the payment of certain financial assets across countries. However, the true purpose of the Faster Directive is to deliver a decisive blow to dividend stripping and prevent the legitimate reduction of withholding taxes.

This directive, which received the approval of the European Council on 14 May 2024, is pending approval by the European Parliament before it can be definitively adopted by the Council.

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Navigating the UK's corporate dividend exemption regime as a small company

Arvinder Matharu

Navigating the UK's corporate dividend exemption regime as a small company

by **Arvinder Matharu**

Arvinder Matharu is a Partner in the tax department of Prager Metis. He focuses on providing tax consultancy on a range of issues to include trusts and estates, inheritance tax planning, capital gains tax, remittance basis and non-domiciled planning, residency planning, advising on R&D tax credits, review of tax minimisation strategies for US nationals living in the UK. Arvinder prides himself on explaining complex tax advice in a manner that the client can understand and take action from. **Contact Arvinder**.

The United Kingdom has long had a very attractive holding company regime. These attractions encompass one of the largest networks of double tax treaties (DTT) and no withholding tax on outbound dividends, to name but a few. One further appeal is the corporate dividend exemption regime which is the subject of this article. The regime is discussed in the context of "small companies" only. A different regime exists for companies that are not small, which is outside the scope of this article.

The basic rule is that dividends received by a small company are taxable (at rates of 19%/25%) whether they are received from a UK or an overseas company, unless they fall within one of the exempt categories.

A company is considered a "small company" if it has:

- Less than 50 staff, and

- Either
- A turnover not exceeding EUR 10 million, or
- A balance sheet total not exceeding EUR 10 million.

Complications arise where we need to aggregate staff numbers and financials of the payee company with the enterprises associated with it. A detailed analysis of these other enterprises would be required to determine whether the payee company is small.

Where the company is small, dividends received by it will be exempt if the following conditions are met:

1. The payer is a UK resident (or resident of a qualifying territory, which is broadly any jurisdiction with which the UK has a DTT that contains a non-discrimination clause). The company must have only one place of residence;

2. The dividend is not interest classed as a dividend;

3. No deduction is allowed to a resident of any territory outside the UK under the law of that territory in respect of that dividend; and

4. The dividend is not paid as part of a tax advantage scheme.

Whilst the conditions appear to be straightforward, there are some practical difficulties and traps for the unwary.

With condition a., and as mentioned previously, the paying company must have only place of residence. Suppose we have a US subsidiary of a UK holding company. The US subsidiary will be US resident under its incorporation rule. If, however, it is managed and controlled from the UK, it would also be UK resident and therefore a dual resident. In this scenario, condition a. will not have been met, and a dividend paid from the US subsidiary to the UK holding company would be liable to UK corporation tax.

Furthermore, with condition a., a treaty may contain a non-discrimination clause but HMRC (the UK tax authority) may not recognise it on the basis that it does not satisfy the criteria of a “qualifying territory”. In the view of the HMRC, the meaning of qualifying territory requires that the non-discrimination provision effects

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a “national of a state”. Jersey and Guernsey are two examples of territories that do not meet this definition. This is a trap for advisors who may not be aware of HMRC’s view.

If the exemption for a small company is not met, consideration should be given to claiming double tax relief.

Recent changes to the foreign resident capital gains withholding regime in Australia

Tony Nunes & Isabella Chin

Recent changes to the foreign resident capital gains withholding regime in Australia

by **Tony Nunes** & **Isabella Chin**

Isabella Chin

Tony Nunes

Australia's foreign resident capital gains withholding (**FRCGW**) regime is an integrity measure that first came into effect on 01 July 2016. Pursuant to Subdivision 14-D of Schedule 1 to the Taxation Administration Act 1953 (Cth), it imposes an obligation on a purchaser who acquires from a foreign resident a capital gains tax (CGT) asset consisting of:

- A taxable Australian real property (**TARP**);
- An indirect Australian real property interest; or
- An option or right to acquire such property or interest,

to withhold a percentage of the purchase price and remit that to the Australian Taxation Office (**ATO**).

Examples of TARP include assets such as vacant land, buildings, leases over real property, and mining, quarrying, or prospecting rights if the minerals, petroleum, or quarry materials are situated in Australia.

Until 31 December 2024, the FRCGW tax rate was 12.5% and applied to real property disposals or the grant of a lease (where a lease premium is paid), where the contract price or lease premium was AUD 750,000 or more.

Effective 01 January 2025, the FRCGW tax rate has increased from 12.5% to 15% and the AUD 750,000 property value threshold has been removed so the withholding

rules apply to all property sales and leases where a premium is paid.

Vendors of real estate can avoid FRCGW liability, but need to provide either a clearance certificate or a variation notice to purchasers under section 14-215 of Schedule 1 to the Taxation Administration Act 1953 (Cth).

Where the vendor is an Australian resident for tax purposes, the vendor may make an online application to the ATO to establish their tax residency status as an Australian and thus avoid the FRCGW. The clearance certificate is valid for 12 months from the date of issue. If a clearance certificate is not provided, FRCGW must be withheld from the sale proceeds by the purchaser and remitted to the ATO.

If the vendor is a foreign resident for tax purposes, they may incur capital gains tax on the sale of TARP. However, the foreign resident vendor may apply for an ATO variation to reduce the FRCGW rate potentially down to 0%.

Generally, the ATO may grant a variation to foreign residents for reasons such as the capital gains tax payable on the sale is less than 15% of the price, a double tax treaty applies between Australia and the foreign country of tax residence, or the transaction results in no capital gain due to a CGT rollover or exemption.

Purchasers must withhold 15% of FRCGW where no variation notice is provided by the foreign resident vendor at or before settlement. Foreign vendors who are not aware of this withholding tax may be surprised or potentially even experience cashflow issues.

Isabella Chin is a qualified CA, CTA and tax lawyer. She commenced her tax career with one of the "Big 4" accounting firms. She works with a diverse range of clients. Her areas of tax expertise include small business tax concessions, restructures, capital gains tax, and tax residency.
Contact Isabella.

Tony Nunes has over 25 years' experience in providing tax advice to clients, especially on issues affecting cross-border transactions, acquisitions and restructures, and on all aspects of structuring the ownership and financing of corporations and their operations. **Contact Tony**.

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Mexico’s new presidential decree: The Mexico Plan and tax incentives for foreign businesses

Prof Sergio Guerrero Rosas

Mexico's new presidential decree: The Mexico Plan and tax incentives for foreign businesses

by **Prof Sergio Guerrero Rosas**

Prof Sergio Guerrero Rosas, Managing Director at **Guerrero y Santana**, has over 25 years' experience advising companies from SMEs to multinationals, as well as individuals, on tax and estate planning. He is also Global Vice Chair of the GGI Trust & Estate Planning (TEP) Practice Group. **Contact Sergio**.

The Mexican government has introduced a new presidential decree, commonly referred to as the Mexico Plan, aimed at fostering economic growth and attracting foreign investment. The plan includes a series of tax incentives designed to enhance competitiveness and strengthen Mexico's position as a key global business hub. Given the evolving regulatory landscape, international businesses operating in or considering expansion into Mexico must stay informed about these new opportunities.

This initiative comes at a time when global trade policies are in flux, particularly with the renewed push by the Trump administration in the United States to impose tariffs on various imports. As protectionist policies create uncertainty for multinational corporations, Mexico's strategic approach to tax incentives may offer an alternative pathway for businesses seeking stability and cost-efficient operations in North America.

Key aspects of the Mexico Plan

The decree primarily focuses on stimulating investment in strategic industries, supporting infrastructure development, and promoting innovation. The government has identified key sectors – such as manufacturing, technology, and renewable energy – that will

benefit from enhanced fiscal incentives, making Mexico an increasingly attractive destination for foreign capital.

Tax incentives under the new decree

Several notable tax benefits have been introduced to encourage business development:

1. **Corporate income tax (CIT) reductions**

   Eligible businesses in priority sectors may receive a reduced CIT rate for a specified period, lowering the standard 30% rate to as low as 20%.

   Additional reductions apply to companies that invest in research and development (R&D) or infrastructure projects that align with Mexico's sustainability goals.

2. **Accelerated depreciation**

   The decree allows businesses to accelerate the depreciation of capital expenditures related to new investments, enabling faster recovery of costs and improving cash flow.

   It is worth noting that this incentive does not apply to items such as furniture and internal combustion engine vehicles.

3. **Value-added tax (VAT) exemptions and refunds**

   Companies engaged in export-oriented activities or operating within designated industrial corridors may benefit from VAT exemptions or expedited VAT refunds, reducing financial burdens on supply chain operations.

4. **Tax credits for employment and training**

   Businesses creating jobs in priority sectors and regions may qualify for employment-related tax credits.

   Additional incentives are available for companies investing in employee training and upskilling programs.

5. **Special regimes for nearshoring and strategic investments**

   The plan introduces specific incentives for foreign companies relocating supply chains to Mexico as part of nearshoring strategies.

   Tax breaks and regulatory streamlining apply to businesses establishing operations in designated economic zones and industrial parks.

Impact on foreign businesses

The Mexico Plan presents a significant opportunity for foreign companies to optimise their tax positions while contributing to Mexico's economic development. Businesses should assess their eligibility for these incentives and consider strategic investments that align with the government's priorities.

However, navigating these changes requires careful planning. Companies must ensure compliance with local tax laws and leverage professional guidance to maximise benefits. International tax advisors and legal experts can provide crucial support in structuring investments effectively within

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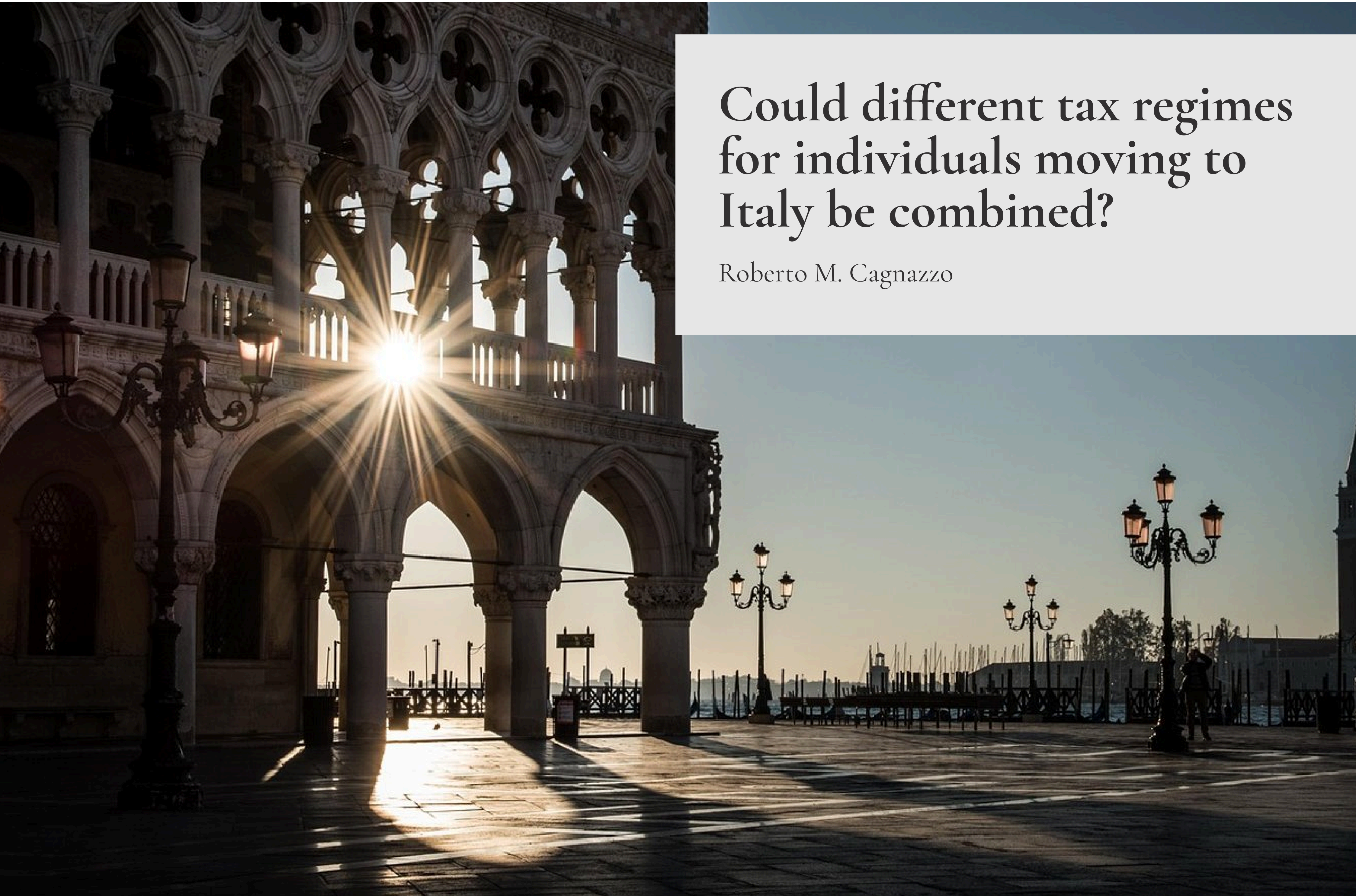
Mexico's evolving regulatory framework.

Conclusion

With its pro-investment approach, the Mexico Plan signals Mexico's commitment to fostering a more dynamic business environment. Foreign businesses looking to expand their footprint in Latin America should evaluate these new incentives and integrate them into their tax and operational strategies. As the US tightens trade policies through tariffs, Mexico's approach provides an alternative for companies looking to mitigate risks and maintain competitive supply chain advantages.

We remain at your service to provide further details and expert guidance on how your business can benefit from these incentives. Please do not hesitate to reach out for tailored advice and in-depth analysis suited to your needs.



Could different tax regimes for individuals moving to Italy be combined?

Roberto M. Cagnazzo

Could different tax regimes for individuals moving to Italy be combined?

by **Roberto M. Cagnazzo**

Roberto M. Cagnazzo, Founding Partner, is a chartered accountant and statutory auditor with considerable experience in domestic and international taxation acquired as Head of Tax in some of Italy's leading multinational groups, and as Professor of Comparative Tax Systems and of Tax Law at the University of Turin. **Contact Roberto**.

In ruling No. 16/2025 of 28 January 2025, the Italian tax authorities introduced a significant development regarding the compatibility of different tax-favourable regimes for individuals relocating to Italy. They confirmed that individuals can simultaneously benefit from both the new inbound workers' regime and the professors' regime within the same tax period, provided the income derives from different sources.

As a reminder:

- The **new inbound workers' regime** provides a 50% exemption on employment and self-employment income for individuals transferring their residence to Italy and committing to reside there for at least four years.
- The **professors' regime** grants a 90% exemption on employment and self-employment income for individuals transferring their residence to Italy to engage in teaching or research activities.

Previously, the cumulation of tax benefits was strictly regulated under the previous inbound workers' regime (applicable to individuals relocating to Italy by 31 December 2023), which prohibited the simultaneous use of the professors' regime. The Italian tax authorities confirmed the impossibility of applying two benefits within the same tax period, though they allowed for their application in different years.

The new inbound workers' regime is now governed by Legislative Decree No. 209/2023,

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replacing the previous Legislative Decree No. 147/2015. In this new context, ruling No. 16/2025 clarifies that, in the absence of an explicit regulatory exclusion, the new inbound workers' regime may be enjoyed in conjunction with other favourable regimes for those transferring their residence to Italy. Consequently, a taxpayer can benefit from multiple incentives within the same tax period.

This interpretation has been applied to the case of a taxpayer who moved to Italy in 2025 to simultaneously engage in:

- Self-employment as a dental surgeon, benefiting from the new inbound workers' regime (50% tax exemption); and
- Employment as a professor at an Italian university, benefiting from the professors' regime (90% tax exemption).

The principle expressed by Italian tax authorities appears to have a general scope, and, as such, could also apply to the relationship between the new inbound workers' regime and the new residents' regime, which provides for an annual substitute tax of EUR 200,000 on income produced abroad by individuals who transfer their residence to Italy. In this case, there would be no overlap, as the two tax benefits apply to income from different sources – Italian-source income for inbound workers, and foreign-source income for new residents.

However, the situation differs

when considering the relationship between the new residents' regime and the incentives for professors, as the law continues to expressly prohibit the accumulation of these benefits.

This broad interpretation could be relevant not only for individuals planning to return to Italy but also for those who moved back in 2024 and engage in two different activities. These individuals, not anticipating such an interpretation from the tax authorities, may have applied for only one tax relief within the same period, possibly opting for the inbound workers' regime due to its broader scope. However, they may now also be eligible for the parallel tax incentive on income derived from teaching and research activities.

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False self-employment in international business

Carijn van Helvoirt-Franssen

False self-employment in international business

by Carijn van Helvoirt-Franssen

Carijn van Helvoirt–Franssen completed her tax master's degree in 2014 and has worked in the (international) tax advisory practice for over 10 years. In 2020, she joined EJP and in daily practice, she focuses on (international) tax advice, M&A for larger SME companies in the Netherlands and abroad. **Contact Carijn**.

In September 2024 the Dutch government brought the so-called "false self-employment" issue back in the spotlight. The government announced that, after many years, it would start to enforce the rules regarding this issue from 01 January 2025. The announcement led to chaos in the labour market as businesses didn't want to contract freelancers anymore as that could lead to vast tax liabilities.

Independent contractors or employees

In the Netherlands many freelancers work as independent contractors, while their contract conditions may qualify them as employees (false self-employment). The difference in tax treatment between freelancers and employees is significant.

To determine the taxable status of a contracted individual, the legal qualification is leading. Dutch labour law considers three cumulative conditions for employment:

1. Personal labour by the employee;
2. Under instructions of an employer;
3. For remuneration.

If one of these conditions is not met, there is no employment contract but one of the fulfilment of contract work, i.e. a true "freelancer".

False self-employment arises when a freelancer works under circumstances (substance over form) that make them, in effect, employees. This has been recently demonstrated in case law in which the Dutch

Supreme Court ruled against major companies (Deliveroo and Uber) in labour law cases[1].

False self-employment – what's next?

As mentioned above, as of 01 January 2025, the Dutch tax authorities (DTA) can enforce Dutch tax law regarding false self-employment. This gives the DTA the power to requalify a freelancer as an employee. Consequently, the taxable status of the individual would change, and wage tax and social security premiums would be imposed on the employer. This can take place retrospectively – the claw back is in principle five years, but is capped at 01 January 2025 (meaning there is currently a few months' retrospective effect).

International context – additional challenges

In the international context, the requalification of freelancers to employees could have more consequences. Think of the categorisation of income under tax treaties: the allocation of taxable income between countries might be totally different in cases of a mismatch.

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Another issue may arise when freelancers are hired to avoid a permanent establishment, and they are requalified as employees. This could trigger a permanent establishment for the company and therefore tax liability in the Netherlands, transfer pricing issues, etc.

From a value-added tax (VAT) perspective, further corrections could be triggered as the individual formerly considered a freelancer may no longer be liable to register for VAT purposes and shouldn't have been in the first place, which in cross-border situations can lead to complex issues to resolve.

These are just a few examples of potential issues which could arise with this recent change, and there is a retrospective effect of 5 years.

Conclusion

Taking all the above into consideration, please be aware that, prior to hiring an independent contractor in the Netherlands, it is essential to consult a Dutch tax specialist to limit the risks of unpleasant tax surprises.

[1] Employees are protected by Dutch law, contractors aren't.

Tax pitfalls of waiver of shareholder loans with rising interest rates

Emre Sahin

Tax pitfalls of waiver of shareholder loans with rising interest rates

by **Emre Sahin**

Emre Sahin is a tax assistant at Benefitax GmbH. He will be taking his certified tax consultant exam this October. A Bachelor of Law with many years of professional experience in international taxation law, he provides complete tax consultancy and preparation of annual financial statements in accordance with German GAAP to various clients. **Contact Emre**.

The waiver of shareholder loans entails extensive tax risks. With strongly fluctuating market interest rates, the question arises regarding the correct valuation and taxation of such waivers.

Example

M-Ltd. holds 100% of the shares in T-GmbH and in 2024 waives a loan granted in 2020 with a 10-year term and an original arm's length interest rate of 3%. However, the current market interest rate is 6%, which means a third party would acquire the receivable for less than its nominal value. How is the waiver to be treated for tax purposes at T-GmbH?

1. **Balance sheet income and tax classification**

   The debt waiver leads to extraordinary income at the level of T-GmbH in the amount of the liability exemption and is considered a hidden contribution. A hidden contribution is an informal contribution made by a shareholder to the company which is considered a capital contribution for tax purposes, although the amount is deducted from profit off the balance sheet.

2. **Valuation of the hidden contribution – influence of interest rate development**

   The waiver is valued for tax purposes at the going-concern value. This corresponds to the amount that a third-party purchaser would pay. The decisive question is whether the increased market interest rate causes the partial value to fall below the nominal value.

The German Federal Finance Court (BFH) regularly denies a partial value write-down for fixed-interest securities due to increased market interest rates, as there is no permanent reduction in value. The valuation of shareholder loans is more complex, particularly in corporate groups where the equity-replacing nature and economic benefits play a role.

On the other hand, the BFH ruled in the case of business splits that the interest advantage alone is not decisive, but also the substance and earnings prospects of the working capital company. Some tax courts apply this to group loans, even without a business split. The Münster Fiscal Court argues that non-interest-bearing shareholder loans often serve to improve the earnings situation and increase the value of the investment, thus compensating for the lack of interest.

However, it remains questionable whether this can be applied to loans with an original interest rate at arm's length and with a subsequent interest advantage. This must be examined carefully on a case-by-case basis, as there is no legal regulation in this case, and various court rulings have come to different conclusions.

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3. **Correspondence principle and off-balance sheet corrections**

   The correspondence principle is of particular importance. If a tax expense is incurred abroad as a result of the debt waiver, the income of T-GmbH must be increased accordingly, unless a tax-neutral correction is made abroad as a hidden contribution. If this is the case, no off-balance sheet adjustment is to be made, contrary to the explanations above. This is a tax pitfall and should always be carefully checked by a German tax advisor.

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Equality for investment funds – CJEU judgment

Monika Lewińska & Piotr Prokocki

Equality for investment funds – CJEU judgment

by **Monika Lewińska** & **Piotr Prokocki**

Monika Lewińska

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In February 2025, the Court of Justice of the European Union (CJEU) issued a judgment which opened up the possibility of benefiting from corporate income tax (CIT) exemptions for all foreign funds invested in Poland.

Monika Lewińska deals with day-to-day services and support for business entities in the field of indirect taxes with a particular emphasis on value-added tax. **Contact Monica**.

Piotr Prokocki specialises in comprehensive tax services for M&A and develops effective structures for financing transactions, capital withdrawal, and profit distribution. **Contact Piotr**.

Controversial provisions

Investment funds are divided into two categories: externally managed funds, and internally managed funds. The former are managed by an external management company, while the latter are managed by their own board of directors.

Funds based in Poland operate exclusively under the external management model. At the same time, the Polish Corporate Income Tax Act provides a tax exemption for certain collective investment institutions based in EU/European Economic Area (EEA) countries. In order for foreign funds to benefit from the CIT exemption in Poland, they must meet several conditions, one of the most controversial being the

requirement for supervision by the relevant financial authorities in the fund's country of residence. As a result, foreign funds managed internally, i.e. those without an external manager, face difficulties in obtaining the CIT exemption in Poland.

CJEU clear ruling

The CJEU clearly stated that investment funds based in the EU/EEA, which are managed internally, will be eligible to apply for the CIT exemption on the same terms as externally managed funds.

The CJEU ruled that the method of fund management, whether internal or external, does not affect the ability to benefit from the tax exemption. The court concluded that provisions of EU member states that create such a distinction are contrary to Article 63(1) of the Treaty on the Functioning of the European Union (TFEU), which **guarantees the free movement of capital**.

Opportunities for foreign investment funds

Internally managed funds, which previously could not benefit from tax preferences (tax exemption), **can now apply for the CIT exemption** on equal terms as externally managed funds.

Funds that were previously unable to obtain the CIT exemption due to their internal management structure **may now request the reopening of concluded proceedings** and seek a refund of overpaid taxes along with interest.

Based on the judgment of the CJEU, funds that are still undergoing tax proceedings should **now demand the right to the tax exemption**, regardless of their management structure.

Funds that previously did not request a tax refund can now take advantage of the CJEU ruling and **apply for a refund of overpaid tax**, including interest.

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The end of the UK Non-Dom Regime: Key changes from April 2025

Alan Rajah

The end of the UK Non-Dom Regime: Key changes from April 2025

by Alan Rajah

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As of 06 April 2025, the UK has abolished domicile-based taxation, transitioning to a residence-based system. All UK residents are now subject to UK tax on their worldwide income and gains as they arise, marking the end of the remittance basis and essentially reshaping the tax landscape for internationally mobile individuals.

To ease transition, a 4-year Foreign Income and Gains (FIG) regime now exempts foreign income and gains from UK tax for new UK arrivals who have been non-UK tax residents for the past 10 years. This relief must be claimed via Self-Assessment and will expire after four years, after which worldwide taxation applies.

For those who previously used the remittance basis, a Capital Gains Tax (CGT) rebasing election allows foreign assets to be rebased to their market value as of 05 April 2017, ensuring only post-2017 gains are taxed. This applies to individuals who claimed the remittance basis between 2017/18 and 2024/25 and were not deemed domiciled before 2025.

A Temporary Repatriation Facility (TRF) permits pre-2025 untaxed foreign income and gains to be remitted at 12% in 2025/26 and 2026/27, increasing to 15% in 2027/28. After April 2028, all remittances will be taxed at standard rates.

The abolition of offshore trust protections means that, as of April 2025, foreign income and gains in settlor-interested offshore trusts are taxed on UK resident settlors as they arise. Beneficiaries are also taxed on trust distributions unless covered by the 4-year FIG regime.

The Overseas Workday Relief (OWR) has been extended to four years and will no longer require earnings to remain offshore. However, relief is capped at GBP 300,000 or 30% of qualifying employment income, whichever is lower.

Business Investment Relief (BIR), which allowed non-doms to invest untaxed offshore funds in UK businesses, will end for new claims after April 2028. Existing BIR investments remain valid, and unremitted BIR funds can still be repatriated under the TRF.

From 06 April 2025, all UK residents are taxed on worldwide income and gains, with pre-2025 foreign income remitted to the UK now taxed in full, unless covered by the TRF. The UK has also adopted a residence-based IHT system, where individuals UK-resident for at least 10 of the past 20 years are now liable for IHT on their worldwide assets. Upon leaving the UK, IHT liability will phase out over 3 to 7 years. Offshore trusts no longer offer IHT protection unless the settlor is not long-term UK resident.

The abolition of the non-dom regime marks a major shift in UK taxation. While transitional reliefs, including the 4-year FIG exemption and TRF, provide short-term mitigation, affected individuals must act swiftly to review tax planning, restructure trusts and investments, and assess long-term UK residency implications. With worldwide taxation now the norm, proactive planning remains essential.

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