Being Proactive in Tax Planning is the Only Way Forward in a World of Tax Policy Uncertainty

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Trying to predict the tax landscape has become unusually challenging – if not virtually impossible – in recent months.

The slew of tax policy U-turns and rising political uncertainty in the UK this year have hampered planning and investment decisions for businesses and individuals. In fact, there has been an increase in the number of tax policy changes even before the current turmoil in British politics, according to studies [1] which have also showed that continual micro adjustments to tax law are not overly effective from a financial perspective.

Individuals with connections to the UK and the US are faced with even less visibility in their tax affairs given the midterm elections, which will likely define the US tax outlook for the rest of the year and beyond. The complex interaction of the two countries' tax rules means that any changes in UK or US policy resulting from a new UK Prime Minister and a reconfigured Congress will have serious implications for US/UK dual taxpayers.

But while predicting the political winds may be impossible, preparation is not. In today's volatile environment, a proactive tax-planning strategy that looks into a variety of likely scenarios can help maximise wealth and avoid penalties. For dual citizens, making sure that your tax planning work in both jurisdictions is imperative.

WILL DISTORTIONS THAT HAVE LONG PLAGUED THE UK TAX SYSTEM BE FINALLY IRONED OUT?

The UK government is undeniably facing enormous challenges on the fiscal front currently.

In September, then UK Prime Minister Liz Truss announced its flagship fiscal policy through a program of tax cuts and regulatory reforms. But almost all of the tax measures announced in the Mini Budget were ripped up less than a month later as a meltdown in UK government bond markets and a soaring in borrowing costs forced the government to U-turn.

Among the reversed measures were a plan to freeze corporation tax and another to scrap the 45% top rate of income tax for the highest earners. The later would have aligned the overall tax rate in the UK to that of the US and allegedly increase its tax system's competitiveness relative to other major economies. For some US expats, the impact could be even greater given that some may still have to pay state tax on top of their federal obligations while living abroad, depending on their home state.

Whilst the target of removing the 45p rate is now gone, more tax changes may be in store as the government continues to try to fill a £40 billion fiscal hole. Recent press reports have already pointed to big tax rises in the new Chancellor Jeremy Hunt's Budget on November 17.

There also seems to be more political appetite to iron out inconsistencies and distortions that have long plagued the UK tax system. The issue of annual allowance charges affecting senior NHS doctors, for example, is gaining momentum given the health service's current workforce crisis. In September, health secretary Thérèse Coffey pledged to remove inflation-related pension tax, heeding warnings that the pension-tax trap is forcing large doctors to reduce their hours or take early retirement.

Finally, individuals should not lose sight of potential fundamental changes in taxation in the context of the upcoming UK budget – and less unlikely than before – UK Labour government. The Labour party has previously said it would abolish the so-called "non-dom" tax status that allows wealthy foreigners to live in Britain for many years without paying UK taxes on their overseas earnings, subject to conditions. Labour leader Keir Starmer has also recently suggested the party could tax wealth more heavily if the party wins power in the next general election. Indeed, this is now being mooted as something a Conservative government might also consider. Additionally capital gains tax rates are back on the table for both parties as way to plug the UK's fiscal black hole.

A RECONFIGURED US CONGRESS MAY TRIGGER SIGNIFICANT TAX ISSUES FOR US/UK DUAL TAXPAYERS

Meanwhile, the result of the midterm elections in the US may bring immediate tax changes as well as influence policies for years to come. Republican victories could easily stop President Joe Biden's plans for tax increases, giving way to trade-offs around tax and state tax changes as new administrations looks to make their mark.

The outcome of the Congress election may also flip back policies that are due to come into force in the next couple of years. One case in point is the current estate and gift tax exemptions that are scheduled to sunset after 2025, slashing thresholds down to around $6 million for individuals and $12 million for married couples. If the future political climate does not allow the sunsetting to take place, there could be significant impacts and planning ahead of time will be key.

For some individuals who can afford to make a significant succession gift now, the use of the current exemption may be the best strategy. In short, bearing in mind changes that could happen in the short and medium term and keeping plans flexible is critical in today's uncertain tax scenario.

WHAT DOES ALL THIS MEAN FOR OUR US/UK CLIENTS?

Should then clients carefully consider their tax position now; what are their long-term residency positions, are there assets at a gain that should be realised (to lock in lower rates), should succession planning gifts be made sooner, is there action to be taken around accelerating carried interest before its tax perks disappear? Or should they wait and see what happens? All these questions need to be thought about in the context of client's plans, personal situations, risk appetite (both by being proactive or not doing anything) and existing tax planning, mean that it's probably worth talking to your advisor sooner rather than later and keeping a careful eye on the horizon.

How can A&M help?

A&M has hands-on experience in the complex affairs of international taxpayers. We advise and provide compliance services for clients in the US, UK, and worldwide to allow them to navigate and optimise the complexity that comes with multiple tax and regulatory regimes. Please reach out to Daniel Parry, Donald Campbell or James Arrowsmith if you have any queries.

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[1] https://www.cimaglobal.com/Press/Press-releases/2017/CIMA-members-urge-further-cuts-to-fiscal-calendar/

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