Case Study: Non-UK Resident Holding UK Property

OPTIMUS

Raj, 39, is an Indian national residing in Dubai where he is a partner in a large law practice. He moved to Dubai 3 years ago from the UK where he had trained and progressed through the same firm before being promoted to partner when he relocated.

Raj's earnings have averaged approximately $650,000 per annum since he has been in Dubai. He has a group personal pension arrangement valued at £75,000 from his time working in the UK but otherwise no other long term savings. He has $500,000 cash in a savings account in Dubai and £120,000 in a UK account.

He is in good health and is married with 2 children, aged 3 and 6. He has a 3 times earnings death-in-service benefit.

Raj still owns the former family home in the UK, valued at £900,000, with a mortgage of £580,000 against it. This provides him with a net income after interest of £17,000 per annum. It is owned through a Jersey company and is subject income tax on rental proceeds. Raj is aware of a significant regeneration project in the surrounding area and feels this will increase its value significantly. Currently, the property would be standing at a small gain on disposal.

Raj's brother is resident in the UK and owns a number of commercial units, one of which he is selling to fund a separate business venture. The asking price is £750,000 and the rental yield is strong and Raj wishes to invest in the property with 50% cash and 50% gearing.

His current plan is to retire at age 55 and to remain in Dubai or return to India.

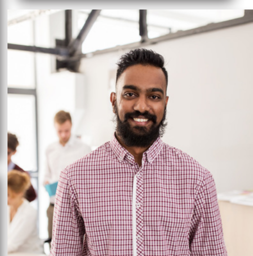
Planning Considerations

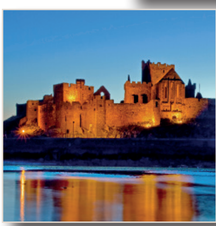
Raj's earnings are high and lifestyle reflected by this. He is concerned that his current pension provision will not be enough to sustain that. His father died relatively young and Raj is concerned that his current death-in-service, pension and cash provision will not sustain his wife and children over the long-term if the same happened to him.

If he invests in the UK commercial property the value of both properties would exceed the IHT nil-rate band and the anticipated growth in value would give rise to a potentially large IHT bill.

As he is familiar with the UK property market, he plans to add further properties over time with a view to that being his pension fund.

Non-UK sourced income not taxed





Flexi Access to benefits from 55

Solution: The Offshore Enhanced Retirement Scheme ("OERS")

Following advice, Raj elects to move the company with the residential property into OERS. The change in ultimate ownership means that the mortgage facility has had to be renegotiated but given the loan-to-value and a continuing tenancy this was easily achieved.

Raj contributes £375,000 to OERS from savings and the trustees contribute that as capital to the existing company. The directors of the company obtain finance for the remaining £375,000 to purchase the commercial property for £750,000 from Raj's brother.

In a financial planning context, Raj's adviser has identified a number of key advantages which match his planning objectives:

- Through his salary plus other investment and trust income, Raj has sufficient earnings to maintain his lifestyle without relying on the residential property income, allowing that to be transferred to OERS.

- By investing in UK property, Raj is selecting an asset class for his supplemental savings that he is comfortable with and believes offers attractive investment returns over his medium-to-long term pension savings outlook.

- If Raj does not take benefits from OERS at age 55 he can defer it until age 75 and even then can take a minimal income which leaves the capital value of his property portfolio intact to be passed on to his heirs.

- If Raj were to die prematurely, the value of the fund does not form part of his UK estate and therefore is not subject to UK IHT.

- If he were to exit UK property so that the assets held by OERS no longer had UK tax consequences, Raj could, at age 55, take the entire fund as a lump sum to spend as he sees fit. In other words, he is not tied in to an actuarial income calculation through retirement.

In addition to offering Raj what he needs in respect of his financial planning goals, the use of OERS also provides him with a tax-benign environment for his pension savings. In particular:

- The trustees can dispose of the properties at any point whilst invested through OERS and not suffer UK CGT. The disposal proceeds can be reinvested in anyway Raj sees fit.

- The initial charge for IHT purposes does not apply to the contribution of the cash or properties into the OERS because there is no transfer of value.

- The transfer of the Jersey company to OERS will not be subject to SDLT and because the ownership of the property hasn't changed, there is not a GGT charge.

- Income received by the Jersey company is taxed at 20% but this can be reduced by participation in the non-resident landlord scheme. The residential property is let to unconnected parties on market terms and so relief from ATED can be applied for.

- The value in the OERS will not fall within Raj's estate for IHT purposes. An interest in a QNUPS is not relevant property and, as such, is immune from the 10-year and exit charges.

- It is a widely considered view that for the above UK tax advantages to arise, an arrangement must be established to provide genuine pension benefits. With this in mind, it is worth noting that OERS is approved in the Isle of Man under specific pension legislation and regulated as such. Furthermore, it is approved by the Isle of Man tax authorities under pension legislation. Raj is 39 and in good health and the contribution to the OERS is affordable within the context of his overall wealth and income. He can demonstrate a genuine desire to supplement his future retirement income and provide future financial protection for his family. The OERS is therefore genuine retirement planning.