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It is Time for Britain to change its Domicile Rules ...

Manfred Naumann (Transfer Pricing Specialist) · Tuesday, April 21st, 2015

On April 8th, the Labour Party has pledged to abolish the British preferential tax rules for non-domiciled individuals (non-doms), should it win the general election on May 7th. This long overdue move would be a big step towards equitable tax treatment of individuals, notably in the Common Market in Europe. If individuals had been included in the scope of the OECD's BEPS-project, the non-dom-rules would have certainly been characterized as unfair tax competition. The same would apply for the EU, where the unanimity rule for income tax rules has made it impossible to ask Britain for changes so far.

A "non-dom" tax status is a peculiar British ruling whereby wealthy Britons with a foreign indication and foreigners with a permanent home in Britain, known as "non-domiciled residents", can choose whether to pay British taxes on their overseas earnings. It is a 200-year ruling and has never become a statutory rule. Thus, some of the regulations are quite strange, open to interpretation and do not match with internationally agreed principles of residency at all. The most important issue, which leads to a non-dom-status, is the foreign element of an individual with a permanent home in Britain. This may be a burial plot abroad, or a foreign stay of one of the ancestors of the taxpayer via the father's side.

With respect to harmful tax competition the following issues are important: foreigners who decide to have their permanent home in Britain may definitely opt for the non-dom-status. They are not required to pay taxes on their foreign income if it is not remitted to Britain. Instead, they are required to pay an annual charge of between Pound 30.000 and Pound 90.000. The result is that the foreign income of non-doms is not subject to ordinary taxation in Britain. Other countries are precluded from taxing the income, because they base their taxation rights on internationally agreed tax principles such as a permanent home or habitual abode. In addition, some, especially European countries, provide for reduced or zero source-tax rates, so that in the end, combined with the UK non-dom rules, big parts of the income of some rich individuals are not taxed at all.

There is OECD- and EU-agreement that tax rules are to be characterized as harmful, that provide for a preferential tax treatment of foreigners (so called ring-fencing). The reason is that such rules provide for non-taxation of income. However, there is no internationally agreement to apply this principle to tax rules for individuals so far. And Britain certainly contributes to this disagreement. If the figures of the April 11th Economist are right (page 14), non-doms pay about Pound 8.4 billion in lump sum tax charges annually. This is a good reason for Britain not to change its non-dom rules.

However, the supposed tax damage of the non-dom rulings is extremely high, especially in the EU where a move to Britain is easily done. However, many other countries are affected, too. EU Member Countries should come to the agreement, that rules such as the non-doms damage their tax base and cannot be accepted in times of financial crisis. Countries with preferential rules such as Britain should be asked to remove them and should be given help to overcome possible budget problems. Otherwise it is most hypocritical of EU-Member Countries pledging to fight tax evasion, where they either offer harmful tax rules or accept to be effectively precluded from fighting tax evasion.

EU Member Countries should agree in unanimity that non-dom rulings favour few rich people only and are not fair at all.

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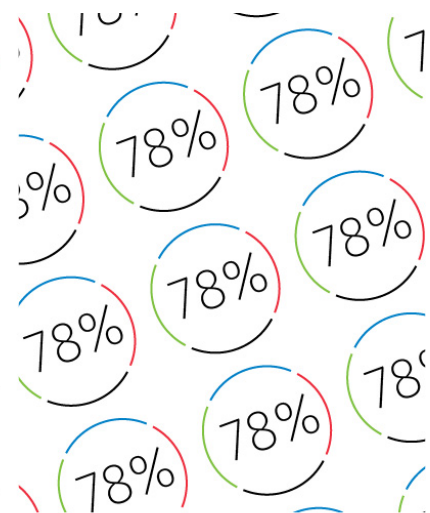
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