UK PROPERTIES HELD THROUGH AN OVERSEAS COMPANY

Several clauses from the Finance Bill 2017 were delayed due to the UK General Election. The Finance Bill 2017-2019 has now been published and includes the UK inheritance tax (IHT) changes affecting non-UK domicile individuals holding UK property through an offshore corporate structure. The Bill is currently making its way through the parliamentary approval process.

As of May 2016, there were around 100,000 UK properties[1] owned by offshore companies. Many others are owned by offshore trusts.

Changes to tax rules would mean that non-UK domiciles owning UK property indirectly through corporate structures (purchased either before or after 6 April 2017) would be liable for UK IHT.

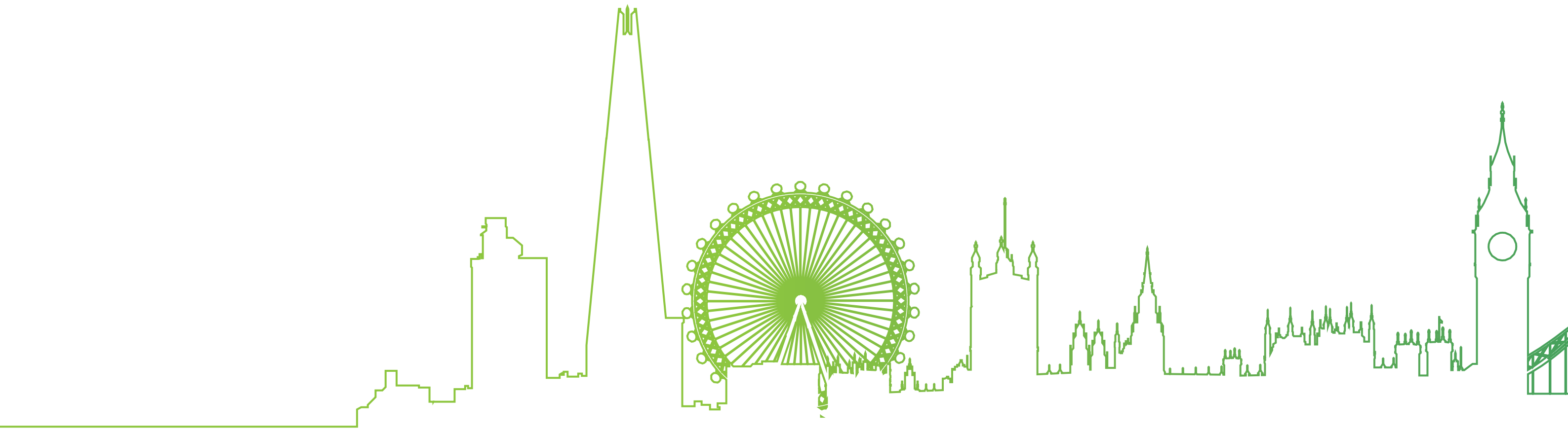
There are many clients looking to find new ways of reducing the overall effect of the likely UK IHT liability. Fortunately, there are some actions that can be taken.

Here are some case studies to demonstrate potential solutions. Please note this document only looks at potential solutions to reduce the effect of UK IHT. It does not consider other taxes which may apply, such as UK Annual Tax on Enveloped Dwellings (ATED), UK ATED-related Capital Gains Tax (CGT), UK non-resident CGT, UK stamp duty or local taxes where the non-UK resident resides.

FOR FINANCIAL ADVISERS ONLY

Source[1]: www.theguardian.com/money/2016/may/26/revealed-9-rise-in-london-properties-owned-by-offshore-firms

OLDMUTUAL INTERNATIONAL



CASE STUDY 1

- Mr and Mrs Wong are both aged 40, non-UK resident and non-UK domicile. They have a UK property portfolio held within an offshore private investment company, Wong Property Limited, worth £25,000,000. They are not yet ready to fully gift the property/assets to their heirs.
- Wong Property Limited has £15,000,000 of debt/mortgage*, leaving a £10,000,000 net value within the company. They are concerned about the proposed UK IHT changes and would like to plan on the assumption that the legislation is implemented unchanged. This would mean that they will have a new IHT liability of 40% of £10,000,000 - so £4,000,000.
- The £4,000,000 potential liability would need to be paid off** before Mr and Mrs Wongs' heirs can obtain probate to access their estate (which includes the shares of the private investment company). This means that the liquidity would be needed upfront to pay the IHT liability.

*As the debt is mortgage debt which was used to buy the property, it is likely to be deductible under the proposed rule changes.

**Unless HMRC agrees that the payments can be paid by equal instalments over 10 years. HMRC may also charge interest if they agree to this request.

The Silk Life Plan is a single premium, whole of life investment-linked life assurance policy designed for high net worth individuals. It provides a high level of life protection payable on death of the relevant life assured, as well as the flexibility to help meet the policyholder's ever-changing wealth management needs in life.

POTENTIAL SOLUTION

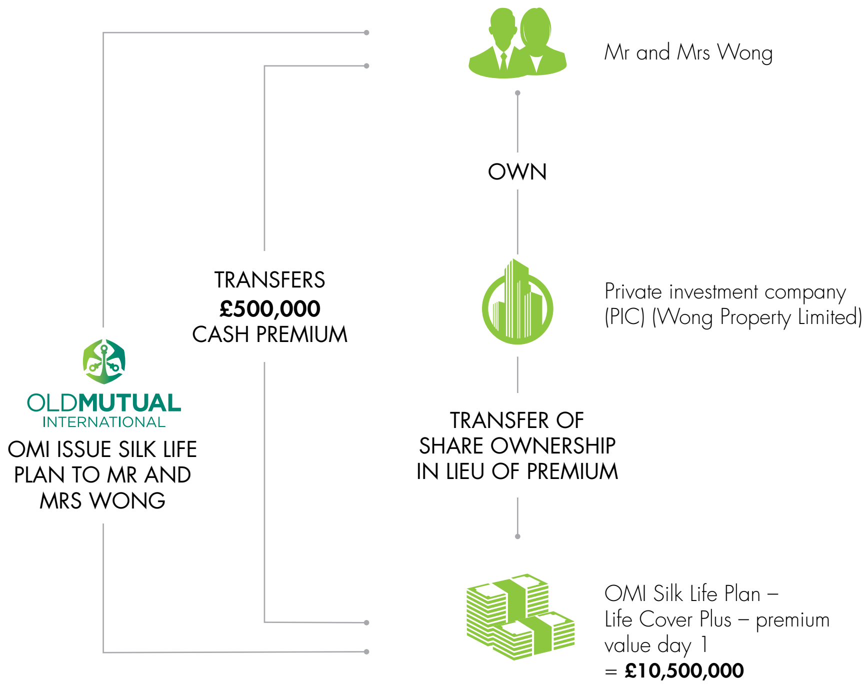
Mr and Mrs Wong can transfer the shares in Wong Property Limited to Old Mutual International in lieu of a premium for a Silk Life Plan (there will be costs and could be potential tax consequences of this action). The Silk Life Plan is a single premium, whole of life policy that can hold a wide universe of assets including private company shares.

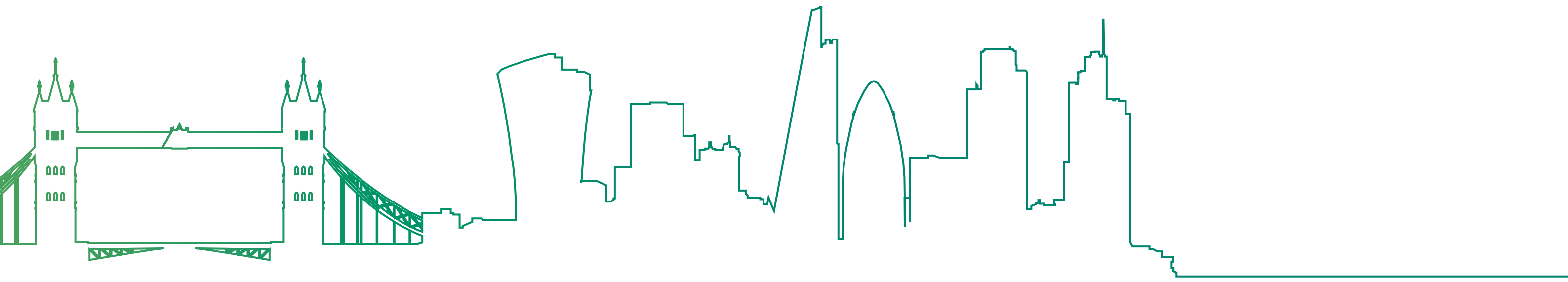
There needs to be an amount of cash in the Silk Life Plan to cover product charges which includes the life cover costs.

In this case study, Mr and Mrs Wong have personally added £500,000 into the Silk Life Plan. However, Wong Property Limited could have instead decided to borrow extra money to fund this need. If Wong Property Limited did this then there would also be an extra debt of £500,000 in the private investment company. This cash would then be held in the Silk Life Plan's Transaction Account to cover product charges which include the life cover costs.

Mr and Mrs Wong secure a sum assured through the Silk Life Plan of £4,000,000 to satisfy the proposed UK IHT liability on (in this instance) the second death of Mr and Mrs Wong. The Wongs, with their financial adviser, can review the value of the company in later years to make sure any UK IHT liability and sum assured amounts are keeping pace. Increases to the sum assured are subject to Old Mutual International's acceptance and may require further underwriting.

On death, the potential UK IHT tax liability can be paid by the sum assured of the Silk Life Plan. A settlor included discretionary trust can be used to help ensure that the sum assured is paid in a timely manner to the trustees to cover any UK IHT liability. On agreement, Old Mutual International (OMI) may transfer the ownership of the shares of Wong Property Limited in consideration of the fund value of the Silk Life Plan. The trustees may decide to transfer ownership of the shares of Wong Property Limited to the beneficiaries of the trust. This allows the Wongs' heirs, through the corporate structure, to have access to the property portfolio.





CASE STUDY 2

- Omar is a non-UK resident who owns a private investment company structure that owns a £100,000,000 UK property portfolio.
- Omar uses one of the properties personally for himself and family members during the summer months. The rest are rented and enjoy significant rental income.
- Omar is aware that his portfolio is likely to become subject to UK IHT at 40% on his death, if the proposed UK IHT changes are implemented unamended. So the potential liability is £40,000,000, and would grow if there is capital appreciation of the properties.

POTENTIAL SOLUTION

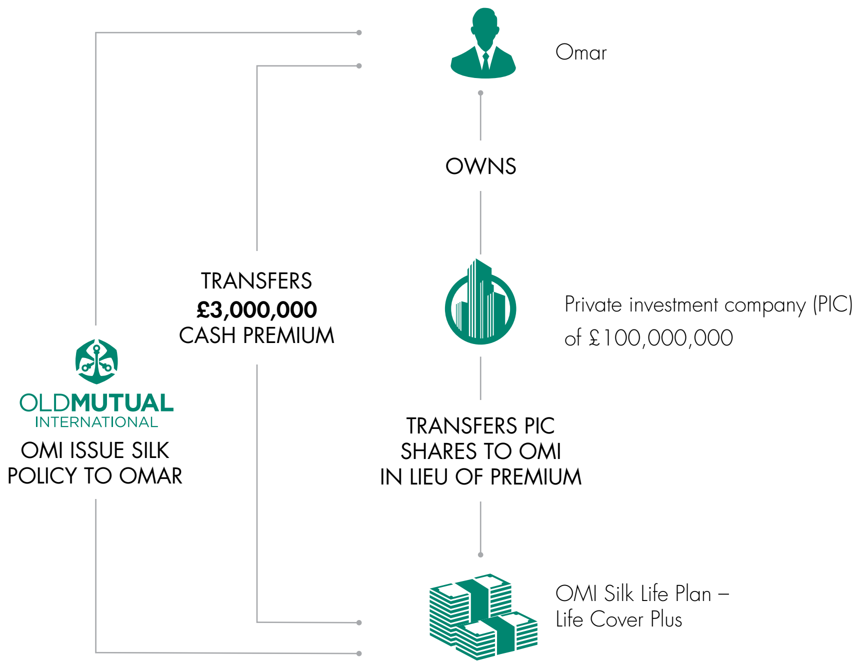
Omar's financial adviser recommends that he invests into a Silk Life Plan with a high sum assured which would cover the potential UK IHT liability on Omar's death.

His adviser has confirmed that, with Old Mutual International, he can move ownership of the shares of the private investment company into the Silk Life Plan. There will be costs and could be potential tax consequences of this action.

The premium of the policy was £100,000,000 (the value of the private investment company shares), plus an additional £3,000,000 which Omar personally invested to cover product charges. In order to cover the potential UK IHT liability, the sum assured is set at £40,000,000 (£100,000,000 x 40%). The rental income from the properties is sufficient to cover the ongoing fees of the policy including the life cover charges. Omar also pays a commercial rent for the property he uses in the summer months.

It is important to revalue the private investment company at periodic intervals to ensure that the sum assured remains sufficient to cover the potential UK IHT liability, for example, if the UK property increases in value. Over time, the value of the UK property portfolio has risen to £120,000,000. This would mean that the potential UK IHT liability would also have risen to £48,000,000 (£120,000,000 x 40%).

Because Omar's financial adviser ensures periodic reviews of the value of the company, he obtained agreement from Old Mutual International (which was subject to further underwriting) to increase the sum assured to £48,000,000 shortly after the value of the company increased. So, when Omar dies, the Silk Life Plan would pay a sum assured which covers any UK IHT liability, which will allow Omar's heirs to obtain probate to access Omar's estate (which includes the shares of the company). A nomination can be used to help ensure that the sum assured is paid to the heirs in a timely manner. The heirs will then have full access to the properties and can sell the properties if required.



- All case studies detailed are fictional and used purely to illustrate possible real life scenarios.
- This document is based on Old Mutual International's interpretation of the law and HM Revenue & Customs practice as at October 2017. We believe this interpretation is correct, but cannot guarantee it. Tax relief and the tax treatment of investment funds may change and the value of any tax relief will depend on the investor's individual circumstances.
- The value of investments can fall as well as rise and investors may not get back what they have invested.
- Full details of the products available can be found in the product literature and Policy Terms which are available from Old Mutual International.

This document is intended for financial advisers only. If you are an investor and you would like further information or have any questions, please speak to your financial adviser.

If you are an adviser or other professional and would like further information, please contact your usual Old Mutual International representative, or visit our website: www.oldmutualinternational.com.

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