Forex change is no robbery

Currently, withdrawals from foreign currency bank accounts can give rise to capital gains or losses for UK tax purposes.

From 6 April 2012, withdrawals from foreign currency bank accounts will no longer give rise to capital gains and/or allowable capital losses, regardless of whether the funds are exchanged into another currency or not. This removes the significant administrative burden of tracking every movement on the account and calculating the exchange gains and losses realised.

Is this relevant to me?
The changes affect individuals and trustees. Different provisions apply to companies.

If you have any bank accounts that are denominated in a currency other than sterling, these changes may affect you. It does not matter whether the accounts are in the UK or not.

If your foreign currency bank accounts only contain foreign currency acquired for personal spend overseas (including the maintenance of non-UK holiday homes) your accounts are already exempt from CGT and are not affected by the proposals.

However, if you have any other foreign currency accounts (in investment portfolios, for example) the new rules will affect you.

How could the changes affect me?
If you have unrealised gains, then from a tax perspective it is not advisable to realise the gain before 6 April. A gain realised on or after 6 April would not be subject to CGT.

If you have unrealised losses, then a withdrawal from the account could be advisable to trigger losses in the current tax year. Any surplus losses not offset against gains in the current year would be available to carry forward to future years.

Could I sell my euros for sterling to trigger a loss and then reacquire euros the following day?
No, in these circumstances it is unlikely that the loss would be allowable. There are anti-avoidance rules which can prevent losses being allowable where they arise from arrangements designed to give rise to a loss for CGT purposes with no commercial exposure. Advice should be taken as the rules can be difficult to apply in practice and some attempts to trigger a loss may not produce the anticipated tax result. However, with care, it should be possible to realise losses prior to 6 April on which tax relief would be available.

How do I know whether I have unrealised gains or losses?
This will require a review of your foreign currency accounts. The tax rules can produce a different answer to the commercial position if there has been activity on the account over a period of time.

I own other non-sterling denominated investments. Are these affected by the proposed changes?
No, the CGT treatment of other assets is unchanged. There will still be an element of foreign exchange gain or loss inherent in the gain/loss on the disposal of the investment after 6 April 2012 which is taxable.

I’m non-UK domiciled, is there anything else that I need to be aware of?
If you intend to obtain relief for losses triggered before 6 April 2012, you may need to make a particular election that allows non-doms to claim relief for losses on overseas assets (including non-UK bank accounts). KPMG can assist you in determining whether the election is appropriate for you.

Records of transactions on deposits and withdrawals from accounts post 6 April 2012 will still be required to monitor potential remittances.
Do non-residents need to worry about these changes?
Non-resident individuals, whilst not immediately subject to tax on capital gains, may still need to pay attention to the timing of withdrawals from accounts. If the individual becomes UK resident in, say, 3 years time gains triggered by withdrawals now may come into charge to tax while withdrawals after 6 April 2012 would not trigger taxable gains.

Non-resident trustees with UK resident beneficiaries are affected by the rules as individuals can be taxable on trust gains. Therefore realising losses now may be advisable if there are gains against which the losses may be offset. Equally, deferring gains until 6 April may also be advisable to mitigate the gains taxable on beneficiaries.

What’s the next step?
It is important that anybody with foreign exchange positions takes advice prior to 6 April 2012. For more information, please speak to one of the KPMG Private Client Advisers set out below or your usual KPMG contact.

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