



WELLINGTON SHIELD  
VERTUTIS FORTUNA COMES



# Using a UK Capital Refuge Plan *- for tax deferral*

*European Representative*

Katz Financial Planning, Bourne House, Woodbourne Road, Douglas, Isle of Man,  
Tel: (44) 1624 616716 Fax: (44) 1624 616420 e-mail: [info@katzfinancial.com](mailto:info@katzfinancial.com)



## Using a UK Capital Refuge Plan

*- for tax deferral*

### The Problem



UK resident entrepreneurs and investors in private UK businesses often enjoy generous tax incentives such as business assets taper relief and roll-over relief, but UK resident and domiciled investors who own non-qualifying assets, such as investment property, patent rights, royalty streams, hedge funds or offshore trading companies, find few opportunities to manage their UK tax exposure.

The benefit of using offshore company and trust structures to mitigate UK taxation has been steadily eroded over the years.

**Today, offshore companies and trusts used on their own or in combination do not permit UK resident domiciled individuals effective tax deferral.**

### There is an Answer

The UK Capital Refuge Plan was developed by Wellington Shield and provides an answer in many situations. The Plan is a legitimate tax planning solution that allows a UK resident and domiciled individual to achieve long-term tax deferral irrespective of the type of investment.

The UK Capital Refuge Plan is designed for sophisticated UK resident and domiciled investors or UK domiciled investors who live overseas and intend to return to the UK in the future.



## Using a UK Capital Refuge Plan

*- for tax deferral*

---

### The Purpose of the Plan

The Plan is designed to shelter a wide range of assets for UK resident and domiciled individuals. Examples of suitable assets might include;

- Commercial and residential investment property.
- Aggressive investments such as hedge funds.
- Intellectual property such as personality rights, patents or software.
- Royalty streams
- Private overseas business interests
- Fast appreciating share options.

**Investments sheltered within the Plan can be bought and sold without liability to UK taxation.**

### How it works

Whilst offshore companies and trusts used on their own or in combination no longer enable UK resident and domiciled individuals to enjoy tax deferral, an effective structure can be created by introducing a further component; **LIFE INSURANCE**.

Life Insurance contracts enjoy advantageous tax treatment under UK tax law and if the life insurance company is based in an offshore location with a favourable tax regime, then the investments linked to the policy will grow free of taxation<sup>1</sup>. The sophisticated life insurance contract that lies at the heart of the UK Capital Refuge Plan was developed by Wellington Shield and selected technical specialists.

The UK Capital Refuge Plan consists of a specifically tailored life insurance contract in conjunction with a carefully organised offshore structure. An offshore vehicle is used to own the investment assets that are sheltered within the Plan and that vehicle is not subject to UK taxation. The offshore vehicle can be used to undertake a myriad of different commercial activities ranging from holding private investments, to acting as an offshore trading company.

---

<sup>1</sup> Other than local withholding tax in some jurisdictions



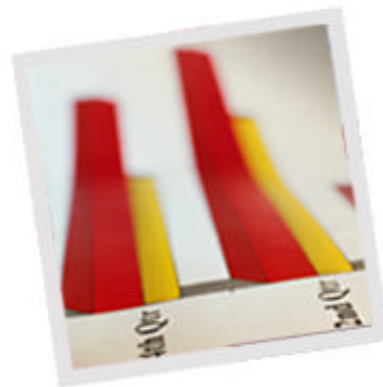
## Using a UK Capital Refuge Plan

*- for tax deferral*

---

### Summary of Tax Issues

- The Plan is suitable for UK resident and domiciled individuals.
- The UK Capital Refuge Plan allows assets<sup>2</sup> within the Plan to grow in a tax-free<sup>3</sup> environment.
- Assets within the Offshore Investment Vehicle can be bought and sold without limit and without a UK tax charge arising.
- Withdrawals can be made from the Plan. Such payments will be taxed in the UK as income rather than capital gains.
- The Plan may be unwound tax free if the client becomes a non-UK resident during the year<sup>4</sup> that the distribution is made.



---

<sup>2</sup> A charge to UK tax may arise if assets are disposed of to generate cash to fund the initial investment in the Plan.

<sup>3</sup> Where applicable, deemed gains, resulting from the Personal Portfolio Bonds (tax) Regulations 1999 are deferred indefinitely

<sup>4</sup> Note that to become non-resident for income tax purposes it may only be necessary to leave the UK for a single tax year (rather than five years for capital gains tax).



## Using a UK Capital Refuge Plan *- for tax deferral*

---

### Fees and Charges



Best results are achieved by tailoring the design and implementation of The UK Capital Refuge Plan to the client's specific circumstances. The cost of establishing and running such a Plan naturally depends upon a number of issues affecting the complexity of the structure and the level of specific tailoring required.

In general, set up fees and annual charges are likely to be comparable to the traditional trust and company structure.

### Further Information

For further information about the UK Capital Refuge Plan, including a technical briefing paper for professionals, please contact;

#### **Europe**

Katz Financial Planning  
Bourne House  
Woodbourne Road  
Douglas  
Isle of Man, IM2 3AW  
Great Britain

[info@katzfinancial.com](mailto:info@katzfinancial.com)  
Tel +44 1624 616716  
Fax +44 1624 616420

#### **North America**

Wellington Shield Services  
Limited, Inc  
700 Eleventh Street South  
Naples, Florida  
FL 34102  
United States of America

[info@wellingtonshield.com](mailto:info@wellingtonshield.com)  
Tel +1 941 430 4306  
Fax +1 941 430 4307

Professional Briefing Paper.

CONFIDENTIAL.

# **Wellington Shield**

## **UK Capital Refuge Plan - a Short Introduction -**

**European Representative;**

**Katz Financial Planning  
Bourne House  
Woodbourne Road  
Douglas  
Isle of Man  
Tel: (44) 1624 616716  
Fax: (44) 1624 616420  
e-mail: [info@katzfinancial.com](mailto:info@katzfinancial.com)**

# USING A UK CAPITAL REFUGE PLAN for tax deferral - a Short Introduction -

Detail	Page
Introduction	2
Background – UK tax Planning	3
- Offshore companies on their own, - don't work.	3
- Offshore Trusts are today almost wholly ineffective for UK resident domiciles.	4
- What this means in practice	4
The UK Capital Refuge Plan.	4
How Does it Work?	5
The Insurance Contract	5
Organisation of the Plan.	5
A Summary of Tax Issues	6
Control	6
Cost	6
Frequently Asked Questions	7
Appendix-Graphic Illustration	8

## Introduction

**The 'UK Capital Refuge Plan' is a wealth protection plan that allows a UK resident and domiciled individual freedom of investment into a wide variety of assets on a medium to long-term tax deferred basis. It is especially suitable for assets that do not qualify for business assets taper relief. Examples of relevant investments include, commercial and residential property or land, overseas companies, intellectual property and investments in aggressive investments such as hedge funds.**

**Investments sheltered within the Plan can be bought and sold without liability to UK taxation, even if those investments are physically situated in the UK.**

The information contained herein is intended as a general commentary only; it does not purport to constitute legal or taxation advice. Neither Katz Financial Planning nor Wellington Shield provide legal or tax advice; Prospective clients are advised to take specialist professional advice. Referral to such specialists will be made upon request.

This brochure is intended for financial professionals only. It does not constitute a financial promotion under the Financial Services and Markets Act 2000. This brochure is not for circulation to private investors or individuals who are not authorised to conduct investment business.

This brochure is copyright and may not be copied or used without the express written permission of Wellington Shield.

Katz Financial Planning is licensed by the Isle of Man Financial Supervision Commission to conduct investment business. © Wellington Shield Services Limited, Inc 31 May 2002

## Background - UK Tax Planning

Business assets taper relief offers great opportunities for investors in qualifying assets but many assets simply don't qualify. The anti-tax avoidance legislation introduced since the 1980s severely limits the opportunities available to UK investors in these assets to manage their tax liabilities.

However with careful planning and cutting edge techniques, offshore

centres continue to provide key opportunities for sophisticated investors to legitimately manage their tax exposure.

The UK Capital Refuge Plan is an effective and legitimate tax planning solution aimed at mitigating UK taxation on assets, which don't qualify for business assets taper relief.

## Offshore Companies on their own, - don't work

It is clear that on their own, offshore companies offer little opportunity for effective tax deferral for UK resident domiciled individuals. The principal reasons for this are;

**The Management and Control Test;** An Offshore Company which is managed and controlled from the UK (central management and control test) is taxed as a UK resident taxpayer.

**Attribution of Income;** TA 1988 s739: Section 739 applies when a UK taxpayer has the ability to enjoy income payable to a non-resident third party that results from a transfer of assets

abroad. In the case of an Offshore company, the net result is generally that all income of the company will be attributed to the shareholder as it accrues.

**Attribution of Gains;** TCGA 1992 s13: Section 13 apportions Capital Gains to UK resident shareholders which own more than 5% of any non resident company.

**Summary; Offshore companies used on their own do not achieve tax mitigation for a UK resident and domiciled individual.**

## Offshore Trusts are today almost wholly ineffective for UK resident and domiciled individuals

Until fairly recently, offshore trusts were widely employed as a Capital Gains Tax (CGT) planning mechanism for UK resident domiciled individuals. However legislation (TCGA 1992, S86 and 5 sch) introduced in 1992 and extended in 1998 effectively prevents this by attributing capital gains to UK resident (or ordinarily resident) Settlers.

The legislation is very broad and applies (subject to transitional relief) regardless of when the settlement was made or whether the Settlor was non resident at the time the Settlement was made.

As a result of its introduction, opportunities for effective CGT planning using offshore trusts for UK

resident and domiciled individuals are very limited.

In terms of income, Section 739 referred to above applies to offshore trusts in the same way as it does to offshore companies. This is the case even if the Settlor was non-resident at the time the trust was established.

**Summary; In terms of UK tax mitigation for a UK domiciled individual, there is little that can be achieved by an Offshore Trust that cannot be achieved by a UK resident Trust.**

## **Result; what this means in practice**

Opportunities for domiciled UK tax payers to limit their tax exposure using offshore companies and trusts either individually or in combination are now very limited. Many UK resident domiciled investors who own assets that do not qualify for business asset

taper relief (such as investment property, hedge funds or offshore trading companies) now find very few opportunities to manage their UK tax exposure using offshore structures. Until now...

## **The UK Capital Refuge Plan**

The UK Capital Refuge Plan is a tax deferral plan designed for UK resident and domiciled individuals or UK domiciled expatriates who intend, at some time, to return to the UK. The Plan is effective for UK resident and domiciled individuals and is capable of sheltering a range of assets including investments in:

- Commercial and Residential Investment Property.
- Aggressive investments such as hedge funds.
- Intellectual Property such as Personality Rights, Patents or Software.
- Private overseas business interests
- Fast appreciating share options.

## **How does it work?**

Whilst companies and trusts used on their own or in combination no longer enable UK resident and domiciled individuals to fully enjoy effective tax deferral, an effective structure can be created by introducing a further component; **LIFE INSURANCE**.

The sophisticated form of life insurance contract that lies at the heart of the UK Capital Refuge Plan was developed by **Wellington Shield**. Where needed leading legal and tax specialists were called upon to provide guidance in relation to detailed technical issues.

## Insurance Contracts & UK Tax

Insurance contracts enjoy advantageous tax treatment under UK tax law. Section 739 (TA 1988 s739) discussed above **DOES NOT** impute income received by an insurance company directly to the policyholder. This was confirmed by a ruling the House of Lords in 1999 (IRC vs Willoughby). **NEITHER** do Section 13 **NOR** Section 86 provide a mechanism for attributing capital gains realised by the insurance company to the policyholder<sup>1</sup>.

**Investments owned by a non UK life insurance company are not subject to tax in the UK and if the life insurance company is based in an offshore location with a favourable tax regime then the investments linked to the policy will grow free of taxation (Gross Roll-up).**

## Organisation of the UK Capital Refuge Plan

A diagrammatic outline of the UK Capital Refuge Plan is shown in figure 1 on page 8 of this document. The Plan consists of a specialist life insurance contract in conjunction with two carefully organised Offshore Investment Vehicles and a non-UK resident interest in possession trust.

Offshore Investment Vehicle 2 is not subject to UK taxation and is the entity that is used to own the investment assets that are sheltered within the Plan. The necessary corporate and trust services should be provided by a licensed Trust and Corporate Service Provider in an appropriate jurisdiction. The Isle of Man, the Channel Islands and Gibraltar are all well regulated jurisdictions with a suitable legal and fiscal infrastructure.

---

<sup>1</sup> Personal Portfolio Bond (Tax) Regulations 1999 can create a 15% deemed gain on the policyholder if the insurance policy is deemed to be a personal portfolio bond. The UK Capital Refuge Plan is carefully structured to defer any tax charge resulting during the life of the policy.

## **A Summary of the Tax Issues relevant to the Plan follows:**

- The ultimate economic beneficiary of the Plan can be a UK resident & domiciled individual.
- The UK Capital Refuge Plan allows assets within Offshore Investment Vehicle 2 to grow in a tax-free<sup>2</sup> environment. (gross roll up).
- Assets within Offshore Investment Vehicle 2 can be bought and sold without limit and without a UK tax charge arising.
- Where applicable, deemed gains, resulting from the Personal Portfolio Bonds (tax) Regulations 1999 are deferred.
- Withdrawals can be made from the Plan as trust distributions. Such payments will be taxed in the UK as income rather than capital gains.
- This structure may be unwound tax free if the client becomes a non-UK resident during the year<sup>3</sup> that the distribution is made.

### **Control**

In order to preserve the integrity of the structure, the client cannot exercise management and control over the offshore investment vehicles. Naturally, this is sometimes of concern to the client. Nonetheless, there are mechanisms that can be put in place to safeguard the client's interests.

Experienced offshore trust companies and corporate services providers are familiar with this issue and can generally provide sufficient investor comfort without compromising the efficacy of the structure.

### **Cost**

Best results are achieved by tailoring the design and implementation of The UK Capital Refuge Plan to the client's specific circumstances. The cost of establishing and running such a Plan naturally depends upon a number of issues including the complexity of the issues involved and the level of specific tailoring required. The Life Insurance Contract can be arranged as a fixed fee contract and therefore the fees for the structure are generally not dependent upon overall asset value.

In general, set up fees and annual charges are likely to be comparable to the traditional trust and company structure.

---

<sup>2</sup> A charge to UK tax may arise if assets are disposed of to generate cash to fund the initial investment in the Plan.

<sup>3</sup> Note that to become non-resident for income tax purposes it may only be necessary to leave the UK for a single tax year (rather than five years for capital gains tax).

## **Frequently Asked Questions**

### **Qu.1. Is it really safe to transfer the ownership of my assets to an offshore structure based in a foreign jurisdiction?**

An.1. Yes, leading offshore financial centres are extremely well regulated. Many established trust companies and corporate service providers are owned by substantial international banking and accountancy groups.

### **Qu.2. Which are the best jurisdictions to base the Plan?**

An.2. The Isle of Man, Channel Islands or Gibraltar are all very reputable and secure financial centres that have local regulations and laws making them suitable for management and administration of the Offshore Investment Vehicles involved in the Plan.

### **Qu.3. How secure are the client's assets in the event of a liquidation of the insurance company?**

An.3. Very secure; each policy is linked to the value of a separate segregated account within the insurance company and the contract is designed so that each segregated account is protected in the event of liquidation.

### **Qu.4. If I have a client with very significant assets, will the overall cost of the plan increase? For example are fees for the insurance component of the Plan based on an asset valuation?**

An.4. No, the Life Insurance Contract is charged on a fixed fee basis that is unrelated to asset valuation.

### **Qu.5. Can the client make withdrawals during the life of the Plan if the client is UK resident?**

An.5. Yes, in certain circumstances it may be possible to withdraw an amount equal to the initial investment without liability to UK tax. Generally, assuming the client is UK resident, withdrawals from the Plan will be taxed as income.

### **Qu.6. The Portfolio Bond (Tax) Regulations 1999 create a deemed income charge of 15% for bondholders of personalised insurance contracts. How do you deal with this issue?**

An.6. Where a charge is incurred; The UK Capital Refuge Plan has been carefully structured to allow deferral of this charge.

### **Qu.7. My UK resident, domiciled client already has an asset pregnant with Capital Gains that they are about to realise; Can the UK Capital Refuge Plan assist?**

An.7. Unlikely; transferring the ownership of the asset is likely to give rise to a chargeable event in UK.

### **Qu.8. Can you recommend a Trust Company / Corporate Service Provider to manage the Offshore Investment Vehicles.**

An.8. Yes, we have relationships with a number of very good Trust companies / Corporate Service providers in suitable locations.

### **Qu.9. We already have a relationship with an existing trust company / corporate service provider; Can they manage the offshore investment vehicles?**

An.9. Yes; however, the Trust company / Corporate Service Provider must be licensed and located in a jurisdiction which is appropriately regulated.

## UK Resident/Domicile Owns a Commercial Property Portfolio

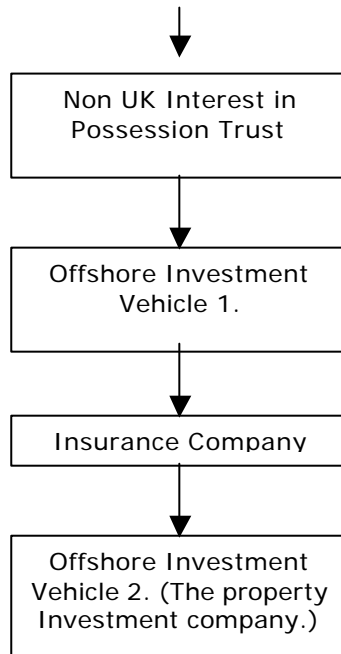
Some time ago, Alison, a UK resident and domicile invested in residential property; the property cost £1m in 1999 and is now worth £2m. She now wants to sell the property and re-invest in new property.

If she owned the property directly, the capital gain upon sale will be taxed at a rate of 38% (non business asset taper relief 3 years); therefore the tax payable on disposal would amount to £380,000 - leaving £1.62m available to fund the new investment.

However, if she had structured the investment using an insurance-based UK Capital Refuge, then the taxation situation would have been very different.

UK Capital Refuge Plan Structure; (see Wellington Shield briefing document for further information)

Alison (a UK resident and domicile)



### Tax Consequences

- The Plan would have allowed Alison to switch between investments without liability to UK taxation as Offshore Investment Vehicle 2 is not subject to UK tax.
- Thus the capital gain on the sale of the property would have been free from taxation leaving £2m available to fund the new investment
- Where applicable, deemed gains, resulting from the Personal Portfolio Bonds (tax) Regulations 1999 would be deferred indefinitely.
- Withdrawals can be made from the Plan as trust distributions. Such payments will be taxed in the UK as income rather than capital gains.
- This structure could have been unwound tax free if Alison became a non-UK resident during the year<sup>1</sup> that the distribution was made.

---

<sup>1</sup> Note that to become non-resident for income tax purposes it may only be necessary to leave the UK for a single tax year (rather than five years for capital gains tax).