

Starting shortly...



Spring 2024 Tax Update Seminar

Non-Dom Reform

29 April 2024



Introduction

‘Changes announced not happening in this Parliamentary session.’

With you today



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Individuals



Key concepts

Domicile

- What is domicile?
- Importance of domicile for UK tax purposes
 - Inheritance tax
 - Remittance basis of taxation
 - Taxation of trusts

Statutory residence test ("SRT")

- Determines an individual's UK residence position for a particular tax year.
- Applies for income tax, capital gains tax and inheritance tax purposes.
- Three part test:
 - Automatic overseas tests
 - Automatic UK tests
 - Sufficient ties test



UK income and capital gains tax

UK resident individuals

- Liable on worldwide income and gains
- Remittance basis of taxation available if non-UK domiciled
 - Taxable on UK source income and gains
 - Taxable on foreign source income and gains to the extent they are remitted to the UK
- Lose tax-free allowances
- Annual charge
 - £30,000 if resident for 7/9 tax years
 - £60,000 if resident for 12/14 tax years
- 15/20 year limit



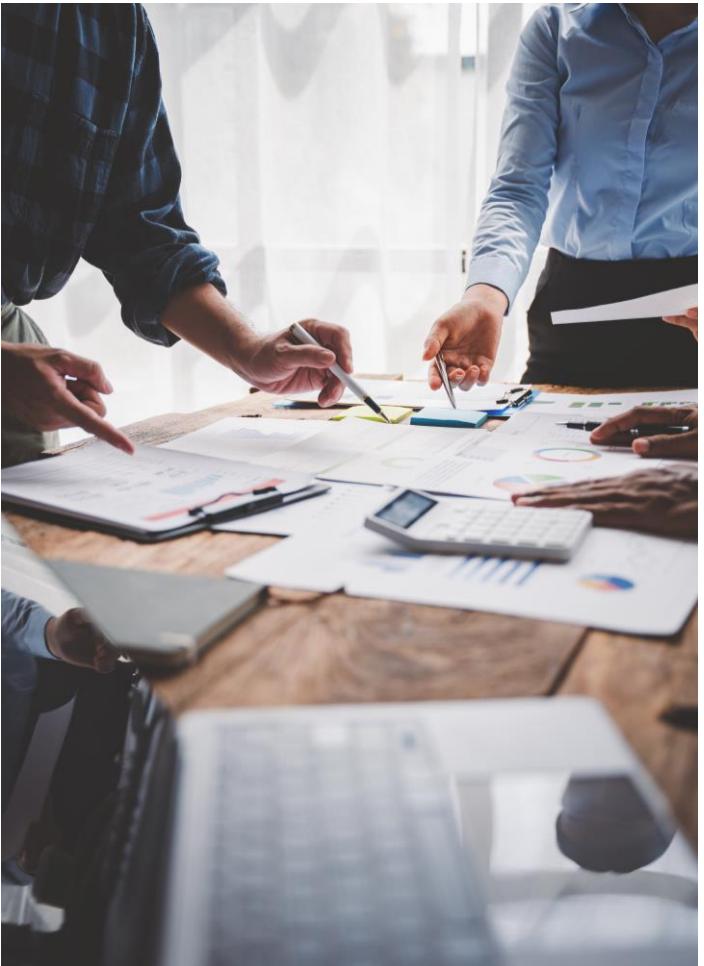
Overview

- New regime based on residence will apply from 6 April 2025.
- Based on an individual's residence under the Statutory Residence Test ("SRT").
- Eligible for the first 4 tax years of residence, after a period of 10 years of non-residence.



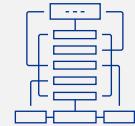
Features

- Taxable on UK source income and gains.
- Foreign income and gains ("FIG") arising in the first 4 years of residence tax-free.
- This FIG can be brought to the UK free of any additional charges.
- No charge for the benefit of the regime.
- No account segregation needed/no clean capital planning/no complex remittance rules.
- Claim is necessary but do not need to make claim in all 4 tax years.
- Loss of personal allowance and capital gains tax annual exempt amount.
- Overseas Workday Relief ("OWR") still be available albeit modified.



Within their first 4 years of residence:

- First 4 tax years of residence after a period of 10 tax years of non-UK residence?
- Eligible for the 4-year FIG regime for the remainder of their first 4 tax years of residence.
- Pre-6 April 2025 unremitted FIG can be brought to the UK under the Temporary Repatriation Facility ("TRF").
- Rebasing available.
- **Temporary Repatriation Facility ("TRF")** - Able to remit FIG arising pre-6 April 2025 to the UK during 2025/26 and 2026/27 and be taxed at 12%. Must have taxed on the remittance basis in the year the FIG arose, but expect a relaxation of the mixed fund ordering rules. Consideration of foreign tax credits. Not applicable to pre-6 April 2025 FIG generated within offshore trusts.
- **Rebasing** - Assets can be rebased to 6 April 2019 value on disposals made after 6 April 2025 (election on the basis of calculation). Must have claimed the remittance basis and be non-dom and not deemed domiciled by 5 April 2025.



UK resident for 4+ years & not within 4 year FIG-regime:

- From 6 April 2025, taxable on a worldwide basis, with transitional rules available.
- Those moving from the remittance basis to the arising basis from 6 April 2025, will be subject to UK tax on only 50% of their *personally held] foreign income for 2025/26 tax year only.*
- Benefit from the TRF for 2025/26 and 2026/27.
- Rebasing available.
- After 6 April 2027 transitional rules end.
- Pre 6 April 2025 FIG continues to be taxed under existing rules with BIR to continue.

04 Inheritance tax



- 01 Currently, exposure to IHT depends on the situs of the asset and an individual's domicile position.
- 02 Consultation on the design of the new system which will apply from 6 April 2025.
- 03 Proposed moving to a residence-based test – when a person has been resident for 10 years they fall within the scope of worldwide IHT.
- 04 An individual will remain within the scope of UK IHT for 10 years after leaving the UK – “the 10-year tail provision”.
- 05 Also relevant for UK doms leaving the UK – will there be any clawback? Mention of “any connecting factors other than residence”.
- 06 UK assets remaining within UK IHT as under current rules.



01

Long-term UK resident non-dom

Assume UK resident for 11 years, remains non-dom

Current rules

- Remittance basis available (RBC payable) - taxable on foreign income/gains if brought to the UK
- IHT on UK assets only

New regime

- Taxable on worldwide income/gains
- 2025/26 – 50% foreign income
- 2025/26 and 2026/27 – TRF
- Rebasing to 6 April 2019
- Pre 6 April 2025 FIG taxed under current rules
- Worldwide assets within scope of IHT.

02

Long-term non-UK resident returning to the UK

Assume non-UK resident for 11 years, born in UK with UK domicile of origin

Current rules

- Formerly domiciled resident
- Remittance basis not available – taxable on worldwide income/gains
- Worldwide assets within scope of IHT (period of grace)

New regime

- FIG regime available: taxable on UK source income/gains only
- Potentially outside scope of IHT on non-UK assets for 10 years (subject to “connecting factors”)

Offshore trusts



01

Existing position

Trusts setup by non-UK domiciled individuals are considered “excluded property trusts”

Prior to the recent budget announcements, trust exposure to IHT was dependent on an individual's domicile and the assets being settled/held by the trustees. A relevant property trust is subject to IHT on chargeable events whereas an excluded property trust is not.

02

Excluded property trusts

Existing EPTs will still have IHT protection

Existing EPTs will still have IHT protection, as well as any EPTs settled pre 6 April 2025, noting that the broader trust protections for FIG will be removed from 6 April 2025. The position is unclear on anti-forestalling provisions.

03

Residence test

Domicile will be replaced with a “simpler” residence based test which will also impact trusts as well as individuals.

Chargeability of assets within offshore trusts settled post 6 April 2025 will depend on whether the settlor meets the residence criteria or within the tail provision at the time the assets are settled or when IHT charges arises – death of settlor?

The current proposals plan to grandfather EPT status for pre-6 April 2025. Labour has announced they will abolish EPT status altogether meaning that existing trusts and those created in anticipation of 6 April 2025 will not qualify.

04

Labour proposals

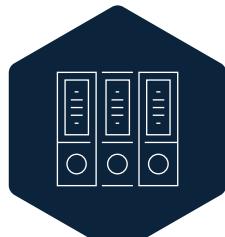
The upcoming general election sows more uncertainty as a Labour government would approach these reforms in a radically different way.



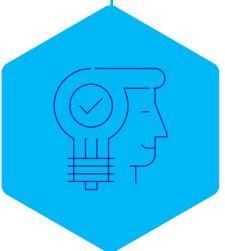
- 01 Introduction of deemed domiciled status for income and gains purposes in April 2017.
- 02 Long term residents and formerly domiciled residents who were non-domiciled under common law therefore lost access to the remittance basis when they became deemed domiciled.
- 03 All income and gains within structures from which they retained an interest would have become subject to tax as they arose without special provisions introduced.
- 04 Protected settlement rules allowed for non-UK source income within trusts to be kept outside the scope to tax on the settlor. Also extended to income arising to companies held within a trust structure.
- 05 Distributions of PFSI were then only taxed when distributed and therefore only became taxable if distributed to a UK resident individual (noting the applicability of the remittance basis for any qualifying recipients).
- 06 Protected settlements remained subject to the tainting rules which would disapply protected status.



Pre-6 April 2025 FIG will continue to be matched to trust distributions. The new regime does not eliminate historical income and gains.



Income tax and CGT protections applicable to existing protected trusts will disappear from 6 April 2025 – settlor interested structures (where the settlor is outside the 4 year FIG regime) will see the settlors taxed on income and gains as they arise.



The impact of the Transfer of Assets Abroad Anti-avoidance provisions and availability of the motive defence will become more relevant from 6 April 2025.



Settlers and spouses excluded from benefiting from protected trusts will not be taxable on the income arising in the trust, but will still be subject to UK tax on the gains realised annually.



Benefits made to settlors or beneficiaries will either be tax-free (if the 4-year FIG regime applies) or subject to UK tax.



From 6 April 2025, may be a position where settlor is taxed on income and gains of trust on arising basis, with benefits also matched to pre-April 2025 income – more to follow once the legislation is released.

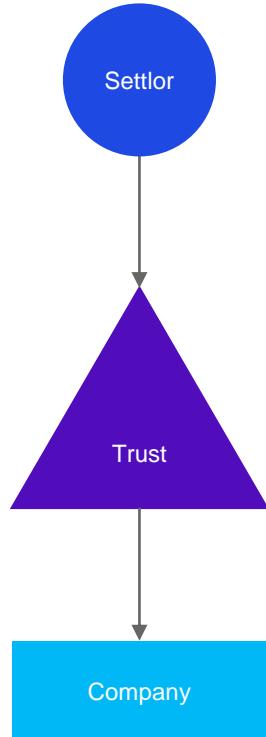
Benefits made to settlors or beneficiaries who are within the 4-year FIG regime will not be matched to trust income and gains, and will be subject to modified onward gift rule.





Background

- A non-UK domiciled individual (“A”) moves to the UK in 2001.
- Due to the changes implemented in 2017, the individual became deemed UK domiciled on 6 April 2017.
- Prior to becoming deemed domiciled, A created a trust on 1 March 2017 and settled £1m in cash from a non-UK bank account.
- The trustees incorporated a non-UK company beneath the trust and loaned all of the cash to the company.
- The company invested the cash into a selection of listed portfolio securities such as fixed income and equity investments.
- A is a named beneficiary of the trust along with A’s spouse and children.



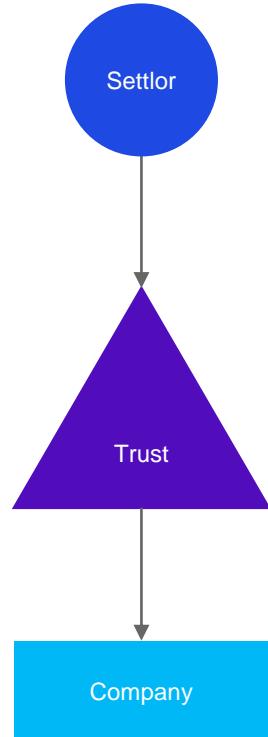
Existing regime

- Trust was settled by A when they were non-UK domiciled with non-UK assets. As a result, the trust is an excluded property trust for inheritance tax purposes.
- As A is the settlor and also a beneficiary, the trust is settlor interested for IHT. The settlor has a gift with reservation of benefit, albeit only in respect of UK assets held by the trust.
- Simultaneously, the trust is settlor-interested for income and gains tax. As a result, the income and gains of the trust and company would arise to the settlor without any further protections.
- By virtue of the trust being settled by a non-domiciled long term resident, the trust is a protected settlement and therefore the income arising within the trust and company is blocked from arising to the settlor.
- Gains are only taxed on a settlor where they are UK domiciled or a formerly domiciled individual thus no gains arising to the trustees are taxed on the settlor.



Background

- A non-UK domiciled individual (“A”) moves to the UK in 2001.
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New regime

- The settlor has been resident in the UK in the last 10 years therefore they will not be able to benefit from the transitional FIG regime.
- As a result, all income and gains arising within the trust and company will be taxed on the settlor as they arise.
- The IHT excluded property status should continue as the trust was setup pre-6 April 2025. Under Labour proposals, this would be lost and therefore the trust would fall within the relevant property regime due to the settlor meeting the 10-year residence test.
- On 1 March 2027 there will be a 10 year IHT charge on the value of all property within the trust. There will be a gift with reservation for the settlor.
- Consider excluding the settlor (noting the wide provisions for capital gains).
- Distributions to beneficiaries will still continue to be matched as normal with the addition of a “modified onward gifts rule”.

Possible actions



New arrivals in 2024/25 (i.e. before the rules kick in 6 April 2025)

- Consider arrival date?
- If going to become UK resident – current rules apply i.e. clean capital; segregate income for 2024/25 only.
 - Then consider remitting 2024/25 income at 12% in 2025/26.
- Consider rebasing assets pre-arrival/pre-6 April 2025 or whilst in regime if preferential.
- Offshore bonds – income and gains roll up tax-free, access 5%, then liquidate once NR.
- Consider settling an EPT pre 6 April 2025 – lock in IHT benefit.
- Could settle an EPT within the first 4 tax years but note IHT difference if settled post 5 April 2025.



Already UK resident < 4 years –

i.e. will be within 4 year FIG regime from 6 April 2025

- Make sure a claim for the remittance basis has been made.
- As for new-arrivals, plus remit initial years FIG during transitional rules under the TRF.



Already here > 4 years but < 15 years, i.e. not currently deemed domiciled:

- Benefit from the transitional rules:
 - ✓ Consider crystallising FIG in 2024/25 to remit post 6 April 2025 at 12%.
 - ✓ Consider the 50% reduction available for 2025/26 tax year.
- Offshore bonds.
- Rebase assets during 2024/25 or rebase to 6 April 2019 value on post 6 April 2025 disposals.
- Residence?
- Trust distribution in last year of remittance basis to fund foreign expenditure – assuming unable to benefit from TRF on any pre-6 April 2025 trust distributions.
- EPT pre-6 April 2025 to lock in IHT protection, but loss of wider protections may be a disincentive.



New trusts?

- IHT benefits will be locked if in settled pre-6 April 2025.
- Need to work through income tax and CGT position for the settlor post 6 April 2025.
- Wider benefits of trusts remain – asset protection, succession planning etc.
- Consider UK resident trust – IHT protection but income and gains taxed in the UK (rather than on the settlor).



Existing trusts:

- First 15 years (i.e. not already deemed domiciled) – wind up the trust?
- Trustees may look to rebase Trust assets pre April 2025.
- Exclusion of settlor and spouse.
- Consider the right to request for reimbursement of income tax and CGT from the trustees.
- Trustees may wish to invest using offshore bonds.



- Identify and check existing structures with UK connections and perform health checks – existing rules will not completely disappear
- Increased communication with settlors and beneficiaries regarding current residence status and firming up on domicile of settlor(s) for pre April 2025 structures
- Consider impact of proposals to ensure prompt action in best interests of beneficiaries
- Identify protected trusts and consider wind ups, motive defences, restructuring
- Consider terms of trust and possible amendments to exclude settlor and spouse from benefit
- Increased demand to create trusts pre April 2025, be ready!
- Record keeping will be key – RI, SG, track remittances, segregate pre and post 2025 income/gains

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