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**United Kingdom –
Consultation on Taxation
of Non-U.K. Domiciliaries**

by Colin-Ben Nathan, Rachel Beecroft, and Alison Hobbs, KPMG LLP, London (KPMG LLP in the United Kingdom is a KPMG International member firm)

flash Alert

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Following on its announcement of changes to the taxation of non-U.K. domiciled individuals (“non-doms”) in the U.K. Summer Budget in July 2015,¹ the government has now published a consultation document containing more detail on its proposals.² The consultation document confirms that legislation will be included in the 2016 Finance Bill and that the new rules will apply from 6 April 2017.

Why This Matters

Although the proposals, and particularly those aspects most relevant to assignees, are largely unchanged from those included in the technical note published at the time of the Summer Budget³ it is still essential that companies employing international assignees are aware of the proposed changes. The new rules could catch more individuals in the government’s tax net. It is possible, therefore, that the proposals will lead, in some cases, to increased costs and employers will want to prepare and budget for these.

The overall policy direction and key dates appear to be clear, and employers should consider the potential impact on their assignee population ahead of this proposed implementation date.

Current Rules

Currently, individuals resident and domiciled in the U.K. are taxed on their worldwide income and gains. They are also subject to inheritance tax (IHT) upon death on worldwide assets. Non-doms, however, may claim the “remittance basis” of taxation when filing U.K. tax returns, which means that non-U.K. source income and gains are not subjected to U.K. tax where there is no remittance to the United Kingdom. Non-doms also currently pay IHT only in respect of their U.K. assets (unless they are deemed domiciled for IHT purposes in the U.K.).

Proposed Changes – Abolition of Permanent Non-Dom Status

From 6 April 2017, any non-dom who has been resident in the U.K. for more than **15 of the past 20** tax years will be **deemed** U.K. domiciled for **all** tax purposes, including IHT. The current IHT deemed domicile rule (which, broadly, affects those who have been resident for 17 of the past 20 years), will therefore be amended.

Once individuals are deemed domiciled, they will be taxable on their worldwide income and gains arising in a tax year, and liable to IHT on their worldwide assets. Once the new rules take effect, a deemed U.K. domicile will be lost and a new non-U.K. domicile acquired for U.K. tax purposes only if the individual remains outside the U.K. for at least five years.

KPMG Note

One area that was identified as a matter for consultation in the technical note was whether split years of U.K. residence – that is to say years of arrival in or departure from the U.K. where the individual is only taxed as a U.K. resident for part of the year – will count towards the new 15-year rule. The consultation document now makes it clear that the government's intention is that any split years will count as a year of residence when considering the test.

The consultation document also proposes the abolition of the £2,000 de minimis rule for those with deemed domicile status. Under this rule, the remittance basis automatically applies to those non-doms with less than £2,000 of unremitted income and gains in a tax year (meaning that the unremitted amounts are not subject to U.K. tax). This proposed change may lead to an unwelcome administrative burden for assignees who will need to report income which has not previously been reported on a U.K. tax return.

Proposed Changes: The “Returning U.K. Dom”

Under the new rules, it will no longer be possible for somebody who is born in the U.K. to parents who are U.K. domiciled to claim non-domicile status if they leave but then return and take up residency in the United Kingdom. Instead, such individuals will re-acquire their U.K. domicile of origin for tax purposes on return, irrespective of any actual intentions. They will therefore be taxed on worldwide income and gains while U.K. resident, will not have access to the remittance basis of taxation, and will be subject to IHT on their worldwide assets. The individual will also not benefit from any favourable tax treatment that might otherwise apply for trusts set up when non-U.K. domiciled.

If a “returning U.K. dom” leaves the U.K. again, she will be considered as a non-dom for U.K. tax purposes at the point at which she becomes non-U.K. resident, provided she has not spent more than 15 of the previous 20 tax years in the United Kingdom, or has not reacquired a U.K. domicile under general law. Individuals who have spent more than 15 years in the U.K. will fall under the general deemed domicile rules outlined above and will be subject to the five-year rule before losing their deemed U.K. domicile.

KPMG Note

The consultation document notes that there may be a case for a short “grace period” for IHT purposes only, to prevent an IHT charge on worldwide assets arising on those who have only returned to the U.K. for a short period. This would prevent an IHT charge on worldwide assets arising where a “returning U.K. dom” dies during a period of temporary U.K. residence, and as such would be a welcome change to the previously published proposals. No details of the length of this grace period is given in the document.

The U.K. government is inviting views on this point, and we would expect confirmation of whether such a period will be introduced when detailed draft legislation is published later in the year.

Offshore Trusts

The proposed measures will also give rise to changes to the treatment of income and capital gains arising in relation to offshore trusts established by persons when they are not U.K. domiciled or

deemed domiciled under the new rules. Once an individual has become deemed U.K. domiciled under these new rules, the essence of the new proposals is that there will be an income tax charge on the receipt of benefits from the trust, rather than as and when income or gains arise in the trust, such as would normally apply for U.K.-domiciled settlors – this is the case save for U.K.-source trust income, which will continue to be taxed on an arising basis.

KPMG Note

This is a complex area, and the consultation document states that the U.K. government is continuing to consider the issues. One option suggested is that any changes should be applied to all non-doms resident in the U.K., and not just those who are deemed domiciled for tax purposes. It is, therefore, possible that the reforms in this area could have an impact on assignees resident in the U.K. for shorter periods.

Next Steps

Responses to the consultation have been requested by 11 November 2015. The specific questions raised in the consultation document include:

- Whether the proposals take the right approach to introducing a “deemed domicile” status, and whether they might give rise to any difficulties that could be avoided with a different approach;
- Whether the proposals for returning U.K. doms take the right approach, and whether there are circumstances where they would lead to “unfair outcomes” or uncertainty;⁴
- Whether the £2,000 threshold should be maintained for those individuals who become deemed domiciled; and
- When, for returning U.K. doms, a short grace period for IHT might “help to produce a fair outcome.”⁵

Some draft legislation has been released as part of the consultation document, but we would expect more detailed draft legislation to be published, along with other clauses for Finance Bill 2016, in early December 2015.

A separate consultation on measures to ensure that IHT is payable on U.K. residential property owned by non-doms through an offshore structure or investment vehicle is expected later this year, with legislation planned for Finance Bill 2017.

KPMG LLP (U.K.) will be responding to the consultation. If clients wish to contribute to the response, please let your usual KPMG contact know or speak to the contacts noted below. Alternatively, HMRC’s details are given in the consultation document.

Footnotes:

- 1 Please see [GMS Flash Alert 2015-083](#) (9 July 2015) and [GMS Flash Alert 2015-088](#) (17 July 2015).
- 2 See HM Treasury’s [“Reforms to the taxation of non-domiciles.”](#)
- 3 See HMRC’s [“Guidance: Technical briefing on foreign domiciled persons changes announced at Summer Budget 2015.”](#)

Footnotes (cont'd):

4 Quote taken from HM Treasury's "[Reforms to the taxation of non-domiciles.](#)"

5 Ibid.

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For further information or assistance, please contact your local GMS or People Services practice professional or one of the following professionals with the KPMG International member firm in the United Kingdom:

Colin Ben-Nathan
Tel. +44 (0) 20 7311 3363
Colin.ben-nathan@kpmg.co.uk

Rachel Beecroft
Tel. +44 20 7311 3356
Rachel.beecroft@kpmg.co.uk

Alison Hobbs
Tel. +44 (0) 20 7311 2819
Alison.hobbs@kpmg.co.uk

[A New GMS Video Ready to View: Global Mobility Trends Uncovered by KPMG's 2015 Global Assignment Policies and Practices Survey](#)

KPMG's Global Assignment Policies and Practices ("GAPP") [survey report](#) for 2015 was recently released by KPMG's Global Mobility Services practice (GMS). The [report](#) on the GAPP survey serves as a valuable resource in the global mobility arena, providing much valuable information for program managers. The GAPP survey allows program managers to benchmark their organization's global mobility program in relation to other survey participants.

There is a 4-1/2 minute video offering highlights of the survey report. To view the video, click [here](#).

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