

# ABOLITION OF THE UK NON-DOM REGIME

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We have been working through the technical proposals set out in the Spring 2024 Budget relating to the end of the remittance basis and, while there are still some uncertainties, we have set out our analysis below.

## Introduction

The Spring 2024 Budget was delivered by the Conservative Chancellor on 6 March and was expected to be the current Government's last chance to announce fiscal policies that might turn the tide in their favour at the general election later this year. However, there is a possibility that there might be another Budget in the Autumn, immediately prior to the election, where further tax cutting policies could be announced.

From our perspective the main headline was the announcements regarding changes to the taxation of non-UK domiciliaries. The announcements are considered more political than ideological and, are very similar to those proposed by the Labour Party as part of their election manifesto and not something one would have expected a right of centre Conservative Party to introduce.

We don't see the specific proposals as being vote winners although, the expected additional tax receipts gave the Chancellor increased flexibility for announcements in other areas. But the short 4-year time frame, as it applies to income and capital gains tax, might very well put off prospective HNWI immigrants from choosing the UK and hasten the departure of those already living in the UK.

Also, it is worth noting that the proposals are lacking in detail with further updates and draft legislation scheduled to be published later in the year, although no timetable has been provided. From recent past experience we may not see the detailed legislation until much later this year or even early next giving some of those affected, and their advisors, very little time to plan and reach conclusions on what they should do.

There is also the prospect that, if we have a change of government between now and 6 April 2025, which seems to be quite likely, the proposals may well change.

## New Regime for Foreign Income and Gains

The current non-dom regime has existed in some form for the best part of 200 years and currently enables an individual who is UK resident but non-domiciled (broadly someone who considers their permanent home to be somewhere other than the UK and where they will return to when they leave the UK) to avoid UK tax on foreign income and gains provided they are not remitted to the UK.



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The rules have been tightened and amended over the years but, provided the individual is able to maintain his or her non-domiciled status, the 'remittance basis' of taxation is able to continue for up to 15 years of UK residence. Although, there is a fee - the remittance basis charge, that needs to be paid for the privilege after 7 years of residence. Similarly, although the rules are even more complex, there are UK tax advantages available to offshore trust and company structures set up by non-UK domiciled settlors.

The announcements made by the UK Chancellor on 6 March 2024 signify a radical change of approach with the remittance basis being abolished entirely with effect from 6 April 2025. The new system will be based on residence with the concept of domicile being removed altogether.

From 6 April 2025 individuals arriving in the UK, provided they have been non-UK resident for at least 10 UK tax years, will be exempt from UK tax on all foreign income and gains (FIG) for their first four tax years of residence (the 4-year FIG regime). From year five, they will be taxed the same as UK resident and domiciled taxpayers and be subject to UK income and capital gains tax on all FIG.

Individuals who on 6 April 2025 will have already been UK resident for at least 4 years will be immediately subject to UK tax on FIG. However, the proposals include some transitional provisions available to those individuals as follows:

- Only 50% of foreign income arising in 2025/26 will be subject to UK tax; note the reduction is not applicable to foreign gains.
- Individuals who would have been eligible to claim the remittance basis will, on the disposal of an asset held personally at 5 April 2019, be able to choose to rebase the cost of that asset to its April 2019 value.
- Also, from 6 April 2025 individuals will be able to elect to pay tax at a reduced rate of 12% on remittances of pre-6 April 2025 FIG under the "Temporary Repatriation Facility (TRF)". This is much lower than the current highest 45% income tax rate for those in receipt of income in excess of GBP150k. This option is however only available in years 2025/26 and 2026/27 and, according to the technical note, will only apply where the FIG arose to an individual personally. Whether trust income distributions would fall within the TRF remains to be seen. Remittances from 6 April 2027 of pre-6 April 2025 FIG will continue to be taxable unless within the 4-year FIG regime.

### **Overseas Workday Relief (OWR)**

OWR provides relief on earnings for employment duties performed outside the UK and applies to remittance basis users in the first 3 years of UK residence. It will continue to be available for employees who opt to use the new 4-year FIG regime.

### **Trust Structures**

So called 'trust protections' will no longer be available to trust structures with effect from 6 April 2025. Income and gains arising to a trust structure will be taxed on a UK-resident settlor unless he/she is eligible for the new 4-year FIG regime described above, making the structures effectively transparent for UK income and capital gains tax purposes. Presumably, where UK resident settlors are irrevocably excluded from benefit no UK tax liability will arise but that is not certain at present and may well prove more problematic in relation to capital gains.



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The matching of trust distributions to trust income and gains will continue and will be subject to UK tax unless the recipient settlor or beneficiary is within the 4-year FIG regime. If this is the case then they will be able to receive trust benefits free of UK taxes whether remitted to the UK or not.

## **Inheritance Tax Changes**

The proposed new inheritance tax rules are subject to a period of consultation and are therefore even less certain than the 4-year FIG regime.

Currently the scope of UK IHT for assets owned personally is based on where the assets are situated and the owner's domicile status at the date of any tax charge, generally death. UK domiciled or deemed domiciled (see below) individuals are subject to IHT on their worldwide assets while non-domiciles are subject to tax only on UK sited assets. If a person is UK resident for 15 out of the last 20 years, they are currently treated as deemed domiciled in year 16.

It is envisaged that the new rules will involve charging IHT on worldwide assets owned when a person has been UK resident for 10 years with a proposed 'tail provision' to keep a person within scope for 10 years after leaving the UK. UK sited assets will remain in scope regardless of the residence of the individual.

The scope of UK IHT for settled assets is based on where the assets are situated and the owner's domicile status at the date of settlement. Non-UK assets settled by a non-domiciled settlor are currently 'excluded property' and not subject to IHT. The one exception to this is shares in an underlying company deriving their value from UK residential property, which would still be in scope.

It is intended that the current IHT treatment will continue for non-UK property settled by a non-domiciled settlor prior to 6 April 2025, so that might be an incentive for non-domiciles to create a trust before then! It would also appear that where assets in a trust meet the criteria for excluded property there would be no requirement for the settlor to be excluded from benefitting from the trust regardless of residence status. Such a trust structure will also fall within the 4-year FIG regime described above for income and capital gains purposes.

## **Further Thoughts**

All trust structures with UK resident settlors and/or beneficiaries will need to be reviewed to consider how the proposals might affect them and what planning might be considered before 6 April 2025. Although it would be wise to wait until draft legislation and guidance has been issued before taking any specific action.

Foreign trusts will still offer UK tax advantages to UK resident beneficiaries as tax deferral vehicles rather than having those assets owned personally once the remittance basis is abolished.

The ongoing IHT advantages will also still be there, although setting up an 'excluded property trust' might need to be brought forward to before 6 April 2025.

Changing the rules so radically again so soon after significant changes introduced in 2017 and 2018 does seem somewhat unfair and hardly conducive to creating the consistency and certainty that HNWIs would prefer. There will, no doubt, be strong lobbying of the government by interested parties and it is certainly possible that the proposals could be watered down so that pre-6 April 2025 trusts at least might not be caught. Watch this space!

Please do get in touch if an initial discussion would be helpful.