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Private Wealth



Budget 2024: changes to UK tax regime for non-doms

8 March 2024

Changes to UK tax regime for non-doms



From 6 April 2025, if the proposals are implemented as announced at the Budget, the UK's existing tax regime for UK resident non-UK domiciled individuals ("non-doms") will cease to exist. Domicile will no longer be a connecting factor for UK tax purposes; liability to UK tax, including in relation to inheritance tax (IHT), will depend on a person's tax residence.

The remittance basis of taxation is being abolished and replaced with a new beneficial tax regime based on tax residence (the "4-year exemption regime"):

- the new 4-year exemption regime will apply to individuals who become UK resident having been non-UK resident for the previous 10 tax years
- individuals who qualify for the 4-year exemption regime:
 - will not pay UK tax on their foreign income or gains for the first 4 tax years of UK residence even if they use it in, or bring it to, the UK
 - will not be subject to UK tax on any distributions or benefits they receive from non-UK trusts regardless of when the trust was set up or the status of the settlor at the time the trust was set up
- no fee will be payable to benefit from the 4-year exemption regime, but a claim must be made – individuals who make a claim will lose their income tax personal allowance and CGT annual exempt amount. As with the remittance basis, claims can be made on a tax-year by tax-year basis.

Any UK resident individual who is not eligible to benefit from the 4-year exemption regime will be subject to UK tax on their personal worldwide income and gains, and, if they have set up a non-UK trust from which they can benefit, all the income and gains arising to that trust. Some transitional reliefs will apply to non-doms who are already UK resident. Those who are UK resident before 6 April 2025, but have been so for fewer than 4 years when the new rules come into force, will benefit from both the 4-year exemption regime and the transitional reliefs.

Individuals who have been UK resident for 10 tax years will be subject to UK IHT on their worldwide assets and, if they leave the UK, they will remain subject to IHT on their worldwide assets until they have been non-UK resident for 10 years. The proposals in relation to IHT will be subject to consultation.

Impact of changes on individuals



Position of individuals who are already UK resident on 6 April 2025

Tax resident for more than 4 years and currently taxable on remittance basis

A UK resident individual who is currently taxable on the remittance basis, and remains UK resident after 5 April 2025, and who does not qualify for the 4-year exemption regime will be subject to UK tax on their worldwide income and gains from 6 April 2025 (including income and gains arising in any non-UK trust set up by them from which they can benefit – see further below). However, they will be able to benefit from certain transitional reliefs. In the 2025/2026 tax year they will only pay UK income tax on 50% of their foreign income regardless of whether they use it in, or bring it to, the UK. This relief only applies to foreign income; they will be subject to tax in full on any gains arising on the disposal of foreign assets. However, individuals who are neither UK domiciled nor UK deemed domiciled by 5 April 2025 can elect for the cost of any assets they held personally on 5 April 2019 to be rebased to the market value as at 5 April 2019 such that only any gains accruing since that date are subject to UK CGT.

In addition, any UK resident individual who has previously (at any time) been taxed on the remittance basis and who is UK resident in 2025/2026 and/or 2026/2027 can elect to pay tax at a reduced rate of 12% on remittances, during those tax years, of their pre-6 April 2025 unremitted foreign income and gains. This reduced rate of tax only applies to remittance basis foreign income and gains which arose to the individual personally before 6 April 2025 and not any that arose within a trust structure. Where an individual's remittance basis foreign income and gains are comprised within a mixed fund the usual rules which determine what element of the mixed fund (i.e. income or gains or capital) is being brought to the UK will be modified to make it easier for the individual to ensure that what they are remitting is foreign income or gains which benefits from the 12% tax rate. Remittances of remittance basis foreign income and gains in 2027/2028 and future tax years will be subject to UK tax at the normal rates.

If the individual remains UK resident for 10 tax years they will become subject to UK IHT on their worldwide assets and, if they leave the UK, they will remain subject to IHT on their worldwide assets until they have been non-UK resident for 10 years. The proposals in relation to IHT will be subject to consultation.

Tax resident and deemed domiciled under current rules

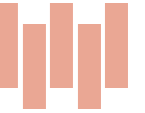
A UK resident individual who is already deemed domiciled in the UK, and remains UK resident after 5 April 2025, will be subject to UK tax on their worldwide income and gains from 6 April 2025 (including income and gains arising in any non-UK trust set up by them from which they can benefit – see further below). In addition, if they leave the UK, they will remain subject to IHT on their worldwide assets until they have been non-UK resident for 10 years.

Such an individual will not be able to benefit from the transitional relief for foreign income that arises in the 2025/2026 UK tax year, or the rebasing relief. However, if they have been taxed on the remittance basis in the past, they can elect to pay tax at a reduced rate of 12% on remittances, during 2025/2026 and 2026/2027, of pre-6 April 2025 unremitted foreign income and gains.

Tax resident for fewer than 4 years on 6 April 2025

Individuals who have been UK resident for fewer than 4 tax years on 6 April 2025 (when the new rules come into force) and were non-UK resident for at least 10 tax years before becoming UK tax resident) will be able to benefit from the 4-year exemption regime until they have been resident for 4 tax years (including tax years pre-6 April 2025). They will also be able to benefit from the transitional reliefs referred to above.

Impact of changes on non-UK trusts



Existing non-UK trusts set up by non-doms – income & gains

The changes will have no adverse impact on existing non-UK trusts set up by a non-dom who is, and will remain, non-UK resident, or those with deceased settlors. The same is true of new non-UK trusts established by a settlor who has always been non-UK resident and will remain so.

Position of UK resident settlor

From 6 April 2025, a UK resident settlor of a non-UK trust who is eligible to benefit from the 4-year exemption regime will not be subject to tax on foreign income or any gains arising to any non-UK trust set up by them, or any non-UK trust from which they receive any distribution or benefit, during the period they qualify for the 4-year exemption regime.

UK resident settlors of non-UK trusts who are not eligible to benefit from the 4-year exemption regime (because they have been UK resident for more than 4 tax years by 6 April 2025 or were not non-UK resident for more than 10 years before becoming UK resident) will be subject to UK tax on an arising basis on all the income and gains of the trust if they are able to benefit from it. If the settlor and their spouse/civil partner are excluded from benefiting under the trust (and their minor children do not receive any benefits) the settlor will, generally, not be liable to tax on the income arising to the trust, but any gains will remain taxable on them if their children and/or grandchildren can benefit under the trust.

Position of UK resident beneficiaries

From 6 April 2025, UK resident beneficiaries who are eligible to benefit from the 4-year exemption regime will be able to receive distributions and benefits from the trust without being subject to UK tax on those distributions/benefits wherever they are received, and regardless of what income and gains have arisen within the trust (it is not clear if this extends to UK income

which has arisen to the trust). Distributions/benefits to such beneficiaries will not, however, reduce the level of income and gains within the trust which can be matched to, and taxed on, UK resident beneficiaries who are not eligible to benefit from the 4-year exemption regime and who receive distributions/benefits. UK resident beneficiaries who are not eligible to benefit from the 4-year exemption regime will be subject to tax on distributions/benefits in the same way as now. Anti-avoidance rules will be introduced to prevent beneficiaries who are eligible to benefit from the 4-year exemption regime from receiving distributions/benefits tax-free and passing them on to UK resident beneficiaries who are not eligible to benefit from the 4-year exemption regime.

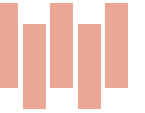
Income and gains which arose within the trust before 6 April 2025, and have not been taxed on the settlor or matched to distributions/benefits to beneficiaries before 6 April 2025, will remain subject to tax on UK resident beneficiaries as, and when, matched to distributions/benefits. Where the settlor is dead, or non-UK resident, income and gains which arise after 6 April 2025 will similarly be matched to distributions/benefits to UK resident beneficiaries.

It is worth noting that it is expected that existing defences to the attribution of income and gains to the settlor and beneficiaries of a trust (so-called "motive defences") will continue to be available where they apply.

Existing non-UK trusts set up by non-doms or those set up by a non-dom before 6 April 2025 – IHT

Non-UK situated assets held in a trust set up and funded by a non-UK domiciled and not UK deemed domiciled individual before 6 April 2025 will remain outside the scope of UK IHT. This will be the case even if the settlor is a beneficiary of the trust and even if the settlor is, or subsequently becomes, UK resident, and regardless of the length of their UK tax residency (subject to certain existing exceptions – e.g. indirectly held interests in UK residential property or loans related to UK residential property).

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