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Change to non-domicile tax regime forms part of UK Spring Budget 2024

Tax Talks on **March 8, 2024**

As part of the UK's Spring Budget 2024, the Chancellor of the Exchequer, Jeremy Hunt, has announced the abolition of the remittance basis for income tax and capital gains tax for non-UK domiciled, UK resident individuals (the "**Non-Dom Regime**") with effect from 6 April 2025. It is proposed that it is replaced with a new elective foreign income and gains regime that will apply for the first four tax years of UK tax residence for individuals who have not been UK tax resident for the previous ten years. There is also a proposal to reform inheritance tax to remove the connection with a person's domicile and link it to residence instead since the concept of domicile will be dropped.

The current Non-Dom Regime

Under the current Non-Dom Regime, non-UK domiciled individuals can, subject to detailed conditions and, in some cases, the payment of an annual charge, elect to be taxed on foreign sourced chargeable gains and income only if and when they are remitted to the UK (known as the "remittance basis" of taxation). In addition, liability to UK inheritance tax depends to some extent on where a person is domiciled for tax purposes. In both contexts, domicile is a fact-based concept.

The new foreign income and gains regime (the"FIG Regime")

Under the new proposed FIG Regime, individuals coming to the UK who have not been UK tax resident in any of the previous ten tax years will, on a claim being made annually, not be required to pay tax on any non-UK source income or gains for a maximum of four tax years. Claims can be made for each the first four tax years of their UK tax residence and they will be able to remit any non-UK source income or gains arising in those tax years to the UK tax free. Claims will have to be made on an annual basis and need not be made for all four relevant tax years. This new FIG Regime will also apply to individuals who have been tax resident in the UK for less than four tax years on April 2025 (provided that prior to this they were non-UK tax resident for ten consecutive tax years), and those individuals will be able to use the new regime for any tax year of UK tax residence in the remainder of those four tax years. If a claim is made to enter the FIG regime in a tax year, the taxpayer will lose entitlement to personal allowances and the capital gains tax annual exempt amount for that year. Once taxpayers have been UK tax resident for four tax years, they will pay UK tax on their worldwide income and gains (at the prevailing rates) as is the case for all other UK tax residents.

Transitional arrangements

The Government has announced certain transitional arrangements for non-domiciled individuals that are currently using the Non-Dom Regime both to ensure that they are not unduly affected by the upcoming changes to the regime and to encourage these individuals to remit their existing foreign income and gains to the UK.

The main transitional provisions are:

- individuals who transition from the current Non-Dom Regime and who are not eligible for the FIG Regime will be subject to tax on 50% of their non-UK source income (but not capital gains) arising in the tax year 2025/26;
- individuals who have claimed to be taxed on the remittance basis under the current Non-Dom Regime and are neither UK domiciled nor deemed domiciled by 6 April 2025 can elect to rebase the value of any non-UK assets that they held at 5 April 2019 to their value at that date for capital gains tax purposes. This means that when those foreign assets are disposed of on or after 6 April 2025, any capital gain will be calculated by reference to that April 2019 value; and
- individuals who have elected to be taxed on the remittance basis under the current Non-Dom Regime and have unremitted (and so, to date, untaxed) non-UK income and gains can also opt to remit that income and those gains that arose before 6 April 2025 and be taxed on them at a special low rate of 12% (rather than the usual

rates of up to 45% for income and 20% for gains) if they remit the foreign income and gains between 6 April 2025 and 5 April 2027. This will be known as the "temporary repatriation facility". Any remittances made after 5 April 2027 will be taxed at the normal prevailing tax rates.

Consultation on moving inheritance tax ("IHT") to a residence-based regime

The proposed reforms to the remittance basis regime will affect IHT as well.

Currently, an individual's liability to IHT depends on their domicile status and the location of the relevant asset. A new residence-based regime was also announced by the Chancellor which will apply from 6 April 2025 and is expected to result in the application of UK IHT to worldwide assets that are owned outright by an individual who has been tax resident in the UK for ten years, with a taxpayer remaining within the charge to IHT for a further ten years after leaving the UK. It is expected that UK-situated assets will remain chargeable to IHT on the same basis as at present, regardless of an individual's residence status. No formal decisions have been made and the Government intends to consult on in the changes to the IHT regime in due course.

It is worth adding that there will be a general election before 6 April 2025 which is when the changes are expected to take effect. The Labour Party had already announced that it would abolish the Non-Dom Regime so it is not yet clear whether the changes proposed by the Chancellor will be implemented in this form or, if a there is a change in Government, whether further or different changes can be expected.

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