

Non-Dom Changes

September 2017



The “Non-Dom Reform”

In 2015 the Government announced a number of reforms to the way in which foreign domiciled persons (“Non-Doms”) are taxed in the UK. The new domicile rules will apply to all individuals with effect from 6 April 2017.

The “15 year” rule

Under the new arrangements, UK resident non-domiciled taxpayers who have been a UK resident for 15 of the 20 years will be deemed domiciled for UK tax purposes. The deemed domicile status will apply to all taxes (previously deemed domicile status only applied to inheritance tax).

Those taxpayers deemed domiciled under the new rules will no longer have the benefit of the remittance basis of taxation and, from the beginning of their 16th tax year of tax residence in the UK, will become subject to income tax, capital gains tax and IHT on their worldwide income, gains and assets.

This update focuses on two transitional reliefs which have been introduced to soften the blow of those changes.

Cleansing of Mixed Funds

When a UK resident non-dom remits foreign income or gains to the UK this becomes taxable in the UK based on the nature of its underlying source.

Wealth accumulated before becoming UK resident is deemed to be capital (regardless of the underlying source). This can therefore be remitted to the UK free of tax.

However, where the remittance has come from a source which contains different types of income, gains and capital, the remittance is made from a “mixed fund” and there are strict legislative rules which determine the order of remittance, known as the mixed fund rules.

A mixed fund causes problems as the specific rules which determine the order in which income, gains and capital are remitted are often disadvantageous to the taxpayer.

The government have introduced a transitional opportunity for Non-Doms, to be able to separate their mixed funds into their constituent parts i.e. clean capital, foreign income, and foreign gains, within a two year window, starting on 6 April 2017.

It will be possible to nominate the clean capital and separate it from the mixed fund by transferring it into a separate overseas account containing nothing else. They can then make a tax-free remittance to the UK by transferring their clean capital and leave taxable income and gains offshore.

In order to quantify the amount of capital in the mixed fund, detailed calculations and analysis may be required.

Cleansing will only be available for amounts held in bank and similar accounts and will not extend to other assets which might themselves be a mixed fund, such as shares or other property.

In the case of foreign chargeable assets (which are inherently mixed funds), it may be possible to sell the asset and split the gain and constituent parts of the original cost from any clean capital.

The one off opportunity for cleansing is very sensible planning for any Non-Dom with mixed funds.

Rebasing Asset Values

Qualifying individuals caught by the deemed domicile 15-year rule in 2017-18 will also have the opportunity to rebase their directly held foreign chargeable assets to their market value at 5 April 2017.

Rebasing relief applies to qualifying individuals who have previously paid the remittance basis charge, it is automatic and individuals will need to elect for rebasing to not apply (e.g. if an asset is standing at a loss)

The base cost of qualifying foreign assets may be uplifted to 5 April 2017 market value for the purposes of calculating the chargeable capital gain. Therefore only the uplift in value from 5 April 2017 will be subject to capital gains tax when the asset is eventually sold.

For long term residents the opportunity to combine the cleansing rules with rebasing relief could prove to be a very beneficial planning tool.

Next steps

We are working with clients to assess the benefits of these transitional reliefs and assisting them in identifying capital which can be remitted to the UK tax free.

If you would like to discuss the above rules in further detail please contact our Private Client team as follow:

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