



UK Spring Budget update – sunset for the “non-dom”?

Background

The UK Spring Budget introduced some major changes to how non-domiciled individuals (“non-doms”) are taxed in the UK. The purpose of the reforms appears to be two-fold: in part, to placate potential Tory voters who are unhappy about longer-term UK residents not paying tax on their foreign income and capital gains and, in part, to simplify the tax system and provide clarity for taxpayers.

Although these changes may be implemented (in one form or other) in the Finance Act over the coming summer, there is the possibility that those changes may be swept away (or developed further) under a new government following an autumn General Election. So, although we have a broad-brush indication of what the new rules will be, exactly what the rules will be (and for how long) remains to be seen, which will make it difficult for taxpayers to plan.

Jeremy Hunt’s proposed new regime steps away from the complex, imprecise and, to some extent, subjective concept of “domicile” as a basis for taxation, shifting towards a focus on the more objective concept of a person’s history of UK tax residence. It is not always possible to be absolutely sure of a person’s domicile in many situations and it is quite possible that two entirely reasonable people can come to a different conclusion about where a person is domiciled given the same set of facts. The increasing number of HMRC enquiries that focus around an individual’s domicile at various times in their past (often going back decades) is perhaps proof of this.

One might rightly argue that, if the law of domicile permits such ambiguity, it is not right to use it to determine a person’s exposure to tax. The change therefore aims to provide greater certainty regarding UK tax liabilities.

Key Changes:

1. *Income Tax and Capital Gains Tax (CGT) for Non-Doms:*

- Previously, non-doms could claim the “remittance basis”, paying tax on foreign income and gains only when remitted to (ie brought to or used in) the UK, which might be in a tax year later than that in which the income or gains arose – or it might never be remitted at all.

- From 6 April 2025, a new "foreign income and gains regime" (the "FIG regime") will replace the remittance basis. The FIG regime (which is optional) will apply to individuals who were non-UK resident for at least ten consecutive years before becoming UK resident.
- Under the new regime, foreign income and gains ("FIGs") will be tax-free in the UK where the taxpayer elects into the FIG regime. "Remittances" of those FIGs will not trigger any tax charge.
- Taxpayers who elect into the FIG regime will lose personal income tax allowances and annual capital gains exemptions, but may still benefit from trust protections and a new version of "Overseas Workday Relief" ("OWR") for the first three years.
- OWR will be adjusted so that a person's income that relates to duties carried out outside the UK will be tax-free and can be remitted without a tax charge.

Comment:

- *This ability to remit new FIGs "tax-free" is very beneficial and enormously simplifies how FIG regime users will be taxed and how they need organise their financial affairs.*
- *Non-UK distributions from offshore trusts can also be made tax-free under the FIG regime and this may encourage those already resident in the UK to withdraw substantial sums from their offshore trust (or even wind them up, in some cases).*
- *The present "protected settlements" regime will only continue to apply where the settlor is eligible for the FIG regime, which could trigger very substantial tax charges for some.*
- *10 consecutive years of non-UK residence is quite demanding and it may be that this is relaxed before the rules come into force. One possibility is that the 10 years may be "10 out of the last 12 tax years", or something similar.*
- *Similarly, allowing the FIG regime for only 4 years is rather mean and may act as a deterrent to wealthy and entrepreneurial non-residents who might have planned to move to the UK or set up their businesses here. It would not be surprising to find that this period is extended over the coming months, possibly with the imposition of an annual fee.*
- *The announcements last week indicate that the FIG regime is available for the first year of UK residence after the "10 years of non-residence" and then the subsequent three years – making a total of four years - regardless of whether the taxpayer is UK resident in each of those years. It may therefore be that the taxpayer will only be able to use the FIG regime for one or two years – years in which they are UK resident, rather than in the "first four years of UK residence".*
- *It is worth noting that the clock is reset to enable further claims to be made under the FIG regime after 10 years of non-residence. By comparison, the similar rule at the moment requires only 6 years of non-residence.*
- *It is not known whether some of those originally from the UK will be excluded from the FIG regime, as they are in relation to the remittance basis.*



2. **Transitional Rules:**

- Transitional measures include a Temporary Repatriation Facility allowing for reduced tax rate of 12% on FIGs which are remitted during the first two years of the FIG regime (2025/26 and 2026/27). These are FIGs are the ones which arose in years when the taxpayer claimed the remittance basis. There will be rules to assist where it cannot easily be determined whether money being remitted is income, gains or neither. This facility is only for personal FIGs and not those arising in trusts or other structures.
- An individual who was not UK domiciled (or deemed UK domiciled) on 5 April 2025 and is not eligible for the FIG regime in 2025/26 will be subject to tax on only half of their non-UK income in that year only. NB this does not apply to non-UK capital gains that year.
- Assets held on 5 April 2019 by someone who has claimed the remittance basis can be rebased for capital gains tax purposes when the asset is later sold.
- Business Investment Relief (BIR) will continue to be available for qualifying investments in UK businesses.

Comment:

- *The 12% tax rate for remittances in those first two years of the new regime may be very appealing to those who need to bring funds to the UK but do not have sufficient capital available.*
- *The concession for 2025/26 of taxing only half of the taxpayer's foreign income may be of most interest to those who have decided to leave the UK (and become non-resident) as a result of the changes, but have not managed to do so in 2025/26.*
- *Likewise, the rebasing may be of some limited interest to a few. Helpfully, no decision has to be made now about whether to rebase assets or not.*

3. **Inheritance Tax (IHT) Changes:**

- Future changes to IHT rules will also be based on years of UK residence.
- Initially, only UK assets will be subject to IHT for individuals with ten consecutive years of non-UK residence. It appears that this will continue until 10 years have passed since the beginning of their first year of UK residence.
- Once the 10 years have passed, an individual's worldwide estate will be within scope of IHT, like under the current "deemed domicile" rules. That status will then only be lost after a further 10 years of non-residence.
- There is a lot of detail not yet announced and there will be a government consultation paper to consider the detail of this new IHT regime.

Comment:

- *This is good news for longer-term expats (those who have left the UK), as it gives them certainty about their exposure to IHT: it will no longer be determined by whether they intend to remain living permanently or indefinitely in the place where*



they currently live, or whether they can argue that the home that they have in that place is their “main residence” or not – these are both aspects of the domicile rules.

- *The requirement to have 10 consecutive years of non-residence to reset the rules seems extreme and much more severe than the current regime, where one’s “deemed UK domicile” can be lost in the fourth consecutive year of non-residence and fully resets after six years of non-residence.*
- *It is assumed that, as is the case now, certain non-UK assets will be brought into the IHT net (eg where their value derives from UK residential property) or excluded from it (eg holdings of Authorised Unit Trust and Open-Ended Investment Companies).*
- *Again, it is not known whether special rules will apply to those originally from the UK, as under the current rules.*

4. Trusts and IHT:

- Currently, trusts established by non-doms (or added to by them) which hold non-UK assets are generally outside the scope of IHT. It is expected that this will continue to be the case for new trusts and additions up to 5 April 2025 and that those trusts will maintain their “excluded” status after that.
- From 6 April 2025, new trusts and additions to trusts will only benefit from the same treatment where the person adding to or establishing the trust satisfies the residence criteria described above in relation to their personal IHT position.

Comment:

- *It is expected that there will be a rush to set up / add to trusts between now and 5 April 2025. Those who might particularly benefit are those who are currently non-doms (and not “deemed UK domiciled”) but will not satisfy the new residence criteria from 6 April 2025.*

5. Other Budget Highlights:

- Closure of a gap in anti-avoidance rules in relation to assets transferred by companies.
- Reduction in the higher CGT rates for second homes for the tax year 2024/25 (reducing to 24% from 28%).
- Removal of tax advantages for furnished holiday lets from 2025/26.
- Increase to the Higher Income Child Benefit Charge threshold.
- Increase in the ISA allowance (an additional £5,000) for investments into UK companies.
- Removal of “multiple dwellings relief” for Stamp Duty Land Tax.

6. Future Considerations:



- It is likely that many aspects of the new regime and the transitional provisions will be hotly debated over the coming months, before the Finance Bill is published.
- In particular, questions remain regarding fees for using the FIG regime, the duration of eligibility and requirements for re-eligibility.
- Whilst the Finance Bill, once settled and passed, will give some certainty of the rules for the future, it remains to be seen what a new government (which seems likely by the end of the year) will do with the changes that are brought in.
- That said, while what the Chancellor has announced for non-doms may face close scrutiny, the shift towards a more straightforward tax system brings more clarity and aligns with practices in other countries.

If you may be affected by these new tax regimes or would like to discuss any aspect of them, please contact [Paul Davidoff](#), our partner who specialises in international tax matters.

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