

The clock is ticking towards April 2017 when the new rules affecting the status of non-domiciled but UK resident individuals as set out in Finance Bill 2017 will take full force and effect.

One last chance to take advantage of offshore trusts?

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The clock is ticking towards April 2017 when the new rules affecting the status of non-domiciled but UK resident individuals as set out in Finance Bill 2017 will take full force and effect. There are estimated to be around 115,000 non-domiciled residents of the UK, and under current law, 'non-doms' enjoy a favoured tax regime in the UK. They are liable to UK tax on UK source income and gains, but can opt for overseas income and gains to be taxed on the remittance basis so that UK tax is only payable on foreign income or gains that are actually remitted to the UK. For UK inheritance tax purposes, non-domiciled individuals are only subject to inheritance tax on their UK situated assets.

This is all about to change.

The new rules

'Non-dom' status is to be taken away from those who have lived in the UK for more than 15 of the last 20 years. From 6 April 2017, individuals who have been resident in the UK for more than 15 out of the previous 20 tax years will be regarded as deemed domiciled in the UK for all UK tax purposes. This means that such individuals will no longer be able to claim the remittance basis, meaning UK tax will be charged on their worldwide income and gains on an arising basis. The value of their worldwide assets will be subject to UK inheritance tax at a rate of 40%, subject to certain allowances.

Individuals who will be deemed domiciled from 6 April 2017 as a result of the new '15/20 rule' and those who will not immediately be caught, but who anticipate long-term UK residence, are advised to take action now to shelter their foreign income and gains from UK tax, and to prevent their worldwide assets from falling within the UK inheritance tax net.

Action

There is a very short window within which action can be taken to mitigate future liability to UK tax on assets currently held by UK resident non-doms. Non-doms should consider transferring assets into an offshore trust before becoming deemed domiciled as:

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1. Foreign source income and gains can be rolled up within an offshore trust in a tax free environment, so that tax is only payable when distributions are made.
2. For UK inheritance tax purposes, any assets held by an offshore trust which was established by a non-domiciled individual are 'excluded property', meaning that the assets held (with the exception of UK residential property) will not be subject to UK inheritance tax, even if the settlor subsequently becomes deemed domiciled.

A trust is a flexible structure which can hold assets on flexible terms for the benefit of the individual and current and future generations of his or her family.

Existing offshore trusts

In addition to taking advantage of the current favourable rules by establishing new offshore trusts before the rules take effect, existing offshore trusts should also be reviewed to establish whether any action should be taken prior to April 2017. Consideration should be given to extracting funds from existing structures in a tax-efficient manner before the rules change. Consideration should also be given to splitting existing trusts to provide flexibility going forward, based on the classes of assets held and the tax status of the individual beneficiaries. Together with an individual's onshore advisor, Harneys can review and amend existing structures as may be required.

For more information and key contacts please visit www.harneys.com/expertise/global/private-wealth-and-trusts.

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