BRIEFING

Non-dom rules to be replaced with four-year temporary residence regime

The Chancellor of the Exchequer, Jeremy Hunt, announced on 6 March 2024 that the government will abolish the current tax regime for individuals who are UK resident but not UK domiciled in favour of a residency-based system, which will apply from 6 April 2025.

The proposed changes are wide-ranging and will affect both individuals currently living in the UK and those planning to move to the UK.

The good news is that the 6 April 2025 implementation date gives those who are already UK resident time to take advice and plan before the changes take effect.

SUMMARY

From 6 April 2025, the remittance basis of taxation, which allows UK resident individuals who are not UK domiciled to pay tax only on foreign income and gains that are "remitted" to the UK, will be abolished. It will be replaced with a new regime under which those who have been UK resident for at least four years will pay income tax and capital gains tax ("**CGT**") on their worldwide income and gains.

Draft legislation has not been published, but the government has made it clear that the new rules will also apply to income and gains arising within trusts. The result is that the generous trust protections introduced in 2017 will no longer be available to those who have been resident for four years, even if their trusts were set up before 6 April 2025.

FOUR YEARS OF RESIDENCE TAX-FREE

- Individuals who become UK resident after a period of at least 10 years of non-UK residence will not pay UK income tax or CGT on their foreign income and gains in their first four years of UK residence, even if they bring the income and gains to the UK.
- This means that individuals who are only temporarily UK resident will be able to spend their foreign income and gains freely in the UK without incurring UK tax – and without the need to navigate the complicated remittance basis rules.
- Foreign income and gains arising in non-resident trusts, and distributions from those trusts, will also be tax-free during the four year period.

NON-DOM RULES TO BE REPLACED

TRANSITIONAL RULES

For those who are already UK resident, there will be several transitional rules.

Pre-6 April 2025 income and gains

The remittance rules will continue to apply to unremitted foreign income and gains generated prior to 6 April 2025 on assets held personally. That is, the income and gains will continue to be free of tax provided they are not remitted.

This will not be the case for income and gains arising in trusts before 6 April 2025, which will be taxed in full if matched against distributions made on or after 6 April 2025 regardless of whether they are remitted (though distributions made within the first four years of residence won't be matched or taxed).

Those who are already UK resident may need to consider planning in advance of the changes.

Temporary Repatriation Facility

A new Temporary Repatriation Facility will be available from 6 April 2025 to 5 April 2027. This will allow those with pre-6 April 2025 unremitted income and gains to remit them and pay tax at a reduced rate of 12%. Again, this will not be available for pre-6 April 2025 income and gains in trusts.

Reduced rate of tax on foreign income earned in 2025/26

Existing remittance basis users who will have been UK resident for at least four years on 6 April 2025 will only pay income tax on 50% of their foreign income in the 2025/2026 tax year.

Capital gains tax rebasing

Those who have been UK resident for more than four years (whether in 2025/26 or later) will be able to choose to "rebase" any assets held personally on or before 5 April 2019 to their market value on that date, so that only the post-5 April 2019 gain will be subject to CGT on a disposal.

INHERITANCE TAX

The inheritance tax ("**IHT**") regime, which is currently based predominantly on domicile, will also move to a residency-based system. The government intends to consult on the details. However, it is proposed that individuals will be subject to IHT on their worldwide assets after they have been UK resident for at least 10 years, and will remain so for 10 years after ceasing residence.

It is envisaged that the current regime will continue to apply to non-UK situated assets settled onto trust by a non-UK domiciled individual prior to 6 April 2025. For trusts established on or after 6 April 2025, chargeability to IHT will depend on whether the individual was within the scope of IHT at the time of funding the trust.

PLANNING AHEAD

The remittance basis has been a feature of the UK's tax system since 1799. With both the government and the main opposition party now committed to its abolition, its future seems all but certain. Hopes that a replacement regime would be the subject of consultation (not just on the detail of the IHT aspects) will be dwindling rapidly. Many will be disappointed that both main political parties have committed to a limited inpatriate regime when compared to those offered by some other countries in Europe.

For those who are already UK resident, however, the transitional provisions that have been announced present opportunities that will deserve careful consideration as further details become available.

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