

Wealth Owner Summary

Significant tax changes come into force in April 2017 for UK resident non-doms. If you have been in the UK for 15 years or more you will lose substantial tax advantages. Although some beneficial tax treatment will remain, it is safe to assume your UK tax bill will likely increase. Here we provide a guide to the proposals so you can plan ahead.

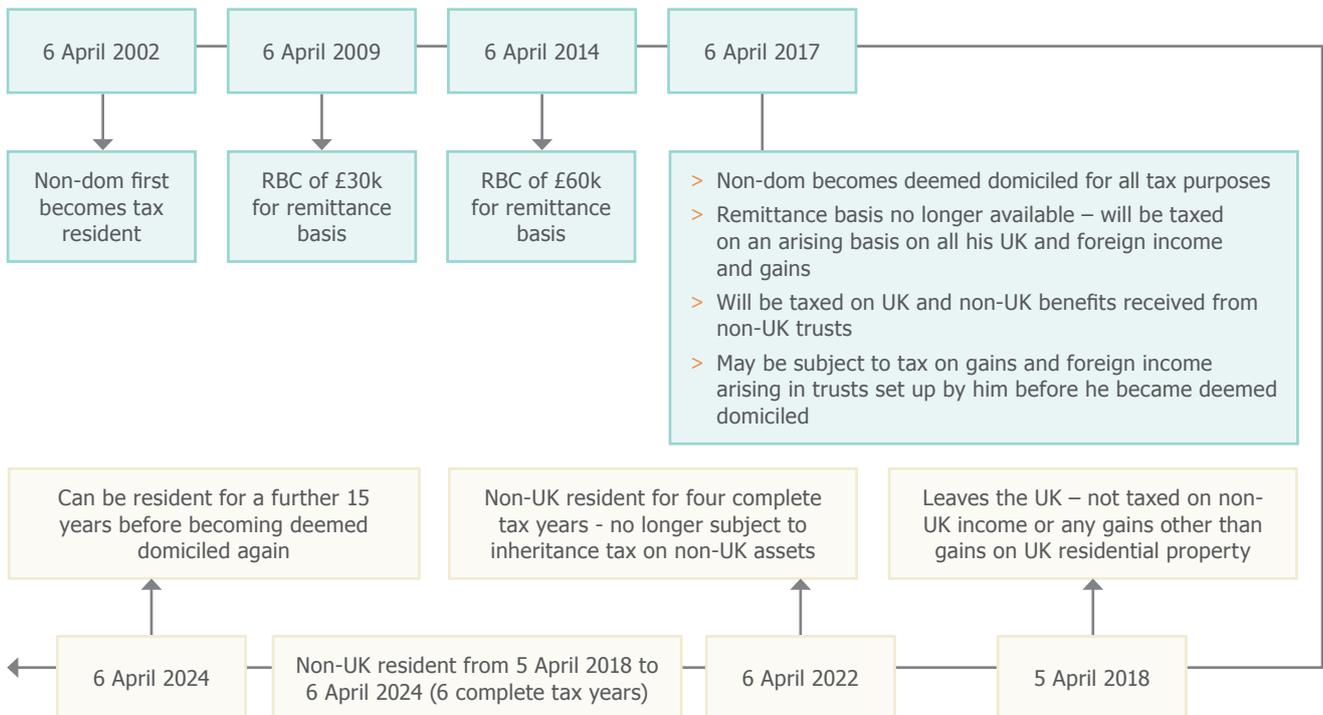


AUGUST 2016 CON-DOC: IMPACT FOR A UK RESIDENT WITH A FOREIGN DOMICILE OF ORIGIN

Proposed position from April 2017

The long awaited consultation paper on the taxation of non-UK domiciled individuals has been issued. The position for those with a foreign domicile of origin is set out below.

POST APRIL 2017 RULES



UK TAX RESIDENT FOR FEWER THAN 15 TAX YEARS (SHORT-TERM RESIDENT)

A non-UK domiciled individual who has been UK tax resident in fewer than 15 of the previous 20 tax years can claim the remittance basis of taxation.

- > If he makes a valid claim for the remittance basis:
 - he will be subject to tax on his (i) UK income; and (ii) gains realised on UK assets, as they arise
 - he will only be subject to tax on his foreign income if it is remitted to the UK
 - he will only be subject to tax on his foreign gains if the sale proceeds are remitted to the UK
 - in relation to an offshore trust set up by him and from which he can benefit:
 - he may be subject to tax on UK income of the trust on an arising basis
 - he will only be subject to tax on:
 - foreign income of the trust if it is remitted to the UK
 - gains of the trust if he receives a benefit from the trust in the UK
- > If he does not claim the remittance basis he will be subject to tax on his worldwide income and gains, and the income of any trust set up by him
- > Whether or not he claims the remittance basis:
 - he will only be subject to inheritance tax on his directly held UK assets, and UK residential property (held directly or indirectly)
 - non-UK assets held in an offshore trust set up by the individual will not be subject to inheritance tax

UK TAX RESIDENT FOR 15 OR MORE TAX YEARS (LONG-TERM RESIDENT)

A non-UK domiciled individual who has been UK tax resident in 15 or more of the previous 20 tax years will be deemed domiciled in the UK for all tax purposes.

- > He will be subject to tax on his worldwide income and gains on an arising basis; the remittance basis will not be available to him
- > He will be subject to inheritance tax on all his worldwide assets
- > In relation to an offshore trust set up by him before he became deemed domiciled in the UK, and provided no funds have been added to the trust since he became deemed domiciled, he:
 - will be subject to tax on UK income of the trust on an arising basis
 - will not be subject to tax on the foreign income of the trust as it arises, but if he, his spouse/civil partner or minor child/grandchild receives a benefit from the trust he will be subject to tax on the foreign income in the trust up to the value of that benefit, wherever the benefit is received
 - will be subject to tax on the gains of the trust on any arising basis if he, his spouse/civil partner or minor child receives any benefit from the trust after he has become deemed domiciled

- > Non-UK assets held in an offshore trust set up by the individual before he became deemed domiciled will remain exempt from inheritance tax
- > His worldwide assets will remain subject to inheritance tax for four complete tax years after he ceases to be UK resident. This is the same as under the current rules for inheritance tax.
- > After six complete tax years of non-UK residence he can return to the UK and be resident for a further 15 years before becoming deemed domiciled again

THE GOOD NEWS

Re-basing assets

- > Once an individual is deemed domiciled he will be subject to tax on gains realised on foreign assets even if the proceeds of sale are kept outside the UK
- > An individual who becomes deemed domiciled on 6 April 2017 (and has paid the remittance basis charge in any earlier tax year) can elect to re-base any foreign asset held directly by him so that he is only subject to capital gains tax on any increase in the value of the asset from 6 April 2017
- > Rebasing will apply on an asset-by-asset basis
- > Rebasing will not be available to a non-dom with a UK domicile of origin who becomes deemed domiciled on 6 April 2017, or to any non-dom who becomes deemed domiciled after 6 April 2017

Mixed offshore funds

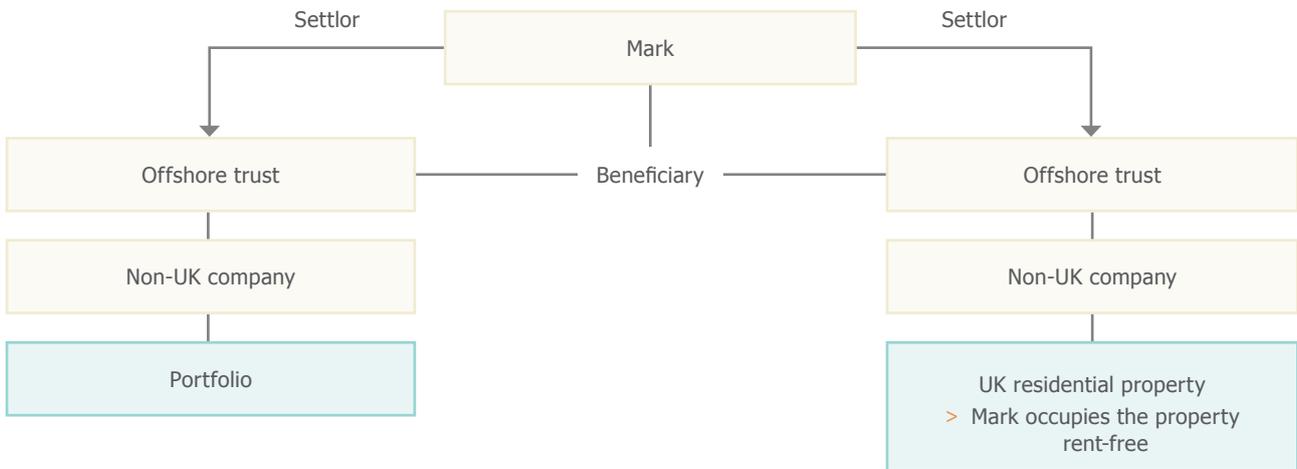
- > Currently non-doms who have offshore bank accounts containing mixed funds - e.g. capital, capital gains and income - can only remit the capital element to the UK (which can be remitted tax-free) once all the other elements in the account have been remitted to the UK and taxed
- > All non-doms (other than those with a UK domicile of origin) will have a one-off opportunity to 'clean up' offshore mixed bank accounts and release the capital in those accounts which can then be remitted to the UK tax-free
- > Between 6 April 2017 and 5 April 2018, non-doms will be able to separate mixed funds into the different elements and place the clean capital, capital gains and income in separate accounts which can then be remitted as they wish
- > This temporary treatment only applies to bank accounts. If mixed funds have been used to buy an asset the asset will need to be sold and then the sale proceeds can then be separated into different elements

Offshore trusts

- > Non-UK assets held in trusts set-up by a non-dom before he became deemed domiciled will remain outside the scope of inheritance tax
- > Distributions or benefits to the adult children of a non-dom settlor of an offshore trust who has become deemed domiciled will not result in the settlor becoming subject to tax on income up to that value and all gains of the trust on an arising basis

MARK

- > Non-UK domiciled (non-UK domicile of origin)
- > UK tax resident since 2002/2003
- > Set up offshore trusts in January 2002
- > Deemed domiciled in the UK from 6 April 2017 under new rules



TAX POSITION OF TRUSTS ONCE DEEMED DOMICILED

Once Mark is deemed domiciled in the UK, provided no further funds are added to the trusts:

- > He will remain subject to income tax on UK source income of the trusts on an arising basis
- > He will not be subject to tax on an arising basis on foreign income of the trusts – under current rules he would have to pay the remittance basis charge to achieve this
- > However, if Mark, his spouse/civil partner or minor child/grandchild receives a distribution or benefit from the trusts at a time when he is UK resident and deemed domiciled he will be subject to tax on the foreign income of the trusts up to the value of the distribution or benefit
- > He will be subject to tax on gains realised in the trusts on an arising basis if he, his spouse/civil partner or minor child receives any benefit from the trusts after he has become deemed domiciled in the UK. If none of those people receive any benefits the trust gains will not be subject to tax on Mark but will potentially be subject to tax on any other UK resident beneficiaries who receive a benefit from the trusts
- > He will also be subject to tax on any distributions or benefits he receives from offshore trusts of which he is not the settlor (or their underlying entities), wherever he receives those distributions/benefits, if those trusts have income and gains arising in them
- > He will not be subject to tax on his rent-free occupation of the UK residential property if no income or gains arise in that trust
- > The non-UK assets in the trusts will remain outside the scope of inheritance tax despite Mark becoming deemed domiciled in the UK - but see below

If Mark adds funds to the trusts after he has become deemed domiciled he will be subject to tax on all the UK and non-UK income and gains of the trusts on an arising basis, in that tax year and all subsequent tax years in which he is UK resident. The added funds will also not be protected from UK inheritance tax.

UK residential property

- > From 6 April 2017, the UK residential property held in the trust will be subject to inheritance tax regardless of whether or not Mark is deemed domiciled in the UK
- > A charge to inheritance tax will arise:
 - on each 10 year anniversary of the trust; and
 - on Mark's death

This note is a general guide only and is not a substitute for proper legal and tax advice.

CONTACT US

Please get in contact with any of our lawyers for further information

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