

The Spring Budget 2024 – abolishment of the non-domiciled regime

11 March 2024

The chancellor announced the Spring Budget on 6 March 2024. The remittance basis, forming part of the UK's tax system for over 200 years, will be abolished from 6 April 2025, as will the determination of the scope of a person's chargeability to UK Inheritance Tax (IHT) based on domicile. The remittance basis will be replaced with a new regime titled the "FIG regime". Both the "FIG regime" and the chargeability to IHT will be determined on the length of a person's UK residence. The provisions announced are only high level at this stage and we are waiting for the draft legislation confirming the detail of the changes that will apply from 6 April 2025.

FIG REGIME

From 6 April 2025, individuals in their first 4 years of UK residence that were non-UK tax resident in the 10 years prior to commencing UK tax residency should qualify for the new "Foreign Income Gain (FIG) regime". The FIG regime is a significant curtailment to the reliefs previously afforded to non-UK domiciled individuals but is still aimed to encourage foreign talent to take up employment in the UK.

The new FIG regime will be a residency-based system determined under the Statutory Residence Test, abolishing the concept of an individual's domicile. The main concepts of the regime, will be as follows.

- An individual that has been non-UK tax resident for the ten years prior to commencing UK tax residence will be eligible to claim the FIG regime.
- In an individual's first 4 years of UK tax residence, they will only be subject to tax on their UK income and gains and not on their non-UK income and gains.
- The new FIG regime is not a remittance-based system, and individuals benefitting from this regime will be able to bring their untaxed non-UK income and gains to the UK without triggering a UK tax charge.
- In the first 3 years of an individual's tax residence those using the FIG regime will still be able to benefit from a modified Overseas Workday Relief (OWR) allowing them to exempt from Income Tax in the UK their

employment income relating to non-UK work. Under the modified OWR the employment income relating to non-UK work may be paid to the UK without generating a UK tax charge. (As per the current OWR this will not apply to National Insurance Contributions.)

REMITTANCE BASIS USERS

CHANGES

From 6 April 2025, individuals that are non-UK domiciled will no longer be able to claim the remittance basis of taxation. The final tax year to claim the remittance basis is 2024/25.

For individuals that on 6 April 2025 will have been UK tax resident for less than four years (and immediately before their first year of UK tax residency were non-UK tax resident for at least 10 years), will be able to benefit from the new FIG regime.

For individuals that on 6 April 2025 will have been UK resident for four years or more, their worldwide income and gains will be subject to UK tax.

TRANSITIONAL RELIEF PROVISIONS

The Government has introduced transitional relief provisions effective from 6 April 2025 for some individuals that are adversely affected by the abolishment of the non-dom regime:

- For the 2025/26 tax year, individuals who have claimed the remittance basis and are neither UK domiciled nor deemed UK domiciled on 6 April 2025 will only be subject to UK income tax on 50% of their non-UK income arising during the tax year. It is a one year window only and from 6 April 2026 the full amount of non-UK income will be subject to UK income tax. This minority of individuals will also be able to elect to rebase any non-UK assets held personally on 5 April 2019 to their market value on this date. Although this rebasing will be subject to other conditions, as yet to be set out.
- For the 2025/26 and 2026/27 tax years, individuals who claimed the remittance basis in earlier years (whether UK deemed domiciled or not) will be able to remit

personally arising non-UK income and gains protected under the remittance basis to 5 April 2025 at a flat rate of 12%. There will be some relaxation of the mixed fund ordering rules to make this simpler for individuals, but the details on what these will be are yet to be published.

BUSINESS INVESTMENT RELIEF (BIR)

BIR will continue to be available for qualifying investments into UK companies made by non-UK domiciled individuals from their pre 5 April 2025 non-UK income and gains that have historically been sheltered from UK tax under the remittance basis.

PROTECTED SETTLEMENT RULES

From 6 April 2025, the protected settlement provisions introduced in the 2017 Finance Act will be removed.

UK tax resident settlors not qualifying for the new four year FIG regime will be personally taxable on the income and gains arising within any non-UK resident trusts that they have created and retain an interest in regardless of when the trust was settled. Settlor of such trusts should contact their UK tax advisor immediately to understand the effect of the new legislation that will be produced and what steps may be taken to mitigate any tax charges.

INHERITANCE TAX (IHT)

PERSONALLY HELD ASSETS

The current chargeability to IHT on non-UK assets is based on a domicile system. The government intends on moving IHT to a residency-based system from 6 April 2025, removing the concept of “non-UK domiciled” and “deemed UK domiciled”.

Whilst the changes are under consultation, it is understood that individuals that have been UK tax resident for more than 10 years will be subject to UK IHT on their worldwide assets, with a provision to keep the individual within the UK IHT net for 10 years after leaving the UK. An individual’s UK sited assets will continue to be subject to IHT regardless of residence or domicile.

ASSETS HELD IN TRUST

The chargeability to UK IHT of non-UK assets within settlements created after 6 April 2025 will be dependent on whether the settlor meets the 10-year UK residence criteria

or is within the 10 year tail provisions having left the UK when the assets are settled or when charges occur such as 10 year anniversary charges or exit charges. Previously, whether Trust property was chargeable to UK Inheritance Tax only depended on the domicile of the settlor on the date of settlement.

UK assets held within settlements will remain chargeable to UK Inheritance Tax regardless of the residence position of the settlor.

It is understood that trusts created prior to 6 April 2025 by non-UK domiciled individuals on the date of settlement will remain excluded property trusts that are only chargeable to UK IHT on their UK assets.

WHERE TO GO FROM HERE

The above is a review of the initial guidance announced and further details will emerge once the legislation is drafted and the IHT consultation is concluded. Non-UK domiciled, UK residents and those considering coming to the UK should enter into discussions with their tax advisors regarding how these changes will affect them and whether any tax planning can be taken ahead of 6 April 2025 to put them in the best possible position.

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