The End of UK Non-Dom Tax Benefits: Should You Stay or Go?

The talk around the taxation of non-domiciled individuals in the UK has been a hot topic for a few years in the press.

By **Paul Webb**, 11th December 2024

Introduction

The talk around the taxation of non-domiciled individuals in the UK has been a hot topic for a few years in the press and more recently in the political arena. In March, the previous government announced a new proposal, effectively scrapping the exiting remittance basis regime and replacing it with a residence-based system. Following a lot of debate, a general election, and a new government, the new rules have now been finalised.

As with most UK tax laws, they are not simple, and this article is not intended to set out every element of the new rules in detail, but rather help answer some common questions that are on the non-dom community's lips. For more information on the new regime, and other announcements in the Budget of 30 October 2024, please visit our Autumn 2024 Budget Summary here.

Below is a hypothetical example of an individual whose situation closely mirrors that of many non-doms currently living in the UK.

Mrs Non-Dom

Mrs Non-Dom (known as ND by her friends and family) has lived in the UK for 12 years, having been born overseas to non-UK parents, making her a non-UK domiciled (non-dom) under the current rules. She has enjoyed living in the UK enjoying the great food and even better weather. She is a member of the promoter family of an overseas listed

entity and owns 10% of the shares worth the equivalent of $100 million. Each year she receives a dividend of $1 million and has bank accounts with $5 million in them, paying $250,000 interest per year.

Before moving to the UK, she took some great advice and created a healthy pot of clean capital to live off. She has claimed the remittance basis in her UK tax returns and has lived off her clean capital.

A few years after arriving in the UK, she settled a non-UK Trust with some of her non-UK assets and is a discretionary beneficiary of the Trust along with her spouse and children. She also owns 100% of the shares in a non-UK company which has some passive investments.

Current position

As a remittance basis user, she has only been paying tax on her UK source income and gains as well as the UK's remittance basis charge. ND has correctly segregated her clean capital from new income and gains, and these have not been remitted into the UK.

Her Trust is an excluded property Trust meaning the assets held within the Trust are protected from inheritance tax at the time she becomes deemed domiciled after living in the UK for 15 years.

The income and gains generated in her investment company are not taxable for her in the UK as she claims the remittance basis.

Position post 5 April 2025

As she has already been tax resident in the UK for more than 4 years, she will not be eligible for any benefits under the new FIG regime. As a result, her overseas dividend and interest will be taxable in the UK from 6 April 2025.

As a settlor interested Trust, the tax position of the Trust will now follow her UK tax position. While she remains a UK tax resident, the income and gains in the Trust will be taxable. The underlying assets will also now fall into her UK estate for inheritance tax purposes as she has been resident in the UK for more than 10 years.

The income and gains generated by the investment company will also now be taxed directly. The value of the company itself will also fall into her UK inheritance tax estate,

as will all of her overseas assets as she has been UK tax resident for more than 10 years.

What steps can she take?

Income and gains

She will be able to benefit from the proposed Transitional Provisions which will firstly allow her to designate pre-6 April 2025 income and gains and pay 12% UK tax on them (with no foreign tax credit) up to 5 April 2027, and then 15% for the following tax year. It will also mean any assets sold at a gain post 6 April 2025 can be rebased to April 2017.

This may mean she will want to bring some income forward (where possible) to before the new tax rules take effect so they can then be used in the UK at a lower tax rate under these transitional provisions.

She should also consider the position of any assets she is considering selling. Each position will be subjective, and the financial and commercial aspects of the decision should not be ignored, but some may be better sold before 6 April 2025 (and then designated under the transition provisions at the 12%/15% rates) or some may be better sold under the new rules and, whilst then taxable at the prevailing capital gains tax rates (now 24% for most assets), may benefit from the rebasing. Each scenario should be assessed separately as each asset may fall into a different category.

Whilst new income and gains will be taxable on a worldwide basis from 6 April 2025, she should consider any foreign taxes she also suffers (and as a remittance basis user has perhaps not considered previously) to ensure she is able to claim any foreign tax credits. Please note that credit for foreign taxes paid is not possible under the Transitional Provisions.

The UK has an extensive Double Tax Treaty network, and she should consider whether she can avail any benefits under these.

Inheritance tax

Alongside the UK's extensive Double Tax Treaty network, it has 10 Estate Tax Treaties, and she should consider whether she can avail any benefits under these, for Inheritance tax purposes.

The more traditional inheritance tax planning opportunities of lifetime gifts and gifts out of excess income should not be ignored.

Under the new rules, now she has been UK tax resident for more than 10 years, if she were to leave after 6 April 2025, she would be subject to UK inheritance tax for a further 3 years. This would be the case if she left after 13 years too but after that, this "tail" will follow her for an extra year, per year of residence. So, for example, if she leaves after 16 years, the tail will be 6 years and will continue increasing by a year up to a maximum of 10 years.

Leaving the UK

The new rules will result in Mrs Non-Dom being exposed to higher UK taxes than she has been previously. She may therefore decide to relocate to a more tax-friendly jurisdiction. As with any relocation, the tax consequences in both jurisdictions must be considered.

The UK Statutory Residence Test will dictate how many days she can continue to remain in the UK. She should take advice and develop a plan for her days in the UK for the coming years, to be sure she does become non-UK tax resident. There is more detail information in our note here.

She may discover that where she has chosen to move to is no more efficient from a tax perspective. Dixcart is able to offer the immigration and tax support in a number of tax efficient jurisdictions and would be happy to assist. More information can be found here.

Conclusion

The new FIG regime is a significant shift in the tax laws and more importantly in many UK tax resident individual's lives. Dixcart UK, and the wider Dixcart Group, can assist with providing advice on the new rules and developing a plan for the future, sadly perhaps not in the UK.

As is always the case, tax advice cannot be taken soon enough, so please do reach out to your usual Dixcart contact, or through our contact page to start these discussions: advice.uk@dixcart.com.