
TAX BRIEF

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NON-DOM SPECIAL

THE NEW NON-DOM PROPOSALS - SUMMARY OF THE LABOUR PARTY'S PROPOSALS

Caveat

1. What follows is based on very brief notes of intention by the Labour Party. Clearly one will need to wait and see the legislation itself before deciding precisely what steps to take.

Generally

2. From the 6th April 2025 the remittance basis of taxation goes for non-domiciled persons as does the protection from tax on future income and gains in trusts that were protected trusts. Those were trusts (when created before 6th April 2017) where the settlor became deemed domiciled in the United Kingdom but did not

become domiciled in the United Kingdom as a matter of general law. Similar – though not identical – rules applied to later trusts. With effect from 6th April 2025 the protection for trusts where the individual has become deemed domiciled (or domiciled under general principles) disappears and those trusts will be fully taxable.

The FIG regime

3. From 6th April 2025 there will be a so-called “FIG” regime. FIG stands for “Foreign Income and Gains”. What it means is that with effect from 6th April 2025 certain individuals will benefit when coming to the United Kingdom. Those will be individuals who have been non-resident for ten years or more. In the first four years that those individuals are UK resident they will not pay any tax on their foreign income or gains and they will even be able to remit the foreign income and gains into the United Kingdom and pay no tax. In other words, if you have spent ten years away you then have a four-year window where “all that you are taxed on” is your UK-source income and UK-source gains even if you bring in your overseas income and gains.

4. There is a transitional relief for the FIG regime if an individual has spent ten years abroad and that four-year window started before the 6th April 2025 (when the new rules commence). The transitional relief is that the balance of that window will be available. So if an individual was away for ten years and has then spent three years in the United Kingdom as at 6th April 2025 they will have one year of FIG left.

Removal of protected trusts

5. As mentioned, there was a provision by which trusts would be protected from income tax and capital gains tax issues. This meant that the settlor of a protected trust which made disposals (under the old protected regime) would not be subject to capital gains tax, nor to income tax in respect of foreign income. In each case this was the “protected” position so long as the gains and the income remained abroad and the settlor remained non-domiciled under general principles in circumstances where the trust had begun before 6th April 2017. As mentioned previously, similar – but not identical – rules applied to later trusts.

6. These rules concerning protected trusts are to be removed from 6th April 2025. This means that as soon as a settlor becomes UK domiciled under the deeming principles or general principles the trusts in question will automatically lose any protection from capital gains tax and income tax in the hands of the settlor. It is this aspect which means that many non-domiciliaries are now contemplating leaving the UK. These are typically individuals who have had trusts for many years in circumstances where, whilst they became UK deemed domiciled, they retained their non-domicile of origin, and, with it, protection for pre-6th April 2017 trusts was also retained. There were similar protections for later trusts for so long as an individual became neither domiciled under general principles or the deeming rules. As stated, those trust protections go with effect from 6th April 2025.

Transitional relief for capital gains tax

7. There is to be some transitional relief.

8. Accordingly, individuals who are on the remittance basis as at the 5th April 2025 – in other words they are UK tax resident but not domiciled or deemed domiciled in the United Kingdom – can apply for transitional relief from capital gains tax.

9. This means that if, on or after the 6th April 2025, they dispose of personally held foreign assets, which were also held at 5th April 2019 they can elect to rebase those assets to their value as at the 5th April 2019. Again, we are waiting for the wording of the conditions before final advice can be given on this front.

Pre-6th April 2025 “remedial action”

10. Some individuals who are non-domiciled are contemplating deliberately making transfers now, before 6th April 2025, to their own foreign companies of foreign assets. That will trigger a gain outside the new regime but that gain will not be subject to UK tax unless remitted.

What are people doing now?

11. The FIG regime is good for new arriviers (particularly, say, footballers who will, in future, I imagine be unlikely to have more than four-year contracts).

12. For individuals who have been here for some time, however, the new general regime looks very unhelpful. The remittance basis

will go on the 6th April 2025 and the protection for trusts will go as well in respect of future gains and future income.

Is there any point keeping trusts abroad?

14. Some of my clients are considering bringing overseas structures “onshore” into the United Kingdom to save costs. It is worth remembering that an excluded property trust does not itself have to be resident outside the United Kingdom for inheritance tax purposes.

What might you do

15. What some individuals are thinking about doing is to look to see whether they can simply cease to be UK resident each year. Subject to looking at the legislation precisely, individuals can live in the United Kingdom for 90 days maximum (or even 120 days maximum) without becoming UK resident. This means that in relation to those individuals who are relatively mobile they are looking to see whether they can spend three months, or four months, in the United Kingdom and the rest of the time abroad. By being non-resident in the United Kingdom they will avoid UK tax altogether: so this is even better than the old “non-dom” regime.

THE NON-DOM PROPOSALS IN TABULAR FORM

SUBJECT	CURRENT POSITION	CONSERVATIVES	LABOUR PARTY
Remittance basis	Applies if not domiciled or not deemed domiciled	FIG regime for 4 years	Same as the Conservatives but with a potential additional exemption for UK investment income – details to follow
Protected trusts	Where a protected trust has been settled by a non-UK domiciled individual foreign income and most	Protected trusts go for the future save for during the FIG regime	Same as the Conservatives

	gains are tax free and subject to tax only when distributed to UK residents		
Inheritance tax on personal assets	Non-domiciled individuals who have not become deemed domiciled in the United Kingdom subject to inheritance tax on UK assets (including UK residential property held indirectly) but not otherwise	For the first 10 years of UK residency (following 10 years previous non-UK residency) the old position remains. After 10 years inheritance tax arises on worldwide assets	Same as the Conservatives
Excluded property trusts	Exemption applies in respect of an excluded property settlement until the individual becomes deemed domiciled	Excluded property trusts regime remain in respect of assets settled by non-domiciliaries before 6 th April 2025. Non-UK assets held by new trusts may be exempt if they are settled in the first 10 years of UK residency	Labour will restrict this exemption, and trusts whenever settled will no longer qualify for inheritance tax exemptions. This is the key reason existing non-doms may leave the UK.
Income tax reduction	This was a Conservative proposal (see adjacent box)	Only 50% of foreign income received in the tax year 2025/2026 will be taxable. This will apply to individuals who move from the existing non-dom regime into the new regime on the 6 th April 2025	Labour will not introduce this relief

Capital gains tax rebasing	No rebasing under current regime	Ability to revalue foreign assets for capital gains tax as at 5 th April 2019 provided the individual is neither domiciled nor deemed domiciled as at 6 th April 2025. An election is required.	The same as the Conservatives
Existing rates under the current regime	Income that is remitted is subject to 45% tax and capital gains which are remitted are subject to 20% tax	Taxable foreign income and gains remitted between 6 th April 2025 and 5 th April 2027 will be subject to a rate of 12%. This applies to individuals who have been taxed under the old regime and have foreign income and gains which are subject to the remittance basis	The Labour Party will consider incentivising non-domiciliaries to bring their foreign income and foreign gains into the United Kingdom after the new relief expires on 6 th April 2027. They are not proposing, however, to introduce the 12% rate of tax unlike the earlier Conservative proposals.

UK NON-DOM TAXPAYERS - UPDATED NUMBERS

The figures for the tax year ending 5th April 2023 have just been released.

- 83,800 non-doms and deemed doms paid £12.3bn in income tax, NI and CGT – an average of £146,778 each.
- The total number of taxpayers was 34.6m.; they paid £442.7bn – an average of £12,794 each.
- Non-doms made up 0.24% of taxpayers and paid 2.8% of the tax.

So the average non-dom was still paying 11.7 times as much tax as the average dom.

It will be interesting to see what the figures look like at the end of 2025-26: how many non-doms will stay; and how many individuals will simply live in the UK without becoming UK tax resident?

WARNING

As already mentioned, it will be essential to wait and see more precise details of what the proposed changes look like and ideally to wait and see draft legislation.

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