

The taxing question of domicile

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By Rachel Horner, senior associate at specialist private client and tax lawyers Meridian Private Client LLP

THE imminent changes to the taxation of 'non-UK domiciled' individuals will undoubtedly impact upon where internationally mobile individuals choose to base themselves in the future, especially in the wake of the momentous worldwide political events of 2016.

Currently a UK resident but non-domiciled individual can, by paying a remittance basis charge, choose to pay tax on his or her foreign source income and gains only when they are brought into or 'remitted' to the UK.

However, from 6 April 2017, such individuals will be taxed as though they were UK domiciled once they have been resident in the UK for 15 of the last 20 years.

This new 15 year rule will apply for income tax and capital gains tax purposes, removing

the ability to claim the remittance basis of taxation in respect of foreign source income and gains after 15 years of UK residence. It will also apply for inheritance tax ('IHT') purposes. Although there has been a 'deemed domicile' rule for IHT since the 1970s, it is currently a 17 year rule rather than a 15 year rule and the change will potentially make UK IHT an issue for many sooner than before. Since the UK has had two sets of residency rules in the past 5 years alone, the application of this new rule will not be a straightforward matter.

The 15 year rule will also mean that anyone who lives in the UK from birth will automatically be treated as UK domiciled before he or she becomes an adult and will continue to be UK domiciled whenever resident in the UK, so removing the ability for second generation migrants to the UK to claim non-UK domiciled status.

In publishing the new rules, the government has confirmed its earlier promise to allow offshore trusts established by non-domiciled individuals to retain tax favoured status, provided they are set up before the individual becomes UK domiciled under the 15 year rule.



► Rachel Horner, senior associate at Meridian Private Client LLP

This means that non-domiciled individuals will be able to establish new trusts or add funds to existing trusts within that time frame, although where this comprises UK residential property held via offshore companies, benefits have been removed.

There are no transitional rules for those already resident in the UK, therefore all non-domiciled individuals who are already long term UK residents should consider their

position. However, the changes are not necessarily all bad for the internationally mobile individual. Those who leave the UK and come back will still be able to use the remittance basis as long as their break from UK residency is sufficiently long.

This is a complex area, which now requires immediate attention – for those affected, specialist professional advice is essential.

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To arrange an initial consultation without commitment, please email Philip Harrison at philip.harrison@meridianpc.co.uk, or call him on 01675 442430.

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