

Protected settlements for non-UK domiciled individuals

by Jon Croxford, partner



The tax rules for non-UK domiciled individuals changed significantly in 2017 when new legislation brought them fully within the scope of UK tax once they have been UK resident for 15 years. As a quid pro quo, however, the concept of "protected settlements" was introduced.

The protected settlement rules mean that a non-UK domiciled individual can establish an offshore trust prior to being deemed domiciled (after 15 years of residence in the UK), and provided the trust is not subsequently tainted in some way, the trust can retain very significant tax advantages. At the same time, a little known tweak to the tax rules has made the income tax advantages of such trusts even greater.

As things stand, therefore, a protected settlement can allow the largely tax free roll up of investment gains and income with no requirement for the individual to be claiming the remittance basis of taxation or paying

the remittance basis charge. Only UK source income and capital gains on UK situated real estate are subject to UK tax. In addition, with some careful planning, the assets of such trusts (other than UK residential property) can remain totally outside the scope of UK inheritance tax.

It is not hard to imagine that a change of government would see the end to this but, even if these rules survive for some period, bear in mind that protected trusts can only be established before the non-domiciled individual has been UK resident for 15 years. Where relevant, this is an opportunity which must not be overlooked.

