



# Confirmed changes to the taxation of non-domiciled individuals



The new non-domicile (“non-dom”) rules are now in operation and took effect from 6 April 2017.

## Deemed UK domicile

Any non-dom who has been resident in the UK in at least 15 of the past 20 tax years (including split years) will have become ‘deemed’ UK domiciled for income, capital gains and inheritance tax (“IHT”) purposes from 6 April 2017. The result of this is that a long term, UK resident non-dom will be taxable on a worldwide basis.

Those individuals who are now deemed domiciled will no longer be able to claim the remittance basis for offshore income and gains arising after the date they become deemed domiciled (i.e. the tax year 2017/18 onwards for those who became deemed domiciled on 6 April 2017).

Overseas income and gains previously sheltered by the remittance basis will still be taxable if remitted to the UK. Both offshore and UK assets will be subject to UK IHT when the taxpayer is deemed UK domiciled, subject to any specific double taxation treaty override.

## Those born in the UK with a UK domicile of origin

Specific measures apply for individuals who were born in the UK with a UK domicile of origin but who later acquired a domicile of choice elsewhere. From 6 April 2017, such individuals are treated as UK domiciled for all tax purposes at all times whilst resident in the UK (with only a one year relaxation for IHT purposes).

## Remittances of foreign income or gains

If a non-dom used the remittance basis before 6 April 2017 but after that date they became deemed domiciled for UK tax purposes, they must continue to tell HM Revenue and Customs (“HMRC”) when they remit any foreign income or gains to the UK that arose in a year when they claimed the remittance basis of taxation.

The new deemed domicile legislation does not apply where the remittance basis applies without a claim, i.e. where unremitted foreign income and gains are under £2,000.

Non-doms who have claimed the remittance basis prior to 6 April 2017 have the opportunity to ‘cleanse’ mixed funds in overseas bank accounts during a fixed period of two tax years (from 6 April 2017 to 5 April 2019).

Non-doms who became deemed domiciled on 6 April 2017 (and have paid the remittance basis charge at some point since 2008) will also be able to rebase personally held foreign assets so that only gains realised post 5 April 2017 are subject to UK Capital Gains Tax (“CGT”).

We look at both of these opportunities in more detail below and identify some of the steps a non-dom can take in order to organise their financial affairs effectively in light of the new rules.



## Rebasing

Rebasing is only available to those individuals who became deemed domiciled on 6 April 2017 and who have paid the remittance basis charge at some point since 2008. Rebasing is to the value of assets held as at 6 April 2017.

Please note that rebasing can apply to all capital gains producing assets and also in respect of offshore funds which are assessed to income tax (i.e. non-reporting offshore funds).

Where it is decided that rebasing is not appropriate for a particular asset (for example if an asset is standing at a loss) an election can be made (on an asset by asset basis) within four years after the end of the tax year of disposal to dis-apply the rebasing rules. The election is irrevocable.

Where CGT is calculated using the rebased cost, care still needs to be taken when remitting the proceeds as the source of the original acquisition needs to be considered as it may constitute a taxable remittance. This can be reviewed in conjunction with the rules below which allow the untangling of mixed funds.

## Mixed funds

All non doms who have used the remittance basis prior to 6 April 2017 are able to take advantage of the new rules that allow the separation of overseas mixed funds into their constituent parts, known as 'cleansing', to provide certainty as to how future remittances to the UK will be taxed.

The time limit for the completion of the untangling of funds into income, capital gains and clean capital is 5 April 2019.

Cleansing applies to cash held within a bank account (or similar) therefore it may be beneficial to dispose of assets prior to the deadline in order to segregate the underlying component elements.

In order to achieve the cleansing of the mixed fund into its constituent parts, detailed analysis is required and specific banking instructions will need to be observed.

The analysis required to deconstruct the balance held in a mixed fund account can be complex. Therefore this exercise should be started as soon as possible to ensure that it can be concluded within the time limit.

There is no time limit to how far back accounts can be reviewed in order to identify the original source of the funds and organise the current balance accordingly.

Cleansing is not available to those with a UK domicile of origin.

## Next steps

If you would like to discuss the points raised above please let us know as soon as possible, as there is a limited period in which to achieve the cleansing of mixed funds.



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