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Private Wealth

Changes to non-dom tax regime: an update

30 July 2024

Changes to UK tax regime for non-doms: an update

In Rachel Reeves' statement to Parliament, on 29 July, she confirmed that the new government intends to go ahead with the abolition of the UK's existing tax regime for UK resident non-UK domiciled individuals ("non-doms") from 6 April 2025, and the introduction of the new 4-year FIG (foreign income and gains) exemption regime announced by the previous government at the Budget in March 2024.

However, there were some useful nuggets of additional information, and a date for the Budget – 30 October 2024 – when we are promised further details on a number of key points and draft legislation.

New 4-year FIG exemption regime

The new 4-year FIG exemption regime will be introduced from 6 April 2025. It will be available to individuals who become UK resident having been non-UK resident for the each of the previous 10 tax years. Individuals who qualify for the 4-year FIG exemption regime will not pay any UK tax on their foreign income or gains or those arising in trusts set up by them and will also not be subject to UK tax on any distributions or benefits they receive from non-UK trusts (even if received in the UK).

Any UK resident individual who is not eligible to benefit from the 4-year FIG exemption regime will be subject to UK tax on their personal worldwide income and gains and on any distributions or benefits they receive from non-UK trusts. In addition, the 'protected trusts' regime will come to an end meaning that any UK resident individual who is not eligible to benefit from the 4-year FIG exemption regime UK and who has set up a non-UK trust from which they can benefit, will potentially be subject to UK tax on all the income and gains arising to that trust.

The government have accepted that the existing anti-avoidance rules that apply to non-UK trusts will need to be adapted to remove uncertainty and ambiguities, and ensure they are 'fit for purpose', but, perhaps recognising that this is a lot easier said than done, have pushed any implementation of changes back to 2026/2027. This is a key area of concern – removing the protected trust regime in 2025/2026 before reviewing and adapting the relevant anti-avoidance rules leaves affected individuals with uncertainty over what tax rules they will be subject to in future and should be basing any planning around.

Transitional reliefs

As anticipated, a temporary repatriation facility (TRF) will be available to UK residents who have previously been taxed on the remittance basis (at any time); they will be able to remit FIG that arose before 6 April 2025 and pay a reduced tax rate on the remittance for a limited time. However, the rate of tax that will be payable and the length of time that the TRF will be available have not yet been set, but will, apparently, "be set to make use [of the TRF] as attractive as possible". The Conservative government had said they would apply a reduced rate of tax of 12% to remittances made during 2025/2026 and 2026/2027. In a welcome move, the government has said it is exploring ways to expand the scope of the TRF, potentially to include income and gains within overseas structures, such as trusts.

Non-doms who are not yet UK deemed domiciled by 5 April 2025 will also be able to elect for the cost of assets they hold personally to be rebased to their market value on an as yet undisclosed date; the Conservative government had set a rebasing date of (inexplicably) 5 April 2019. There is no suggestion at this stage that this rebasing would apply to trust assets.

The 50% reduction in foreign income subject to tax for certain non-doms in 2025/20206 (proposed by the Conservative government) will not, however, be introduced.

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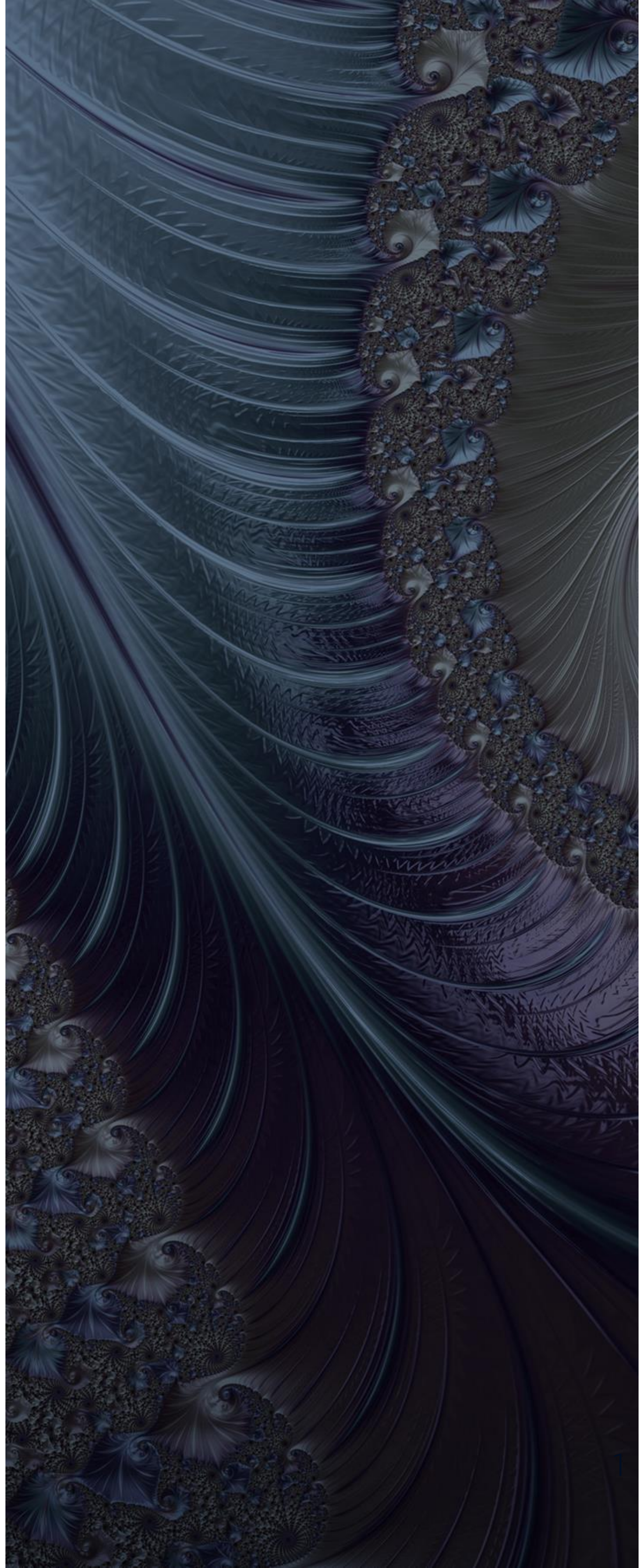

Residence-based regime for inheritance tax

Liability to inheritance tax (IHT) will be determined by an individual's residence not their domicile from 6 April 2025. Anyone who has been resident in the UK for 10 years will be subject to IHT on their worldwide assets and will remain so for 10 years after leaving the UK. The government has ruled out a formal policy consultation on the IHT changes but accepts that some refinements may be necessary and will engage further with 'stakeholders' on the operation of the new test.

Crucially, as expected, Labour has confirmed that they will be no general 'grandfathering' of trusts established by non-doms before 6 April 2025; assets held in such trusts will not remain outside the scope of IHT permanently. However, there is an acceptance that trusts will already have been established and structured to reflect the current rules and the government will consider (again with unidentified 'stakeholders') appropriate adjustments to the introduction of the new rules for existing trust arrangements. Whether these 'adjustments' will deal with the potential for double IHT on assets held in trust – on the death of the settlor (where they are a beneficiary) and during the lifetime of the trust - will be key. In the absence of relief many more settlors may need to be excluded from benefitting. Confirmation of these new rules and their detailed application, including transitional arrangements for affected settlors, will be published at the time of the Budget in October 2024.

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