

Pre-Budget Announcements: Non-UK domiciled individuals

One of the major developments in UK taxation in 2007 was the announcement in the Pre-Budget Review on 9 October that the Government is going to introduce new legislation altering the basis on which non-UK domiciled individuals pay tax on their foreign income and capital gains.



For many years the UK has attracted non-domiciled individuals, who are major investors in real estate in London and elsewhere and consumers of services and goods in London, with its relatively benign tax regime for such people.

Historically, resident but non-domiciled individuals have only paid UK tax on foreign income and gains to the extent that they “remit” such income and gains to the UK. There are also additional advantages for non-domiciled individuals who are beneficiaries of non-resident trusts.

The Pre-Budget announcement heralds a sea change in approach.

Pre-Budget Review Note 18 states that:

- The Government will with effect from 6 April 2008 charge non-UK domiciled individuals who have been tax resident for seven years a special tax, initially £30,000 per annum, if they wish to be taxed on foreign income and gains on the “remittance basis”. What is not clear is whether such individuals will be able to opt in and out of the special tax in any particular year after having quantified the benefit or otherwise of using the remittance basis.
- The Government will be consulting on whether non-UK domiciled individuals who have been tax resident for more than 10 years should be taxed on a more draconian basis.
- The remittance basis itself is to be overhauled. Some existing techniques of tax planning, for example “cessation of source” and “alienation” are respectively to be outlawed and severely limited with effect from 6 April 2008.

The press release contains a worrying paragraph which refers to reducing the scope for offshore trusts and companies to be used as a means of “convert[ing] taxable income and gains into non-taxable payments”. We (and others) are

very concerned that this paragraph suggests that there will be a wholesale overhaul of the current, favourable, rules applicable to non-domiciled beneficiaries of offshore trusts.

For those who are regular visitors to the UK, avoiding tax residence is going to become harder. There is to be legislation with effect from 6 April 2008 that days of arrival in and departure from the UK will count towards the day counts currently used to determine tax residence. At the time this article goes to print we await the draft legislation which would carry into effect the announcements.

Lobbying by and on behalf of non-domiciled individuals is going on and we wait to see whether the worst fears of the non-UK domiciled individuals and their advisors will be realised.

Whatever happens, there will be a window between the publication of the draft legislation and 5 April 2008 during which some planning can be carried out by non-domiciled clients. What we do not know is whether 6 April 2008 will mark the start of a dark age for UK resident and non-domiciled individuals and, perhaps in turn, London and the wider UK economy.

We will be providing an update to clients and contacts early in the New Year as soon as we have had a chance to analyse the draft legislation.



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