

The UK non dom changes: Good news for the Channel Islands?

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It is somewhat ironic that whilst the Channel Islands have been put under significant pressure over the last 15 years or so (particularly from the EU) over our favourable tax regime for non-residents of the Islands, one of its own current member states, namely the UK, continues to protect its favourable regime for “non-doms”, i.e. persons who are residents of the UK but are not domiciled there.

For income tax and capital gains tax purposes, foreign domiciliaries (ie non-doms) who are eligible to be taxed under what is known as the remittance basis, are liable to UK tax on their income and gains arising in the UK, but are only taxed on their overseas income and gains to the extent that they are brought into or enjoyed in the UK.

The position is slightly different in relation to inheritance tax. Non-Doms pay inheritance tax only in respect of assets situated in the UK. This allows individuals to secure an inheritance tax advantage by holding UK property through an offshore vehicle.

So much for the current rules. In George Osborne's first budget after the last election (delivered on 8 July 2015), he announced significant reforms to the current tax regime which are scheduled to come into effect from 6 April 2017, fall into three main categories:

1. Restrictions on the availability of non-domiciled status for tax purposes for foreign domiciliaries who have been UK tax resident for more than 15 out of the last 20 years (labelled as “long term residents”);
2. Restrictions on the availability of non-domiciled status for those who have a UK domicile of origin but leave the UK and acquire a domicile of choice elsewhere but then return to the UK

(labelled “returning UK domiciliaries”); and

3. The extension of UK inheritance tax to apply to all UK residential property, however held.

The UK Government has also indicated that foreign domiciliaries who set up a non-UK resident trust before they become deemed UK domiciled for tax purposes will not be taxed on trust income and gains that are retained in the trust, and the assets will remain outside the scope of inheritance tax.

It is the expertise within the Channel Islands in respect of the establishment and administration of non-UK resident trusts and companies which has resulted in the Islands becoming home to a significant chunk of the non-dom market. The fact that there will continue to be advantages for non-doms in using offshore structures is a relief for those of us in the private client arena.

However, might we dare for more? Might these changes, if introduced, bring about an increase of non-dom business to the Islands? Personally, I could see the changes meaning more work for private client practitioners. In the short term, it is apparent from the London intermediary market that they are already advising their clients to, firstly, review their existing structures, and secondly, (depending on the client's circumstances), to consider re-structuring in some way so as to mitigate any undesirable tax consequences. This will inevitably lead to work for lawyers, accountants, bankers and investment managers in the Islands.

Also in the longer term, by re-framing the rules so as to allow high net worth entrants to the UK to live there for 15 years before becoming UK domiciled, I believe the UK will be introducing some welcome certainty to the regime, which could lead to an influx of new arrivals, who will be advised to consider setting up offshore structures. The London intermediary market, in my experience, looks to the Channel Islands before anywhere else when placing their new clients.

All in all, I am optimistic for our future!

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