

INTRODUCTION

The editorial in this publication last year discussed proposed changes to the UK taxation of individuals who are not domiciled in the UK taking effect from 6 April 2017. Since that editorial was written, HMRC have gone through a consultation on the provisions and released draft legislation.

As the changes are now almost upon us, it seems a good time to revisit some of the changes.

THE CONCEPT OF DOMICILE

Domicile is a concept of UK common law. A person's domicile is generally the territory which that person considers to be their permanent home.

In this respect, a clear distinction can be drawn between domicile, which has a sense of permanency to it, and residence, which is a function of where a person is considered to be living during a tax year.

THE IMPACT OF DOMICILE ON THE TAXATION OF EXPATS IN THE UK

A person's domicile is an important factor in determining the scope of UK tax law as it applies to that person.

1. Income and Capital Gains Tax

For most UK residents, the tax implications of domicile are of little relevance. However, for expats living in the UK, the "non-dom" status offers significant tax planning opportunities and potentially great complexity to their tax affairs.

Any individual who is resident but not domiciled in the UK can elect to be taxed using the "remittance basis" of taxation. In general terms, this allows those people to shelter their offshore income and gains from UK taxation provided that they do not bring those income and gains to the UK, or 'enjoy' them in the UK.

2. Inheritance Tax

Inheritance tax is applied to the worldwide assets of individuals domiciled in the UK. However, for those individuals not domiciled or "deemed domiciled" in the UK, it is applicable only to UK situs assets.

Historically, individuals have been considered deemed domiciled in the UK if they have been UK resident in 17 of the previous 20 years.

KEY POINTS OF THE NEW PROVISIONS

1. Deemed Domicile

From 6 April 2017, we will now have two different definitions of deemed domicile for UK tax purposes.

The first of these is a modification of the existing rules, and will be of interest to expats in the UK if they plan to be UK resident in the medium to long-term. The new test shortens the required period of UK residence from seventeen out of twenty years to fifteen out of twenty years.

The second test is targeted at individuals originating from the UK, but who have emigrated and subsequently returned. This test states that a person will be deemed domiciled in the UK if the person was born in the UK, has a domicile of origin in the UK, and is resident in the UK.

Most important perhaps is that the scope of the deemed domicile rules has been expanded. Whereas it previously only applied to inheritance tax, it will, from April 2017, also impact income tax and capital gains tax.

This broadening of the scope of deemed domicile will have an impact on individuals who continue to elect into the remittance basis of taxation, individuals who wish to mitigate the risk of future inheritance tax issues, and those who have interests in certain types of trust structure.

The original draft of the deemed domicile rules would have meant that a person deemed domiciled in the UK would have had to have left the UK for 5 complete tax years to be considered not domiciled once again. This has now been amended to be consistent with the previous rules with the effect that a departing individual will cease to be deemed domiciled in the UK at the start of the fourth consecutive year of non residence.

2. Planning for Remittance Basis Taxpayers

The most obvious impact of these new rules is

Hayden T Joseph & Co

U.S. TAX ACCOUNTANTS
Attorney, IRS Enrolled Agents

Team With Over 80 Years' Experience
visit www.AdvancedAmericanTax.co.uk



TAX & ACCOUNTING HUB Your Local US/UK TAX SPECIALIST

Need Tax Assistance? We can help with:

- U.S 1040 Personal Tax Filing
- ITIN Application Assistance
- U.S FATCA Compliance Service
- Streamlined Foreign Offshore filing
- U.K Self-Assessment Tax Filing
- U.S/U.K Tax Planning

We are team of qualified U.S./U.K tax consultants with prior big 4 experience.

Contact us:

M: 44(0)791 439 3183

T: 44(0)208 221 1154

E: Info@taxandaccountinghub.com
www.taxandaccountinghub.com

AMERICANS HELPING AMERICANS

We handle international tax issues that face U.S. citizens living on foreign soil or foreign citizens that receive US income.

Our expert knowledge alleviates anxiety for American expats and our attention to detail has earned us a reputation as the top CPA firm for expats!



Call Today: (877) ETAX-123
expatriatetaxreturns.com



H&R BLOCK

EXPAT TAX SERVICES

Americans: need to file a U.S. tax return?

We can help.

H&R Block Expat Tax Services is a dedicated team of CPAs and enrolled agents whose singular focus is expat tax preparation for Americans abroad.

- FEDERAL AND STATE TAX RETURN PREPARATION AND FILING
- FBAR FILING (REPORT OF FOREIGN BANK AND FINANCIAL ACCOUNTS)
- BRINGING EXPATS INTO IRS COMPLIANCE

Our secure virtual service allows you to work with our tax experts from anywhere. Simply upload your documents, and let our professionals handle the rest.

CONTACT US TODAY TO GET STARTED.

EXPATTAX@HRBLOCK.COM
HRBLOCK.COM/EXPATS

that anyone who has been in the UK for more than fifteen years will lose the ability to claim the remittance basis after April 2017, and will become subject to UK taxation on an arising basis thereafter.

For those with significant offshore assets or investments, this is likely to result not only in a higher overall UK tax liability, but also a great deal of additional complexity. However, there are some interesting planning opportunities included in the new provisions which are worth exploring.

a. Mixed Funds

Those who have been used to the nuances of the remittance basis of taxation may well be familiar with the term “mixed fund”. For those who are not, a mixed fund is an offshore asset (generally a bank account or an investment account) which contains funds which would be treated in different ways if remitted to the UK.

A simple example of a mixed fund might be a deposit account containing capital generated prior to a move to the UK, as well as interest income earned on the account. If that were to be remitted to the UK, the capital would generally not be taxable, but the interest earned after UK residence began would be taxable.

Complex ordering rules exist which have made it difficult for expats in the UK to separate the capital from the taxable items in a mixed fund retrospectively. As a result, many expats in the UK find themselves with offshore accounts that they cannot use in the UK, without what is often complex accounting, as well as UK tax liabilities. In some cases, the UK tax liability may be due in addition to any tax paid in the home jurisdiction.

The UK Government has recognised that the introduction of deemed domicile rules to income tax and capital gains tax could cause undue financial difficulties for some expats. As a result of this, they have provided a window of opportunity for expats to “clean up” mixed funds. This window of opportunity was originally planned to be one tax year, but has subsequently been extended to two years.

The process of cleansing offshore accounts will involve going through the potentially

burdensome exercise of analysing the nature of funds in the account in order to separate those funds into their constituent parts, but may prove to be a huge benefit to those looking for an efficient way to bring money into the UK.

This opportunity is only applicable to cash. HMRC have rejected representations that it should also be extended to other assets. However, the exercise could still be completed to the extent that the individual is happy to liquidate investments during the two year period.

It is also worth noting that this opportunity will apply to all non-UK domiciled individuals (regardless of whether they would hit the 15 out of 20 year test) on 6 April 2017, except for those who are considered deemed domiciled by reason of being born in the UK with a UK domicile of origin or those who have never claimed the remittance basis.

b. Capital Gains

Another interesting opportunity created by these new rules relates to the capital gains tax treatment of certain offshore assets held by individuals becoming deemed domiciled on 6 April 2017.

It will be possible for individuals to elect to rebase their offshore assets so that the cost base of those assets for capital gains tax purposes will be the market value of the asset on 6 April 2017. This will result in any subsequent capital gain realised on a sale of the asset being calculated by reference only to the appreciation of the asset between 6 April 2017 and the date of sale.

In conjunction with the ability to cleanse mixed funds, this could lead to significant tax savings for some expats.

It is worth pointing out that this relief will not apply to any assets held in a company or trust structure.

c. Foreign Trusts

The changes to the taxation of non-domiciled individuals also contain numerous provisions relating to foreign trusts. The original proposals put forward in the 2015 budget have been largely overhauled following the period of consultation with the intention of protecting the status of

existing arrangements.

However, specific rules relating to the taxation of capital distributions from offshore trusts to UK resident individuals, taxation of capital distributions to beneficiaries who are close family members of the settlor of the trust, and the taxation of trust income where a UK resident beneficiary benefits from the trust have been postponed as the legislation has not yet been finalised.

It is therefore likely that these postponed provisions will not take effect until such time as the legislation is ultimately completed.

Once in force, these provisions will serve to close down a number of income tax and capital gains tax planning opportunities which are currently available to settlors and beneficiaries of offshore trusts.

Anyone who is involved with such an arrangement, and who has not yet taken advice on the matter, should consult their advisers as soon as possible to discuss what action (if any) is appropriate given their circumstances.

SUMMARY

This promises to be the most significant change in the taxation on non-domiciled individuals since 2008. The legislation is far from straightforward, and there are traps for the unwary as well as opportunities for the future.

Those with offshore accounts containing previously untaxed income and gains should consider reviewing their accounts to see if they can benefit from the mixed fund and/or rebasing rules. Those with connections to foreign trusts should review their trust arrangements to avoid the risk of being caught out by tougher rules on distribution and benefits from those arrangements.

For more information, please contact:

Matthew Edwards

Senior Tax Manager

Satis Asset Management Ltd

Tel: 020 7004 7126

Email: matthew.edwards@satisuk.com

www.satisuk.com



*“Their dual-handling team provides
joined up US and UK tax services...”*

BDO Accounting, Tax and Advisory Services

BDO are ideally placed to help clients navigate and manage the often complex interactions between US and the UK tax systems.

MARK WALTERS

mark.walters@bdo.co.uk

+44 (0)207 893 3497

SCOTT WICKHAM

scott.wickham@bdo.co.uk

+44 (0)207 893 2766

Audit | Tax | Advisory

www.bdo.co.uk/services/tax/private-clients/us-tax-advisory-services

BDO is the brand name for the BDO network and for each of the BDO Member Firms. © 2016 BDO. All rights reserved.



When the time
is right to move...



...you will want a secure future
for you and your family.

SATIS Asset Management provide a wealth management service to discerning individuals and their families who are concerned about protecting their wealth.

We are also one of the few firms to be able to provide specialist wealth management, tax planning advice and US/UK tax return preparation to Americans living in the UK.

We offer a family office fee-based approach that combines wealth management and specialist tax advice so that you can be sure you are making the most of your global financial position and reporting correct returns in the US and in the UK.



For Investment Fiduciaries

Our service includes:

- US and UK tax return preparation and submission
- International tax planning advice
- An understanding of your unique challenges
- An insight into the ever changing cross border investment and tax reporting landscapes
- The ability to construct a 'portable' investment portfolio
- Estate and inheritance tax planning
- Administrative support



SATIS Asset Management Limited
45 Pall Mall, London SW1Y 5JG

Tel: 020 3272 0120 Email: info@satisuk.com Website: www.satisuk.com

SATIS Asset Management Limited is registered as a Limited Company in England & Wales, No. 7998681
SATIS Asset Management Limited is an Appointed Representative of
Hilber Hopkins LLP, authorised and regulated by the Financial Conduct Authority, registration number 223551

SATIS
ASSET MANAGEMENT