In his Spring Budget, delivered on 6 March 2024, the Chancellor announced sweeping reforms to replace the current tax regime for UK resident, non-UK domiciled individuals with a system based purely on residence.

There have been various tax cases in recent years relating to the concept of domicile which can be cumbersome and is based on the subjective matter of the individual’s permanent and indefinite intention. A move towards a residence-based regime should provide taxpayers with greater certainty.

The reforms are summarised below:

The current regime

Income tax and capital gains tax

Under the current rules, individuals who are UK resident, but non-UK domiciled have the option to claim the remittance basis of taxation. This means that they pay UK tax on their UK sourced income and gains, but only pay tax on their foreign income and gains to the extent these are remitted to the UK.

Once a taxpayer has been UK tax resident in 15 out of the previous 20 tax years, they will be deemed domiciled for UK tax purposes and no longer able to claim the remittance basis of taxation. Such individuals are therefore required to pay UK tax on their worldwide income and gains as they arise.

Inheritance tax

Presently, the UK inheritance tax (IHT) regime is based and assessed with regard to the donor’s, deceased’s or settlor’s domicile position at a particular point in time.

Under the current IHT regime, it is necessary to consider the domicile of the individual at the time of a potential tax charge (i.e., the settlement of a trust, a gift, death, etc). Individuals with a UK domicile and individuals treated as having a UK deemed domicile for tax purposes (broadly non-domiciled individuals that have been UK tax resident for 15 of the previous 20 tax years) are subject to UK IHT on their worldwide assets.

However, non-domiciled individuals are only subject to IHT on their UK situated assets together with indirect interests which are attributed to UK residential property. The rules with regard to situs from a UK tax perspective can be complex and you should seek further advice on this subject matter if relevant.

The concept of domicile, deemed domicile and its application for income tax, capital gains tax and inheritance tax purposes is complex and advice should be taken.

The new regime

Income tax and capital gains tax

From 6 April 2025, a new regime will apply for individuals who become UK tax resident after a period of at least 10 consecutive tax years of non-residence. For a period of four tax years commencing when the individual first becomes UK tax resident, the individual will not (subject to making a claim) pay UK tax on their foreign income and gains arising in a tax year regardless of whether or not these funds are brought to the UK. The government has referred to his new system as the FIG (foreign income and gains) regime.

This FIG regime is intended to be simpler than the existing remittance basis rules, as individuals will no longer be required to track their foreign income and gains or keep these funds offshore.

After the four-year period has elapsed, it will no longer be possible to claim tax relief under this regime and the individual will be subject to UK tax on their worldwide income and gains. This is a significant change from the existing rules, which allow for non-UK domiciled individuals to claim the remittance basis for a period of 15 tax years before becoming deemed domiciled.

It appears that the FIG regime will apply equally to individuals who are UK domiciled and non-UK domiciled. There is, therefore, potential for UK domiciled individuals returning to the UK after an extended period of at least 10 tax years of non-UK residence, who are currently not eligible to claim the remittance basis of taxation, to benefit from the introduction of this regime.
If an individual leaves the UK temporarily within the four-year period in which they are eligible for the FIG regime, they can still make a claim if they return to the UK in respect of the years that remain within the four-year period. For example, if an individual becomes UK resident in 2025-26, is non-resident in 2026-27 and then UK resident again from 2027-28 onwards, they will only be able to utilise the FIG regime for the 2023-24, 2024-25 and 2025-26 tax years; they will not get a full four years of relief.

An individual’s residence status for the purposes of the FIG regime will be determined using the Statutory Residence Test.

The government has indicated that ‘treaty residence or non-residence and split years will be ignored’ for the purposes of this regime.

When an individual comes to or leaves the UK part way through a tax year, they may qualify to split the tax year into a UK tax resident part and non-UK tax resident part if certain conditions are met. It therefore appears that split years will be treated as full years of UK residence for the purposes of the FIG regime. The actual period for which the FIG regime can be utilised may therefore be less than four full years.

A claim must be made within the individual’s self-assessment tax return for each year in which they wish to rely on this relief.

If an individual elects to be taxed under the new FIG regime, they will lose their entitlement to the income tax personal allowance (£12,750 for the 2023-24 tax year) and capital gains tax (CGT) Annual Exempt Amount (£6,000 for the 2023-24 tax year). This mirrors the current remittance basis regime and means that the regime may not provide more simplicity for taxpayers with small amounts of foreign income and capital gains.

There does not appear to be a charge for claiming this new relief which sets it apart from the current non-dom regime (for which there is a charge after seven years of UK residence) and similar regimes in jurisdictions like Italy.

**Transitional provisions**

Individuals who, on 6 April 2025, have been tax resident for less than four years (following 10 consecutive years of non-residence) will be able to utilise the FIG regime for any tax year of UK residence which falls within the remainder of the four years period commencing when the individual became UK tax resident.

In addition, a number of transitional provisions have also been announced.

**Capital gains tax rebasing**

Transitional rules regarding rebasing will apply to individuals who:

- Are neither UK domiciled nor deemed domiciled by 5 April 2025.
- If, on or after 5 April 2025, such individuals dispose of foreign assets held personally, they can elect to rebase that asset to its value as at 5 April 2019.

Technical guidance provided by the government on this matter states that this rebasing will be subject to conditions, however not much further detail has been provided on what these conditions may be.

It is important to note that this rebasing relief only applies to non-UK situs assets held personally and not to assets held within non-UK resident trusts. The wider implications of these reforms for offshore trusts are discussed later in this article.

Any individual who is not eligible to claim relief under the new four-year regime will be liable to pay UK tax on any uplift in the value of the asset from 5 April 2019.

An individual who is eligible to claim relief under the new regime, who disposes of a foreign asset within the qualifying four-year period, will not be liable to pay UK tax on the gain arising on sale regardless of whether or not the proceeds are remitted to the UK. In this case, a rebasing election should not be required.

Care should be taken when remitting the proceeds received on the sale of foreign assets to the UK. Under the current rules, it is not possible to separate the gain arising on the sale of an asset from the funds used to purchase it. If foreign income or gains have been used to acquire an asset (assessable under the remittance basis regime) bringing the proceeds to the UK could trigger a UK tax charge. The rate of tax applicable would depend on the tax year in which the funds are brought to the UK (see below).

If a taxpayer does not anticipate a need to use the proceeds received on the disposal of their non-UK situs assets in the UK going forward, they may find it beneficial to not make a rebasing election and instead rebase their foreign assets (via a disposal and reacquisition) immediately prior to 6 April 2025.

The government has not yet commented on the treatment of capital losses arising on the disposal of non-UK situs assets during a tax year in which an individual is claiming the new relief. Our assumption, however, is that such losses would not be allowable to offset against chargeable gains for capital gains tax purposes.

**Temporary Repatriation Facility**

Individuals who have previously claimed the remittance basis will be able to remit previously accrued foreign income and gains to the UK during the 2025-26 and 2026-27 tax years and pay tax at a rate of 12%. From 2027-28, remittances of pre-6 April 2025 foreign income and gains will be taxed at normal rates.

It is presently unclear whether or not foreign tax credits will be available to offset against this rate or if this will be a flat rate of taxation.
When an individual remits funds to the UK, it will be necessary to identify the source of the funds remitted to determine whether the remittance is of previously accrued foreign income or gains (subject to UK tax) or contains clean capital. Where a remittance is made from an account containing a mixture of income, gains and clean capital or funds that derive from more than one tax year, it is currently necessary to apply strict ordering provisions to determine the source of the remitted funds. These are referred to as the mixed fund ordering rules.

In their technical guidance, HMRC have suggested that changes will be made to current mixed fund ordering rules to make these provisions simpler for the taxpayer. No further details have been provided at this stage on how these reforms may work in practice. However, the application of a flat rate of 12% to remittances is of itself a significant simplification and may as a result encourage individuals to remit funds to the UK which they would have otherwise kept overseas.

50% reduction of the amount of foreign income subject to tax
There will be a one-year reduction in the amount of foreign income that will be subject to tax for individuals who meet the following criteria:

- They move from the remittance basis to the arising basis from 6 April 2023, and
- They are not eligible for the new four-year FIG regime.

For these individuals, only 50% of the foreign income arising in 2025-26 will be subject to tax.

The reduction in the amount of foreign income subject to tax will apply for one tax year only and the reduction will not apply to foreign chargeable gains. It is not clear what the position will be in respect of offshore income gains (which are subject to UK income tax rather than capital gains tax).

Overseas Workday Relief
Overseas Workday Relief (OWR), which provides relief from UK tax on earnings from employment duties performed outside of the UK, will continue to be available for the first three years of UK residence where an individual is eligible to be taxed under the FIG regime.

The new OWR rules will provide relief from income tax on earnings from employment duties performed outside of the UK regardless of whether or not these earnings are brought to the UK. This represents a significant simplification of the current rules.

As under the current rules, the new OWR will not provide relief from National Insurance contributions (NICs), so any NICs liabilities on these earnings will be determined as usual.

Offshore trusts
From 6 April 2025, the protections from taxation of income and gains arising within settlor-interested trust structures will be removed for all taxpayers who do not qualify for the new four-year regime.

Under the current regime, UK resident settlors of non-UK resident trusts which are ‘settlor-interested’ can be personally assessed on income arising within the trust structure under two sets of provisions: the settlements code and the Transfer of Assets Abroad code. The settlements code applies specifically to income arising at trust level; however, the Transfer of Assets Abroad code applies more broadly and can bring into scope income arising to underlying non-UK companies of a trust.

Similar provisions apply for CGT purposes, which can attribute chargeable gains arising to a settlor-interested trust or underlying company to a UK resident settlor.

Settlors who are non-UK domiciled or deemed domiciled (by virtue of having been UK tax resident for 15 of the previous 20 tax years) can currently benefit from protections from UK taxation. Provided no property or value has been added to the trust following the settlor becoming deemed domiciled, the settlor should not be liable to pay UK tax on the foreign income and gains arising within the trust structure as it arises. Foreign income and gains arising within the trust are instead pooled and only taxed if matched to capital payments received by UK resident beneficiaries.

The fact that foreign income and gains arising to protected trusts can, broadly, accumulate tax-free under the current regime has meant that non-UK resident trusts have been a popular structure for many non-UK domiciled and deemed domiciled individuals since 2017.

From 6 April 2025, foreign income and gains arising in offshore trust structures which are settlor-interested will be taxed on UK resident settlors on an arising basis unless they qualify for the FIG regime.

The implications of this change in the legislation are expected to be significant and individuals whose assets are currently invested via non-UK trusts should take advice as soon as possible.

The tax position for UK resident beneficiaries of offshore trusts which are not settlor-interested will remain more consistent with the current rules.

Capital payments made to UK resident beneficiaries of non-UK trusts who are not eligible for the FIG regime will continue to match to relevant income and gains within the trust structure and will be taxable at their marginal tax rates.

Beneficiaries who are within the FIG regime will be able to receive income distributions and capital payments from a non-UK resident trust without triggering a UK tax charge (regardless of whether or not the benefit is received in the UK).
However, capital payments made to beneficiaries who are eligible for the FIG regime will not match to trust income and gains and so it will not be possible to ‘wash-out’ the income and gains of the trust to such individuals.

It has been stated that capital payments made to beneficiaries who are eligible for the FIG regime will also be subject to modified onward gifting provisions, which will likely be aimed at preventing trustees making distributions to individuals qualifying for the FIG regime, who then make onward gifts to other UK resident individuals.

**Inheritance tax**

The announcement in the Spring 2024 Budget confirms that the government wish to move the IHT regime to a residence-based scheme. Given the significance of this change, the provisions discussed below are subject to a consultation and will only likely apply from 6 April 2025.

The current proposal foresees individuals being subject to UK IHT on their worldwide assets once they have been UK tax resident for a period of 10 years.

In addition, the current proposal suggests that, once an individual meets the residence condition, they will remain within the scope of UK IHT unless they become, and remain, non-UK tax resident for a period of 10 years.

The system may also take into account ‘other connecting factors’, so facts such as citizenship or place of birth may also count towards determining an individual’s IHT position.

**Trusts and IHT**

At present, non-UK property comprised in a settlement settled by a non-UK domiciled individual is not subject to UK IHT (with the exception of an indirect holding in UK residential property).

For trusts settled after 6 April 2025, the proposal is that settled property will be subject to IHT if the settlor meets the aforementioned residence condition or is caught within the tail provision at the time when assets are settled on trust and/or the trust is subject to a 10 year charge (which arises on each and every 10 year anniversary of the trust) or an exit charge (which is payable on a capital distribution from a trust).

As a sweetener, the government has confirmed that the current IHT provisions will be retained with regard to trusts settled with non-UK assets by a non-UK domiciled settlor prior to 6 April 2025, provided the assets continue to be excluded property and do not fall foul of anti-avoidance provisions.

For the avoidance of doubt, UK situs assets will continue to be subject to UK IHT irrespective of whether they are held by a trust under the grandfathered regime, or a trust settled subsequently.

**Double tax treaties**

The UK currently has various estate tax treaties which provide bilateral relief from double taxation in respect of certain jurisdictions. The treaties look at domicile as a determining factor for establishing which jurisdiction as the primary or sole taxing rights in respect of the assets of a deceased individual. It is currently unclear whether these treaties will be revised to take account of the new tax rules.

The UK IHT legislation does include a unilateral relief from double taxation; the government may therefore decide to move away from these treaties altogether. It is likely that the impact and benefit of the double tax treaties will need to form part of the consultation.

**Next steps**

It is not yet clear whether any or all of the proposed amendments to the non-domicile regime or the revised IHT regime will be enacted as there will be a General Election prior to 6 April 2025 when these announced changes are due to take effect. However, the Labour Party has previously stated that it would seek to abolish the non-dom regime and replace it with an alternative system. We therefore consider it likely that we will see significant changes in 2025, regardless of which party is in power.

This factsheet is based on law HMRC practice at 12 March 2024.

---

**Alexandra Britton-Davis**

T: +44 (0)20 7841 4062
E: alexandra.britton-davis@saffery.com

---

This factsheet is published on a general basis for information only. It does not constitute, and should not be construed as, investment advice nor a recommendation to subscribe to, purchase, sell or otherwise transact in any security or financial instrument. No liability is accepted for errors of fact or opinion it may contain. Professional advice should always be obtained before applying the information to particular circumstances. Views expressed by external parties in this document are their own, and do not necessarily reflect those of Saffery LLP. J J10069 © Saffery LLP March 2024. Saffery LLP is a limited liability partnership registered in England and Wales under number OC415438 with its registered office at 71 Queen Victoria Street, London EC4V 4BE. The term “partner” is used to refer to a member of Saffery LLP. Saffery LLP is regulated for a range of investment business activities by the Institute of Chartered Accountants in England and Wales.

Saffery LLP is a member of Nexia a leading, global network of independent accounting and consulting firms. Nexia International Limited and each member firm are separate and independent legal entities, each of which is responsible for its own acts, omissions or liabilities and not those of any other member of the Nexia network. Please see https://nexia.com/member-firm-disclaimer/ for further details.