

## **Autumn Statement 2016: Non-Domicile Taxation**

On 5<sup>th</sup> December 2016, the Government has published legislation following the Autumn Statement, that introduced long-expected reforms to the treatment of non-domiciles. The three key changes to be aware of are:

- from April 2017, resident non-domiciled individuals will be deemed UK-domiciled for all tax purposes if they have been UK resident for 15 of the past 20 years, or if they were born in the UK with a UK domicile of origin.
- inheritance tax will be charged on UK residential property when it is held indirectly by an offshore structure, such as a company or a trust; and
- the rules for the Business Investment Relief (BIR) scheme will be amended to make it easier for non-doms who are taxed on a remittance basis to bring offshore money into the UK for the purpose of investing in UK business.

### **(i) Changes to deemed-domiciled status**

The new deemed domicile provisions will apply to all individuals who are UK resident from 6 April 2017, regardless of when they first commenced UK residence.

### **(ii) UK Residential Property held through offshore structures**

Under the current rules, a non-domiciled individual is able to shelter UK residential property via an offshore company in order to save inheritance tax.

However, from 6 April 2017 this will no longer be possible and the structures will become within the scope of inheritance tax. How the tax will be charged will depend on how the offshore company is owned:

#### **If the offshore company is held in a personal capacity**

- Companies owned personally by shareholders or via a nominee arrangement from 6 April 2017 will be subject to inheritance tax (current rate 40%) when the individual shareholder dies.
- If the shareholder gifts the shares in the offshore company to another individual. I.e. their children then they will need to survive 7 years from the date of the gift in order to be exempt from inheritance tax.
- Even if the shareholder gifts their shares to their children inheritance tax may still arise if they continue to retain a benefit in the property i.e. continue to occupy the property.

### **If the offshore company is held via an offshore trust**

- Where an offshore trust is a shareholder of an offshore company the shares will be subject to a 6% inheritance tax charge on every 10-year anniversary.
- If shares are distributed out of the trust there will be further exit charges.

### **(iii) Remittances of foreign income into the UK**

- The government have changed the rules for the BIR Scheme from April 2017. It will become easier for non-domiciled individuals who are taxed on the remittance basis to bring offshore money into the UK for the purpose of investing in UK businesses.
- Individuals who become deemed domiciled on 6 April 2017 will be entitled to re-base their foreign, directly-held capital assets to their market value on that date, meaning gains accrued up to that date will be non-taxable, even if remitted.
- Non-doms will have from 6 April 2017 to 5 April 2018 to separate foreign funds which have been “mixed”. This will allow the “clean capital” element of such funds to be remitted to the UK without triggering tax charges, which will be a significant concession for some long-term non-doms.

Non-domiciled individuals who will be affected by these changes from April 2017 should seek advice to review their affairs urgently as the window to reorganise is closing.

If you wish to discuss how the new rules on non-doms please get in touch with us by contacting [jcohen@gcsolicitors.com](mailto:jcohen@gcsolicitors.com).

*James Cohen is a Partner at GSC Solicitors LLP who is also a notary public and STEP qualified.*

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