

13/09/2016

Concerned market: UK



UK fiscal regime for RNDs ; a continuing process of evolution.

(Summary overview for Non-UK based intermediaries of the August 2016 HMRC Consultation Document on RND taxation)

Following the surprise outcome of the Brexit Referendum there was much speculation as to whether the planned reforms to the UK RND regime, first announced in 2015, would proceed in their original form. Many speculated that a new Government Cabinet would defer changes, given new economic uncertainties.

A Consultation Document, released on the 19th August, confirms the intention to proceed with the central thrust of the original proposals.

[https://www.gov.uk/government/consultations/reforms-to-the-taxation-of-non-domiciles/reforms-to-the-taxation-of-non-domiciles.](https://www.gov.uk/government/consultations/reforms-to-the-taxation-of-non-domiciles/reforms-to-the-taxation-of-non-domiciles)

Summary

- The general thrust of proposals announced in July 2015 continues.
- UK RNDs will become 'deemed-domicile' for all UK tax purposes after 15 years continuous UK tax residence.
- The Remittance Basis of Taxation will no longer be available to 'deemed-domiciles'.
- The proposals will take effect from 6th April 2017
- Those becoming 'deemed-domicile' on 6th April for Income and Capital Gains;
 - may be eligible for a 'one-off' capital rebase to the 5th April 2017 value of non-UK assets.
 - may be eligible for an 'Amnesty' to segregate mixed funds during the 2017/18 tax year.
- A UK IHT 'shadow' will fall away from 'deemed-domiciles' after 4 consecutive years of non-UK residence.
- To 're-start the RND clock' 6 consecutive years of non-UK residence are required.
- Pre- 'deemed-domicile' trusts will retain their Excluded Property status but as any received benefit will be immediate assessable to tax, they will in effect become asset 'freezers' whilst the settlor and connected persons are UK resident.

NB The aim of this note is to provide an overview to those intermediaries for whom life assurance offers a potential client solution. The Consultation Document covers other areas of planning (defining years of residence, taxation of real estate, etc); these will not be discussed here.

Life Insurance (as a potential solution)

Investment Bonds (PPLI contracts/Assurance Vie or whatever term you wish to use) offer distinct planning advantages to UK RNDs.

- Tax deferral on arising portfolio income & gains
- The protection of clean capital whilst invested in active risk assets
- Tax deferred withdrawals within the cumulative '5%' allowance
- Robust UK Estate planning functionality
- Creation a 'portable' cross-border financial planning solutions
 - Offering continuous tax deferral as a client tax residence changes
 - Compliance within non-UK fiscal regimes
 - Optimisation of planning potential within non-UK regimes



- Civil Law estate planning functionality

The proposed new regime for the taxation of UK Resident Foreign Nationals simply enhances the attractions of Investment Bonds for such clients.

Deemed-Domicile for all UK Tax Purposes

- 1/. Previously, no matter how long a UK RND resided in the UK they knew that the remittance basis of taxation was available to them. By electing for the Remittance Basis Charge (paying the year fee of £30k, £60k or £90k and losing personal tax allowances) a UK RND removed arising tax from non-UK assets. As of 6th April 2017 UK 'Deemed-Domiciles' will pay tax on an arising basis on non-UK assets or adopt suitable structuring techniques.

Investment Bond solution

Non-Personal assets held and managed within an Insurance Bond can enjoy tax deferral for so long as the policy exists (even across the generations using multiple lives assured).

- 2/. Assets settled prior to a 'deemed-domicile' status are confirmed to retain their 'excluded-property' status. However, taking benefit, anywhere in the world, is problematic for settlors.

Investment Bond solution

Withdrawals, within the '5%' cumulative allowance are neither reportable nor immediately taxable. Furthermore, if the withdrawal is from a policy funded by Clean Capital then the withdrawn sum can be freely remitted into the UK.

Restructuring (Timing)

1/. Future UK 'Deemed-Doms'

Looking forward, as UK RNDs approach 15 years UK tax residence they will need to consider restructuring at all levels of wealth planning. Not only will they need to consider UK Inheritance Tax but they must also now plan for Income and Capital Gains. Electing for the RBC may be the best option when available (especially for the very wealthiest of clients) but the option loses its appeal for many as the fee steps up to £60kpa. Suitable restructuring should take place prior to the 8th, 13th and 16th years of continuous tax residence.

2/. Becoming Deemed-Domicile on 6th April 2017

Many ten's, if not hundreds, of thousands of people will become 'Deemed-Domicile' for all UK tax purposes on 6th April 2017. Should these individuals act to restructure before then?

If losing the Remittance Basis could be decisive then "Yes" might be the assumed default answer. However,

er, the answer will vary with each individual as the UK Government is 'sugaring the pill' of a newly acquired 'deemed-domicile' status.

The Consultation Document describes that those becoming 'Deemed-Domicile' for Income and Capital Gains on 6th April 2017

- "...will be able to rebase directly held foreign assets to their market value on 5 April 2017..... "
- "... will be able to rearrange their mixed funds overseas to enable them to separate those funds into their constituent parts. This window will last for one tax year from April 2017... "

Equally, before walking away with an assumption that nothing should be done until April 2017, the various conditions upon which these concessions are provided must be known;

6th April 2017 Capital Rebase is provided where

- Protection is limited to non-UK assets owned as of 8th July 2015
- Individuals have already paid the Remittance Basis Charge, in respect of at least one year, prior to April 2017

2017/2018 Mixed Fund amnesty is provided where

- Assets "...consist of amounts deposited in bank and similar accounts. ". It would appear that non-fungible assets are excluded ?
- The component parts of the mixed fund and the source are traceable.

Those professional advisers with the facility to audit such needs will be busy over the next few months. Only a technician armed with all details will be able to assess the position.

NB The transfer of assets into an Insurance Bond is a disposal for Capital Gains tax purposes unless the gain is exempted under the Remittance Basis or via a re-basing concession.

Action Plan

Given that clients will almost certainly have some cause to act either in this UK fiscal year or the next, they should be prepared;

- Attain confirmation of domicile status (the Consultation Document has clarified certain points)
- If expected to become 'deemed-domicile' for all taxes in the next fiscal year, establish eligibility of assets for the available concessions
 - Rebasing
 - Segregation of Mixed Funds
- Identify suitable long-term planning structures under the new regime (and consider whether it is optimal to establish them now, or in a future tax year)



- For example; seeding a life policy in this calendar year might assist the tax treatment of a life policy once the client has left the UK

- Be prepared to act swiftly

NB Remember, the Consultation Document is simply that; the on-going communication of proposals which will or will not be enacted in full or in part. ■

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