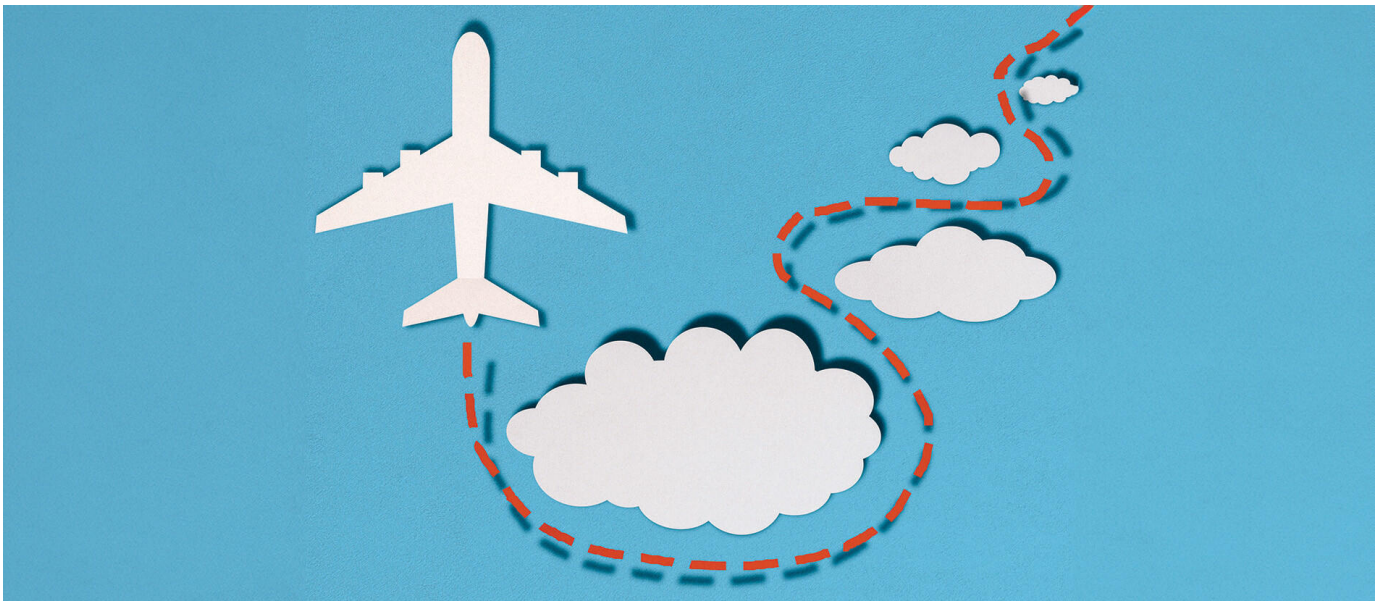
Reform to the taxation of non-doms: the new FIG regime

Personal tax | International Tax



22 January 2025

The UK government is set to implement a fundamental reform to the taxation of non-UK domiciled individuals starting on 6 April 2025. In the first of two articles, we consider the issues relating to income tax and capital gains tax reform.

Key Points

What is the issue?

The reform will replace the remittance basis with a new four-year foreign income and gains (FIG) regime and transition to a residence-based system for inheritance tax. The changes will significantly impact non-UK domiciled individuals who currently benefit from the remittance basis, protected trust and excluded property reliefs.

What does it mean for me?

This will eliminate domicile as a relevant factor for income tax, capital gains tax and inheritance tax purposes. The FIG regime offers a four-year exemption for foreign income and gains for individuals who have been non-resident for 10 years. A Temporary Repatriation Facility will allow non-UK domiciled individuals to bring funds to the UK at a special tax rate.

What can I take away?

Affected individuals should prepare for the changes by reviewing their assets, offshore structures and mobility options. They should consider taking advantage of current rules, the Temporary Repatriation Facility and other transitional measures.

The non-dom regime will undergo a fundamental reform starting on 6 April 2025. This reform will replace the remittance basis with a new four year foreign income and gains (FIG) regime and transition to a residence-based system for inheritance tax. These changes are relevant to both UK-domiciled and non-UK-domiciled individuals, but the impact will be more significant for non-UK-domiciled individuals who currently benefit from the remittance basis, protected trust and excluded property reliefs.

The new regime aims to simplify the tax system by removing domicile as a relevant connecting factor for tax purposes (although, as will be noted in the second article, domicile will continue to have some relevance for tax purposes going forward). However, the new regime will generally be more stringent for long-term UK residents who are non-UK domiciled, as they may fall within the scope of worldwide taxation from 6 April 2025 (unless they qualify for the new, more restrictive reliefs).

On the other hand, there is some positive news for UK domiciled individuals who have been (or will be) non-UK resident for 10 years, as these individuals may be entitled to comprehensive tax reliefs concerning their non-UK income, gains and assets.

Individuals affected by these changes have only a few months left to prepare before the new regime takes effect on 6 April 2025. A wide range of actions (which will often take into account non-tax as well as tax considerations) may need to be taken to prepare for the new regime and to take advantage of transitional rules that could mitigate the impact of these changes for certain individuals. Affected individuals

need to act promptly to ensure that the necessary review and restructuring steps are implemented within this limited timeframe.

Key features of the reform

The government announced a fundamental reform to the taxation of non-UK domiciled individuals at the Budget on 30 October 2024, including:

- **Relevance of domicile for tax purposes:** The concept of domicile will cease to be a relevant connecting factor for income tax, capital gains tax and inheritance tax purposes.
- **Introduction of the FIG regime:** The current remittance basis of taxation will be replaced by a new four-year exemption applicable to foreign income and gains from 6 April 2025.
- **Residence-based system for inheritance tax:** A new residence-based system will be introduced for inheritance tax purposes from 6April2025.
- **New inheritance tax regime for trust assets:** The inheritance tax treatment of trust assets will be dependent on the long term residence status of the settlor at relevant chargeable events rather than at the time of settlement.
- **Transitional rules:** Various transitional rules will be introduced to soften the impact of the changes on the affected individuals.

Several features of the aforementioned reform have been discussed in earlier editions of *Tax Adviser*. This article will examine some of the novel developments resulting from the Budget announcements and the publication of a detailed Technical Note titled ‘Reforming the taxation of non-UK domiciled individuals’, along with more than 100 pages of draft legislation.

Income tax and capital gains tax

Here, we consider the issues relating to income tax and capital gains reform. We will examine the changes to a residence-based system for inheritance tax purposes in the March issue of *Tax Adviser*.

The FIG regime

From 6 April 2025, the remittance basis regime, which has been a feature of the UK tax system for over 200 years, will end and the new FIG regime will be introduced. This regime will be available to individuals during their first four years of UK tax residence after a period of 10 consecutive years of non-residence. Beyond this initial period, all UK residents will be taxable on their worldwide income and gains.

For the purposes of the FIG regime, residence will be determined using the statutory residence test. Years of residence before 6 April 2025 will also be taken into account. Therefore, individuals who have already relocated to the UK and became UK tax resident under the statutory residence test from the 2021/22 tax year will not be eligible for the FIG regime. Unlike the remittance basis, the FIG regime will be available to UK-domiciled individuals, provided they have been (or will be) non-resident for at least 10 years before becoming UK tax resident.

Under the FIG regime, foreign income and gains are fully exempt from UK taxation, offering more generous relief compared to the remittance basis, which only provides temporary exemption until a remittance occurs. However, the FIG regime's duration is significantly shorter, lasting only four years compared to the 15 years available under the remittance basis. For individuals planning long-term relocation to the UK (e.g. for children's education) the FIG regime offers only temporary relief, necessitating a transition to worldwide taxation after four years.

The categories of income and gains that qualify for the FIG regime are broadly similar to those under the remittance basis, with some notable exceptions. For example, profits from a foreign partnership will qualify only if the trade is conducted *wholly* outside the UK. Additionally, the draft legislation specifically excludes certain income categories, such as performance income, from the FIG regime.

A significant aspect of the FIG regime is the requirement fora claim and quantification of relevant amounts on a self-assessment return. Failure to comply will generally result in the taxation of relevant income and gains on an arising basis, imposing an unexpected compliance burden on individuals who wish to benefit from the FIG regime. Claimants of the FIG regime will also forfeit their entitlement to foreign losses and personal allowances for the tax year in which they make a claim.

Foreign income and gains received by non-UK domiciled individuals before 6 April 2025, which benefited from the remittance basis of taxation, will continue to be taxed under the previous remittance rules (but see the comments on the Temporary

Repatriation Facility below).

Trust income and gains

From 6 April 2025, trust protections for income and gains within settlor-interest trusts will no longer apply. Consequently, settlors will be assessed on all income and gains within a trust structure unless they qualify for the four-year FIG regime.

Foreign income and gains that arose in protected trusts before 6 April 2025 will be taxable on UK tax resident settlors and beneficiaries who do not benefit from the FIG regime, to the extent that such income or gains are matched against worldwide trust distributions or benefits.

Offshore anti-avoidance rules

The government will implement several changes to the offshore anti-avoidance code from 6 April 2025, in conjunction with the removal of trust protections. These changes include modifying the benefits charge, eliminating the concept of tainting, and amending the onward gift and close family member rules. Additionally, a transferor assessable on the income of a person abroad will have the right to recover the income tax paid from that person without it being considered a taxable benefit.

A broader review of anti-avoidance rules aimed at simplifying the legislation is also announced, with any changes expected to take effect from 6 April 2026.

Overseas Workday Relief

Overseas Workday Relief will be retained and available to individuals eligible for the FIG regime during their first four years of UK residence. Income qualifying for Overseas Workday Relief will be exempt from taxation, regardless of whether the relevant funds are brought to the UK. However, Overseas Workday Relief will be capped at the lower of 30% of the employee’s worldwide employment income or £300,000 per qualifying tax year.

Temporary Repatriation Facility

One of the most attractive features of the reform is the introduction of a Temporary Repatriation Facility. This relief encourages non-UK domiciled individuals to bring their funds to the UK for personal and business purposes.

Under the Temporary Repatriation Facility, individuals who have previously claimed the remittance basis can make an election to designate their foreign income or gains that arose prior to 6 April 2025 to be taxed at a special rate. The rate will be 12% for elections made from 6 April 2025 to 5April 2027 and 15% for elections made from 6 April 2027 to 5 April 2028. Designations for Temporary Repatriation Facility purposes can be made in respect of both cash and non-liquid assets.

Once an election has been made, the relevant funds can be brought to the UK without any further tax charges. There is no requirement for the designated funds to be brought to the UK during the three years of the Temporary Repatriation Facility.

Beneficiaries of trust structures who have previously claimed the remittance basis can also make a designation in respect of pre-6 April 2025 ‘stockpiled’ income or gains matched to capital payments or benefits received during the Temporary Repatriation Facility period (from 6 April 2025 to 5 April 2028).

An election to make a designation under the Temporary Repatriation Facility is on an amount net of any foreign tax, meaning it will not be possible to obtain credit in the UK for the foreign tax suffered on the amount designated under the Temporary Repatriation Facility.

Capital gains tax rebasing

For capital gains tax purposes, remittance basis users will be entitled to benefit from the rebasing of their personally held foreign assets. This opportunity is limited in scope as it only provides rebasing to the market value of certain relevant assets as at 5 April 2017 and is subject to a number of conditions. Rebasing can be elected by individuals who have not been domiciled or deemed domiciled in the UK at any time before the tax year 2025/26 and who made a remittance basis claim for at least one tax year during the period from 6 April 2017 to 5 April 2025.

Key actions to consider prior to 6 April 2025

Taxpayers have only a few months left to prepare for the non-dom changes coming into effect from 6 April 2025. Below is a non-exhaustive list of matters to consider ahead of the changes. As ever, tax is only one aspect of relevant planning actions, and any options should be considered against the specific commercial, family and personal circumstances of taxpayers.

1. Taking advantage of the current rules

Individuals eligible for the current non-dom reliefs (i.e. the remittance basis and excluded property status of non-UK property) should consider the timing of transactions to benefit from the current regime. This could include receiving a dividend (which could be designated under the Temporary Repatriation Facility or kept offshore for non-UK spending), selling assets, unwinding offshore structures or making lifetime gifts of non-UK assets.

2. Reviewing personally held assets

Individuals who will fall within the scope of worldwide taxation from 6 April 2025 may wish to review their investment strategies. Investing in assets subject to a more favorable tax regime (e.g. subject to capital gains tax instead of income tax) or providing a deferral of tax until a realisation event (e.g. certain types of offshore funds and bonds) could be beneficial. Reviewing bank account arrangements to ensure they remain effective post-6 April 2025 is also advisable.

3. Reviewing offshore structures

Non-UK income and gains within non-UK structures could be attributed to UK resident individuals who settled or provided funding to the relevant structures. However, no attribution should be made if income or gains arise at the company level and it can be demonstrated that UK tax avoidance was not one of the purposes of the relevant transactions. A detailed review of the availability of the motive defence exemption and corresponding evidence should be performed to confirm the position. Some taxpayers may prefer a UK resident company to avoid dealing with the application of the offshore anti-avoidance rules.

4. The Temporary Repatriation Facility and other transitional measures

Individuals with unremitted income and gains which arose prior to 6 April 2025 may wish to consider a designation under the Temporary Repatriation Facility. This will provide a significant tax saving given the differential between the special tax rates available under the Temporary Repatriation Facility (12%/15%) and normal rates (up to 45%) and lead to a simplification of offshore affairs. Some taxpayers may need to take steps to create liquidity (e.g. receive a dividend or trust distribution) during the current year to be able to apply the Temporary Repatriation Facility. Therefore, a careful review and planning of future liquidity needs is required to maximise the benefits of the Temporary Repatriation Facility.

5. Mobility considerations

Individuals currently residing in the UK may wish to reassess their mobility options in light of the non-dom reform, although this may not always be practical for lifestyle and business reasons. Those aiming to cease their UK residency from 6 April 2025 should seek professional advice to ensure they comply with the statutory residency test by limiting their days and connections to the UK. While the statutory residency test is generally objective, it includes several subjective elements and definitions, such as the concept of a home or the broad definition of work duties. Consequently, great care is required to review individual circumstances and intentions, as well as the future implementation of any advice provided. Additionally, individuals who are settlors of non-UK trusts should be aware that an inheritance tax exit charge may apply after they cease being ‘long term resident’ for inheritance tax purposes (which will be examined further in the second article), necessitating a review of existing trust arrangements.

6. Compliance considerations

As previously mentioned, there will be an increased focus on compliance obligations for those who qualify for the FIG regime, as they need to quantify the relevant FIG amounts on their returns. Similarly, those who do not qualify for the FIG regime will fall within the scope of worldwide taxation and will need to report relevant income and gains on their returns. Understanding and complying with these obligations will be a key concern for many taxpayers. From this perspective, it is advisable to think through what will need to be reported to fulfill compliance obligations and how and

when this should be done (fuller or proactive engagement with HMRC may be helpful, particularly where affairs are complex). It is also advisable to consider steps that simplify tax affairs, such as liquidating structures that are no longer fit for purpose. Compliance obligations in other jurisdictions should also be considered to the extent they are currently relevant or will become relevant in the future.

The upcoming changes to the taxation of non-UK domiciled individuals represent a significant shift in the UK tax landscape. Affected individuals should take proactive steps to understand the implications of these reforms and seek detailed advice to navigate the new regime effectively.

In the March issue of Tax Adviser, Valeriy Ilchenko will examine the changes to a residence-based system for inheritance tax purposes.

© Getty images/iStockphoto