FB 2017: Reforms to the taxation of non-UK domiciliaries (clauses 40 and 41)

Personal tax

01 February 2017

The treatment of non-resident trusts created by foreign domiciliaries requires further work as part of the reform to the taxation of non-UK domiciliaries.

On 5 December the Government published a response to the further consultation on the reforms to the taxation of non-domiciles issued in August 2016, together with draft (but not yet complete) consultative clauses for Finance Bill 2017 which would introduce deemed domicile rules.

At the time of writing the CIOT's CGT & Investment Income and Succession Taxes Sub-committees are reviewing the clauses and their submissions will be available on the CIOT website in due course.

A significant and complex part of the package is the protection of non-resident trusts created by foreign domiciliaries before they become deemed domiciled in the UK for all tax purposes under the new regime. The 5 December publications provided greater clarity on the change to the taxation of such trusts. However, the wide-ranging impact of these new rules will extend beyond deemed domiciled settlors to UK resident settlors and beneficiaries. It is clear that there remains much to be done in terms of the legislative drafting not only in relation to the clauses already published but also in respect of the clauses that have yet to be published covering the income tax treatment of such trusts. The latter clauses are promised for publication no later than the date for publication of the Finance Bill 2017. It is hoped they will be published earlier than that date to allow time for a proper review.