Non-domiciled taxpayers

A Non-domiciled taxpayer, described as a Non-dom in the rest of this briefing, is a person who is not a UK domiciled taxpayer. Domicile is different to residence or nationality. You can only have one place of domicile and it is generally the country where you have a permanent home.

What is domicile?

In a non-tax sense domicile can be defined as the country that a person treats as their permanent home.

From a legal standpoint, domicile could be considered a mixture of fact, history, background and intent. It is not determined by any specific issue, such as where a person resides, their citizenship, where their assets or family are located or the type of passport they hold. These factors may be relevant but are not in themselves decisive.

HMRC will look at whether it is a taxpayer's intention to treat the UK as their tax domicile by considering the person's personal, economic and social ties.

Under UK law, every individual must have a domicile in one specific jurisdiction, but it is possible to be domiciled in a different jurisdiction under the law of another country, in which case double taxation treaties would influence outcomes.

For the purposes of UK tax, a non-domiciled person is considered to have a place of domicile outside the UK.

What are tax treaties?

Tax treaties are invoked to deal with the situation where the same income or taxable gains may be taxable in more than one country. This is generally described by the expression "double taxation".

Double tax agreements aim to regularise this position, so the taxpayer can claim tax credits against liability in a second jurisdiction, based on tax paid in another tax jurisdiction.



What is the current tax position of non-doms?

Until 5 April 2008, an individual staying in the UK was either a Non-dom or not ordinarily resident in the UK, and was taxed on the 'remittance basis' for income and capital gains arising outside the UK. The remittance basis meant that Non-doms were only taxed on income and capital gains that were brought into the UK in any tax year.

This system was overhauled from April 2008.

Currently, Non-doms are taxed like all the UK's citizens on an arising basis. This means that all income and gains that are earned or accrued from sources anywhere in the world - including the UK - are taxed in the UK.

Alternatively, the remittance basis can still be claimed, but a Remittance Basis Charge (RBC) may be payable.

The RBC is presently set at the following rates:

- the charge for individuals who have been UK resident for at least 7 of the last 9 years is £30,000;
- the charge for individuals who have been resident in the UK for at least 12 of the last 14 years is £60,000.

Other considerations

Since April 2017, individuals who are born in the UK, to UK domiciled parents, are no longer able to claim non-domiciled status whilst they are resident in the UK.

Prior to the 2017-18 tax year a £90,000 RBC was payable by individuals who had been resident in the UK for at least 17 of the last 20 tax years.

If, after consideration, you elect to use the remittance basis, the following provisions will apply.

You will be required to:

- complete a self-assessment tax return and make a claim to use the remittance basis;
- lose your entitlement to a range of UK personal allowances and the annual exempt amount for Capital Gains Tax;
- pay UK tax on your UK income and gains in the tax year in which they arise;
- pay UK tax on the foreign income and gains that you bring directly or indirectly to the UK.

RBC exemptions

I only have small amounts of foreign income, will I still be taxed on this income in the UK or have to pay the RBC if I bring it into the UK?

There are a number of exemptions from the RBC:

1. If your unremitted foreign income and gains are less than £2,000 you can claim a general exemption. This will mean that you can use the remittance basis without making a claim and without paying the RBC, and you will continue to benefit from Income Tax personal allowances and the annual exempt amount for Capital Gains Tax purposes.

2. Alternatively, if the following conditions apply, you can also use the remittance basis without applying, paying the RBC or losing allowances.
The conditions are:

- you are UK resident and not UK domiciled;
- you have no UK income or gains for that year, other than UK investment income of £100 or less all of which has been taxed at source;
- you have no remitted foreign income or gains in that year;
- you have been UK resident in fewer than seven of the immediately preceding nine tax years OR you are under 18 for the entire tax year.

3. There is also an exemption, if certain circumstances apply, that exempt foreign earnings of less than £10,000 from UK tax even if these earnings are brought into the UK.





Are there any other UK taxes that affect Non-doms?

Non-doms are liable to UK Inheritance Tax, but only on assets situated in the UK. However, if they have been resident in the UK in 17 out of the preceding 20 years they will be deemed to be domiciled in the UK and liable to UK Inheritance Tax on their worldwide assets.

A new CGT charge came into effect on the sale of UK residential property by non-UK residents, on 6 April 2015. HMRC's guidance confirms that only the amount of the overall gain relating to the period after 5 April 2015 is chargeable to tax. Private residence relief, where a property is the owner's only or main residence, will continue to apply under certain circumstances.

Taxpayers with foreign income or gains should also note that since April 2017 the government has made various changes affecting Non-doms. Particularly, that any person who has been resident in the UK for more than 15 of the previous 20 years will be deemed domiciled in the UK for tax purposes.

It has been further confirmed that Non-doms who became deemed domiciled in April 2017 can treat the cost base of their non-UK based assets as being the market value of that asset on 6 April 2017. This means that only the gains arising after this date will be taxable.

A new 2% SDLT surcharge, above existing rates, for non-UK residents purchasing residential property in England and Northern Ireland was introduced on 1 April 2021.

Summary action list

- Ascertain your tax status for each UK tax year and plan accordingly.
- Would you benefit from the use of the Remittance basis?
- Review your UK Income Tax position regarding income arising in the UK and abroad.
- Review any liability to Capital Gains Tax or Inheritance Tax on your UK or worldwide assets.
- Take professional advice.

In preparing and maintaining this publication, every effort has been made to ensure the content is up to date and accurate. However, law and regulations change continually and unintentional errors can occur and the information may be neither up to date nor accurate. The editor makes no representation or warranty (including liability towards third parties), express or implied, as to the accuracy, reliability or completeness of the information published in this publication.

Kings Mill Partnership

75 Park Lane
Croydon
Surrey
CR9 1XS

020 8686 7942
info@kingsmill.co.uk
www.kingsmill.co.uk