
Q&A

What is the new deemed domicile rule?

People who reside in the UK are subject to UK income tax, capital gains tax and inheritance tax but these taxes are applied differently to those who are 'non-UK domiciled'. Generally, non-doms have been able to use a more favourable tax regime without any time limit (except in relation to inheritance tax) as long as they have remained non-UK domiciled. This is changing from 6 April 2017. People who have lived in the UK in 15 out of the previous 20 tax years will be 'deemed domiciled' in the UK for income tax, capital gains tax and inheritance tax purposes.

Does this matter to me now?

It will matter to you if you are a non-dom and:

- You have been UK resident continuously since the 2002/2003 tax year – you will become deemed domiciled from 6 April 2017
- You have been UK tax resident in 15 years since (and including) 1997/1998 - you will become deemed domiciled from 6 April 2017
- You have lived in the UK for 12 or more of the last years – you will not be deemed domiciled this year but are approaching it and need to start planning
- You have definite plans to remain in the UK for at least 15 years – you will probably become deemed domiciled in future and should understand what this means.

What happens if I become deemed domiciled?

The major changes are:

- You will no longer be able to claim the remittance basis of taxation. This is the favourable tax regime for non-doms that means that their non-UK income and capital gains are not taxed unless they bring them to the UK

- All your assets, no matter where they are in the world, will be subject to UK inheritance tax.

I will become deemed domiciled on 6 April 2017. Am I too late to do anything?

No. There are still things you can do now and some things you can only do after 5 April 2017:

- Take professional advice as soon as possible if you have not already
- Double-check the years in which you have been UK resident – it is easy to miscount!
- Look at the domicile status of members of your family. Your spouse or partner and children may remain non-dom for longer than you, which you can incorporate into your planning
- If you have claimed the remittance basis of taxation in the past and have non-UK assets, look at whether you can 'cleanse' accounts and assets that contain mixed funds. This means splitting the funds back into income, capital gains and clean capital so you can use some of them tax-free in the UK. Cleansing can happen between 6 April 2017 and 5 April 2019 but the calculations and steps may take some time so start the process as soon as possible
- Consider selling non-UK assets soon after 5 April 2017. This is because they will be rebased – you will be treated as if you had bought them at their value at that date so their gain in value before then will not be subject to UK capital gains tax. There are additional rules about the assets that qualify
- If you think cleansing and rebasing may help you and you have not claimed the remittance basis before, consider claiming the remittance basis of taxation for 2016/2017. You would have to pay a remittance basis charge of at least £60,000 to do this but it may be worth it

- If you have claimed the remittance basis, consider setting up a new account to receive income and capital gains arising to you after 5 April 2017 to keep them separate from older, non-UK income and capital gains
- If you have non-UK expenditure or plan to leave the UK in the short to medium term, consider claiming the remittance basis and, if feasible, consider realising capital gains or maximising income (e.g. trust distributions) before 6 April 2017
- Consider reorganising ownership of family assets so that they are owned by family members who will not become deemed domiciled on 6 April 2017
- If you are domiciled in France, Italy, India or Pakistan, take professional advice about whether tax treaties mean that UK inheritance tax will not apply to your non-UK assets after you become deemed domiciled.

I will become deemed domiciled within the next three years. What should I do now?

- Take professional advice as to your status and the planning that you may do
- Double-check the years in which you have been UK resident
- Check the status of your spouse/partner and family members
- Consider leaving the UK before you become deemed domiciled
- Consider settling non-UK assets into a trust. If the assets remain outside the UK, they will not be subject to UK inheritance tax even if you become deemed domiciled in future
- If you have claimed the remittance basis of taxation in the past and have non-UK assets, look at whether you can ‘cleanse’ accounts and assets that contain mixed funds.

- Consider reorganising ownership of family assets so that they are owned by family members who will not become deemed domiciled
- If you are domiciled in France, Italy, India or Pakistan take professional advice about whether tax treaties mean that UK inheritance tax will not apply to your non-UK assets after you become deemed domiciled.

I moved to the UK recently. Do I need to do anything now?

You should be aware of the new rules and keep track of how many years you have been UK resident but you can live in the UK for up to 14 calendar years before the deemed domicile rule is likely to become relevant to you. If you do plan to be resident for this period then take professional advice as to whether there are steps you can take now to minimise the impact of deemed domicile in future.

I am a non-dom and am moving to the UK soon. Do I need to worry?

In general, no – non-doms who become UK resident will still have favourable tax treatment in the UK, it will just be for a limited period. However, if you do plan to be resident for 15 years in the UK then take professional advice as to whether there are steps you can take now to minimise the impact of deemed domicile in future.

If you would like advice or to discuss any potential matter, please contact Irwin Mitchell Private Wealth.



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