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NON-DOM CHANGES CONFIRMED

The government announced yesterday that it will press ahead with the changes to the taxation of non-domiciliaries which were withdrawn from the pre-election Finance Bill.

As originally proposed, the changes will have effect from 6 April 2017, and will not be deferred until 2018 as some had hoped.

As a reminder, the key changes are as follows:

- ◆ deemed domicile for all tax purposes for individuals who have been resident in the UK for 15 out of the previous 20 years;
- ◆ protection from income tax, capital gains tax and inheritance tax for trusts established before deemed domicile unless those trusts are tainted by additions;
- ◆ liability to UK inheritance tax in respect of UK residential properties and associated losses, even if held in offshore structures;
- ◆ ability to separate out mixed funds of income and capital into their constituent parts at any time up to 5 April 2019;
- ◆ rebasing of personally held non-UK assets as at 5 April 2017; and
- ◆ new rules for valuing benefits from offshore trusts consisting of loans, use of chattels or occupation of property. This change applies to all offshore trusts and does not just affect non-domiciliaries.

Advisors and clients will welcome the fact that there is now more certainty about what changes will be introduced and when they will take effect. However, as we have seen, nobody can be absolutely sure that the changes will be implemented until the Finance Act becomes law which will not be until late October or November at the earliest.

Clients should continue to plan on the basis that the changes will take effect, but our advice is to hold off taking any concrete steps which would give rise to actual tax liabilities (such as remittances to the UK following cleansing mixed funds or rebasing) until the Finance Bill becomes law.

Assuming the changes go ahead as expected, planning implemented prior to 6 April 2017 will be effective and will have been time well spent.

Future changes

It should not be forgotten that some of the anti-avoidance provisions relating to offshore trusts were not included in Finance Bill 2017. This includes the conduit rules which will tax UK individuals who receive gifts from non-residents funded out of trust distributions and the close family member rule which, in certain circumstances, will tax a settlor on distributions to a spouse or minor children.

It is quite likely that these changes will be included in the 2017 / 18 Finance Bill and will take effect from 6 April 2018.

Further information on the changes more generally can be found in our [previous notes](#).



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