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# The UK – Major Changes for Foreigners

By Graham Busch

The past 12 months or so has seen some of the most significant developments in many years affecting people coming to live in the UK or investing in the UK. These include:

- An end to the long-term non-domiciled status
- Tax on the gains on all sales of residential properties
- See through for Inheritance Tax on UK residential properties held in offshore companies
- Main residence election
- Some good news


## The new Non-Dom regime

People who come to the UK to live and/or work are usually classified as non-domiciled. This allows them to elect to be taxed on the "remittance basis". In this way they can avoid UK taxes on unremitted income and gains. For the first 7 years of UK residence this privilege comes at only a minimal loss of certain allowances. Thereafter, an annual "remittance basis charge" of between £30,000 - £90,000 is payable.

Most importantly, their non-dom status can be claimed indefinitely, so long as they can demonstrate close ties to their claimed country of domicile, usually their country of birth.

A special rule exists in respect of Inheritance Tax (death and gift duties). Individuals resident in the UK for less than 17 out of the last 20 years can claim to be "deemed domiciled" for this tax. The effect of this is that they can avoid Inheritance Tax on death on non-UK assets, and on gifting any such assets.

The UK government has now announced a non-dom time limit. From April 2017, anyone resident in the UK for more than 15 out of the past 20 years will automatically be considered to be domiciled. As a result, they will thereafter be taxed on the "arising basis", i.e. on worldwide income and gains, remitted to the UK or not. The 15 year rule will also apply to Inheritance Tax and replaces the 17 year rule.

So the world famous UK non-dom status will from April 2017 have a finite lifespan. Individuals coming to the UK will now have a shorter time during which they can benefit from the generous advantages that the remittance basis currently offers. Non-doms currently resident in the UK will need to keep a close check on the number of years they have been UK resident and may wish to consider structuring changes to their worldwide assets sooner than before.

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## Tax on Residential Property Gains

Legislation was introduced in 2013 to tax gains on the sale of high value UK residential property by companies or corporate-type entities. Individuals and trusts remained outside of this new regime. Now the net has widened such that gains on all residential properties by all entities/individuals will be subject to Capital Gains Tax. There are certain fairly specialised/narrow exceptions. The gain will be calculated with reference to the

April 2015 value as the base cost (or earlier at the seller's election), so unrealised gains prior to April 2015 will not be taxed. The applicable tax rates will be:

- Companies: 20% (*)
- Individuals:18%/28% depending on their total taxable income/gains in the tax year.
- Trusts: 28%

*(*) – companies under the "ATED" (Annual Tax on Enveloped Dwellings) regime will continue to pay Capital Gains Tax on such gains at 28%.*

## Inheritance Tax on UK Residential Property

UK resident non-doms can currently shelter their UK residential property from Inheritance Tax by holding the property in an offshore company. From April 2017, the UK tax authorities will "look through" such offshore companies and treat the underlying residential property as if owned by the non-dom. Consequently such properties will be subject to Inheritance Tax on death. Non-doms will need to review their structures and Inheritance Tax exposure, with a view to possible mitigation of such exposure.

## Owning More Than One Property - Main Residence Election

UK residential property owners are exempt from Capital Gains Tax on the sale of their main home. Owners of more than one residential property can elect which is their main residence (subject of course to the reality test) which may then be sold free of Capital Gains Tax. Non-residents can now elect for their UK property to be their main residence for the purposes of this exemption if they spend at least 90 days in the relevant tax year in the property. Conversely, UK residents receive the reciprocal exemption if they spend at least 90 days in a tax year in one or more residences in an overseas territory.

## The Good News

The UK government is committed to encouraging business to come to the UK. Our corporation tax rate of 20%

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gives us the joint lowest rate of corporation tax in the G20. The government has announced that this rate will fall to 19% in 2017 and 18% in 2020. Together with other corporate tax advantages such as tax-free receipt and payments of dividends, tax-free sales of underlying companies, transfer of tax losses, generous first year tax write offs of fixed assets and the 230% research and development tax credit, the UK remains an attractive tax jurisdiction in which to locate an international business.