

OVERSEAS TRUSTS: PROTECTED SETTLEMENTS

The draft Finance Act 2017 ("the Act") has far reaching ramifications for non-UK domiciled individuals ("Non-Doms") who have been resident in the UK for 15 or more years in the last 20.

All UK resident Non-Doms need to understand these changes as they may affect their current planning that they have in place and may also affect their future taxation and that of their families. With the correct planning however, it may be possible to protect the wealth of Non-Doms and their families.

The taxation of long term Non-Doms has been under scrutiny for many years. Before 6 April 2008, Non-Doms were only subject to UK tax on overseas income and gains when they were remitted to the UK. Furthermore, those who were not domiciled in the UK were not liable to capital gains tax ("CGT") on the gains of a non-resident trust or company, wherever those gains arose.

From 6 April 2008, a charge was introduced to long term residents who wished to continue using the remittance basis of taxation. This charge has been increased over the years for longer term residents.

From 6 April 2017, the Act will target long term Non-Doms and as a result any Non-Dom who has been resident in the UK for 15 out of the past 20 tax years will be treated as UK domiciled for income tax, CGT and inheritance tax ("IHT") purposes. This means that their worldwide income and asset base will be subject to each tax.

The Act also provides for settlors and beneficiaries to be taxed when a benefit is received rather than when it arises. This provides scope to undertake planning which will allow for income tax and CGT deferral as well as taking the assets outside the scope of IHT. However, this protection is only available for settlements pre 6 April 2017, any future additions to existing structures will "taint" the entire structure.

Knox House Trust ("KHT") has a range of solutions that may be tailored to the client's specific needs to ensure that they are able to protect their future wealth and are not adversely affected by the changes in legislation. This will help provide a degree of certainty for Non-Doms in these very uncertain times.

WHO IS AFFECTED?

- All UK resident Non-Doms who will become deemed UK domiciled on 6 April 2017

WHAT DO I NEED TO KNOW?

- Trusts created pre 6 April 2017 will be considered "protected"
- Income will be taxed when benefit is received and not when generated
- Capital gains will be taxed when benefit is received and not when generated
- Additions to existing "protected" trusts cannot be made in the future without tainting their protected status
- Non-Doms will benefit from a review of their affairs

WHAT DO I NEED TO DO?

- Review to confirm domicile status
- Worldwide asset review to understand the effects of the changes
- Advice on how to maximise the protected settlement opportunity

Contact Us

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