INSIGHTS

New Labour Government's First Budget Announced: Implications for Non-Doms and Protected Trusts

Urgent Need for Early Planning as Significant Tax Reforms Approach

1 AUGUST 2024
WRITTEN BY
Scott Homewood
+44 (0)2079 522 921
shomewood@tridenttax.com

TRIDENT TAX

Following the HMRC Listening Event on 20 May, significant political changes have since occurred including the general election on 4 July resulting in a new Labour Government. This week the new Government announced its first Autumn Budget will be on 30 October 2024, a date disappointingly late given the substantial changes to the rules affecting non-doms and protected trusts from April 2025.

Policy Announcement and Budget Timing

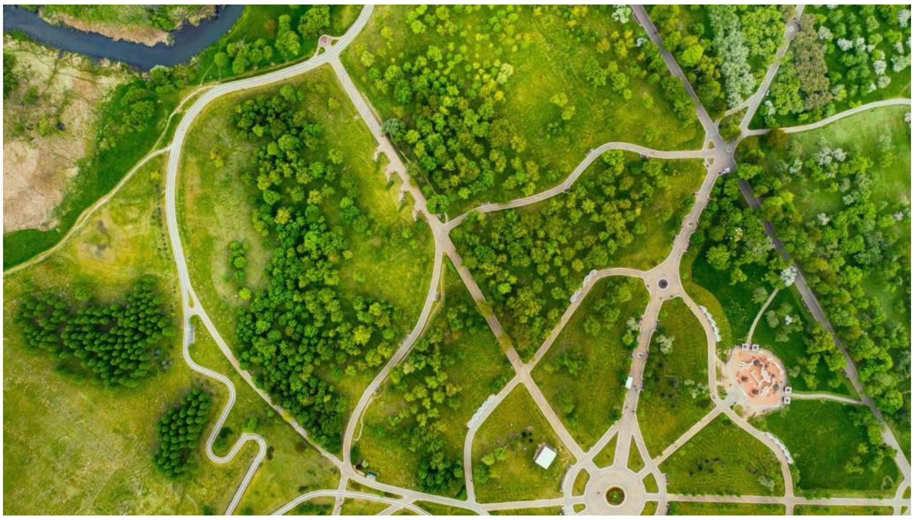
Also this week on 29 July, the Government published a policy paper on “changes to the taxation of non-UK domiciled individuals,”. Frustratingly vague, this paper suggests that many of the previous Government's planned reforms will proceed, but with very limited detail at this stage, albeit following further exploratory work these new rules and their detailed application will be published with the Autumn Budget.

Due to the late timing of the Budget, draft legislation is expected only by early November. This leaves us with very little time to plan and implement restructuring. Therefore, we strongly recommend planning as far ahead as possible to identify potential restructuring options, assess the likely time required for implementation, and be prepared to act once the legislation details are available.

Offshore Anti-Avoidance Legislation

One of the potentially more wide-reaching announcements is that a review of offshore anti-avoidance legislation, including the Transfer of Assets Abroad and Settlements legislation, will be conducted to ensure they are effective and fit for purpose.

"The intention for this review will be to remove ambiguity and uncertainty in the legislation, make the rules simpler to apply in practice and ensure these anti-avoidance provisions are effective".



This review may affect any offshore structures where UK residents are currently relying upon the motive defence, particularly if those conditions are revised. More details will be provided at the Autumn Budget; however, no changes are expected before the start of the 2026/27 tax year.

Other Key Changes and Recommendations

- **Domicile Status and Residence-Based Regime:** From 6 April 2025, the concept of "domicile status" will be replaced with a residence-based regime. This aligns with the previous Government's proposals.
- **Four-Year Foreign Income and Gains (FIG) Relief**: New arrivals to the UK will receive 100% relief on all new foreign income and gains during their first four years of tax residence, provided they have not been UK tax residents in any of the ten consecutive years prior to their arrival.
  - **Eligibility**: Individuals who have been UK tax residents for less than four years and were non-UK residents for at least ten consecutive years before that period will qualify for the FIG relief. For example, if a person has been a UK resident for two tax years by 5 April 2025, they would be eligible for the new FIG regime for the subsequent two years, starting on 6 April 2025.
  - **Previous Proposal and Current Status**: The previous Government had announced a 50% reduction in foreign income subject to tax for former remittance basis users who do not qualify for the FIG regime for 2025/26. However, this transitional rule will not be introduced, in line with the new Government's pre-election statements.
  - **UK Investment Income:** There had been some speculation that the Labour Government would extend this relief to UK investment income so that new arrivals weren't discouraged from investing in the UK. However, this was notably absent from the policy paper.

TRIDENT TAX

- **Settlor Interested Trusts:** As planned, from 6 April 2025, protection from tax on income and gains arising within settlor-interested trust structures will no longer be available for those who do not qualify for the 4-year FIG regime.

- **Rebasing of Foreign Capital Assets:** Current and past remittance basis users will be able to rebase foreign capital assets to their value **at the rebasing date, which will be set in the Budget**, suggesting a re-think is underway on the very odd original choice of 5 April 2019 as the rebasing date.

- **Inheritance Tax (IHT) Changes:** A new residence-based system will be introduced for IHT from 6 April 2025, although this will no longer be subject to formal consultation. Further external engagement on the policy design will occur over the Summer where the Government will also review the stakeholder feedback provided at HMRC's Listening Event.

- **Excluded Property Trusts:** The Government will "end the use" of Excluded Property Trusts to keep non-UK assets out of the scope of Inheritance Tax (IHT). However, there may be some protection for trusts already established to allow for appropriate adjustments.

    - **End of Exclusion**: The Government will change the way IHT is charged on non-UK assets currently held in trusts - Excluded Property Trusts will no longer be able to keep non-UK assets outside the scope of IHT in the same way.

    - **Protection for Existing Trusts**: There may be measures to protect trusts that are already established. It is hoped that Excluded Property status will be preserved for structures where the settlor is already deceased and the existing beneficiaries have not economically settled the trust or where the settlor has been a UK resident for 10 years or more but is excluded from benefit.

    - **Unclear Details**: At this stage, the full intention and ramifications of these proposals are not entirely clear. The detailed application of these rules will be outlined in the Budget, following external engagement over the summer.

- **Temporary Repatriation Facility (TRF):** The TRF announced by the previous Government will proceed, allowing the remittance of Foreign Income and Gains (FIG) that arose before 6 April 2025 for a limited period. This facility will benefit individuals who have been taxed on the remittance basis.

    - **Duration and Tax Rate:** The original proposals indicated that the TRF would apply for the tax years 2025/26 and 2026/27 at a 12% tax rate on remittances of FIG. However, the Government has not yet confirmed the exact length of the period or the specific tax rate, suggesting that these may differ from the initial proposals. They have stated that

> "the rate and length of time that the TRF will be available will be set to make use as attractive as possible."

    - **Extended Scope:** The scope of the TRF could be extended to include income and gains within overseas structures, which would be a welcome measure. This extension could prompt taxpayers to reassess how they use and extract value from these structures going forward.

GIVEN THESE CHANGES AND THE CLARITY OF THE DATE OF THE NEXT BUDGET, IT IS VITAL TO BEGIN ANALYSING YOUR CLIENTS' SITUATIONS NOW, IF NOT ALREADY.

Act Now to Prepare for the Upcoming UK Tax Reforms

At Trident Tax, we specialise in tax planning for non-doms, trusts, and relocation tax planning, providing tailored solutions to navigate the upcoming changes. Our expert team collaborates closely with professional advisers, trustees, and financial institutions to ensure your tax strategy is optimally structured.

Whether you're a settlor, a beneficiary or managing a settlor-interested trust, assessing the impact of new domicile rules, or planning a relocation, Trident Tax offers bespoke tax advice to help you stay ahead of the regulatory changes and secure your financial future.

Contact us today to schedule a consultation and begin planning for the upcoming tax reforms.

Want to know more?

Alan Kennedy
+44 (0)2079 522 921
+44 (0)7900 678 541
akennedy@tridenttax.com

Scott Homewood
+44 (0)2079 522 921
+44 (0)7398 775 402
shomewood@tridenttax.com

TRIDENT TAX