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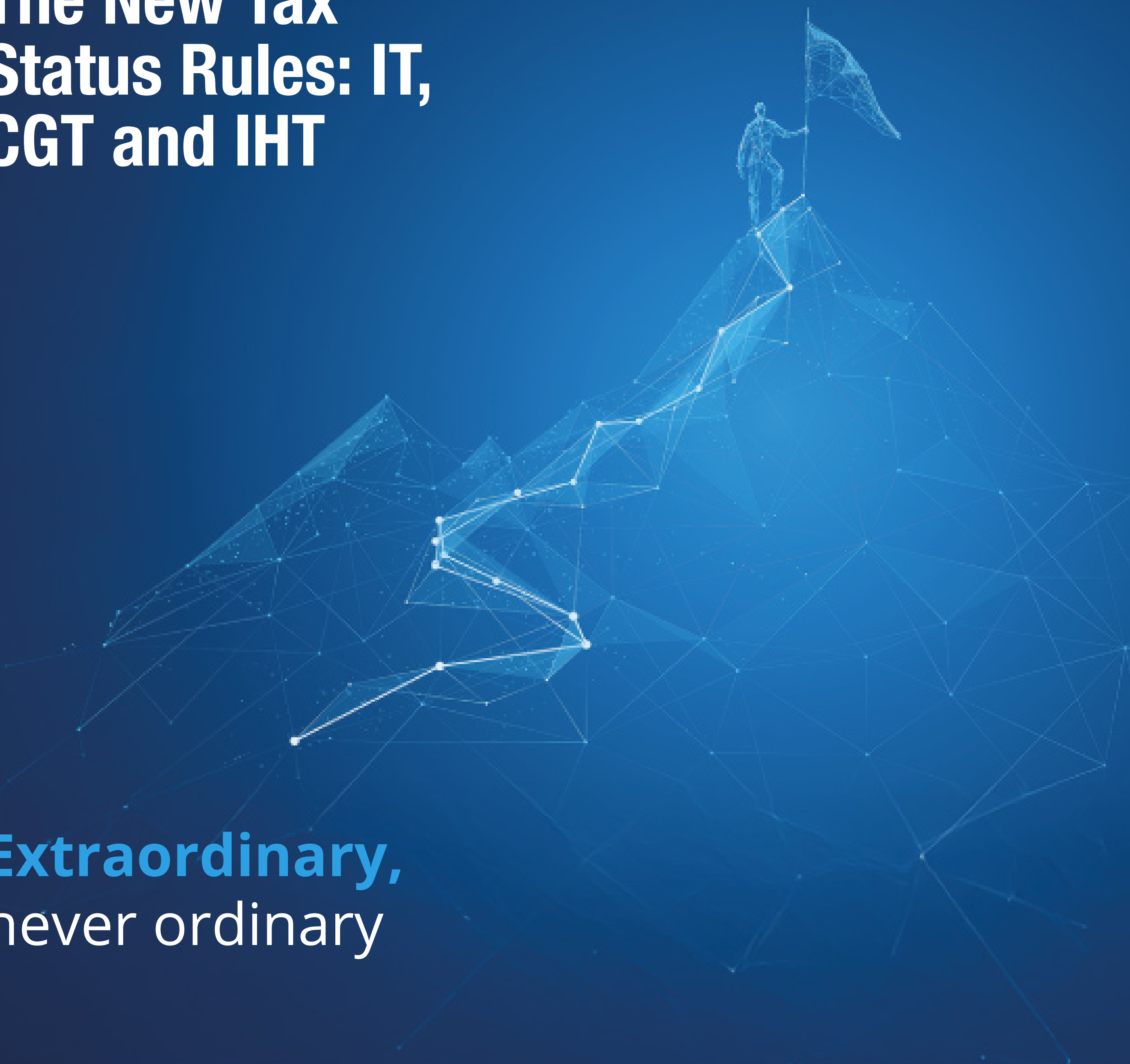
The New Tax Status Rules: IT, CGT and IHT



Extraordinary,
never ordinary

This factsheet sets out the new rules for UK Income Tax (IT), Capital Gains Tax (CGT) and Inheritance Tax (IHT) as UK Domicile will no longer be used as a determinant factor in tax status for direct tax purposes.

Residence only, will be used to determine tax status.

The newly-resident

From 6 April 2025, all UK residents will be taxed on a worldwide arising basis but a new regime for eligible foreign income and gains (FIG) will be available to individuals for the first four years of commencing UK tax residence, provided they have either not been UK resident at all previously or following a period of ten years of non-residence.

Individuals who make a claim (via the self assessment return) to use the new four-year FIG rules will not pay any tax on FIG arising in those four years. An individual's ability to qualify for the FIG regime will be determined by whether they are UK resident under the Statutory Residence Test (SRT).

Example
Tom became resident in the UK in 2026/27, for the first time.
He will be able to claim under the new 4-year FIG regime for 2026/27.
In 2027/28 and 2028/29 he is non-UK resident but resumes residence again in 2029/30.
This is treated as his year 4 so again he will be able to decide whether to claim under FIG or not.

The position to 5 April 2025

An individual who was resident in the UK but was not UK domiciled (referred to as a 'non-dom') could opt to be taxed on what is termed the 'remittance basis' in respect of income and capital gains arising outside the UK. What this means is that instead of being taxed on their actual income/gains arising in the year, they were taxed on the amount of that income/gains actually brought into the UK in the tax year.

The impact of claiming the remittance basis

In all tax years where a claim for the remittance basis applies, an individual will automatically forfeit their personal allowance for income tax purposes and their annual exemption for capital gains tax (CGT). This will obviously impact on their total tax liability including any UK income/gains. However, an individual can automatically benefit from the remittance basis without making a claim and therefore retain their allowances when they remit to the UK all but a maximum of £2,000 of their income and gains arising abroad in the year.

Example
Jan, who is domiciled in Poland but who has been living in the UK for five years, has rental income arising from the letting of property in Poland. Let's pose two different scenarios assuming his overseas income is £5,000.
Scenario 1: He remits £1,000 to the UK – he can pay tax on the full £5,000 as it arises and he will retain his personal allowance against that and any UK source income. If he claims the remittance basis he will pay tax on £1,000 but will lose his personal allowance against that and any UK source income.
Scenario 2: He remits £3,000 to the UK. He can have the benefit of the remittance basis and pay tax on only £3,000 because he has left no more than £2,000 unremitted. He will retain his personal allowance.

Up until 5 April 2025, a special charge was payable known as the Remittance Basis Charge for longer term non-UK domicile residents who wish to remain on the remittance basis. This applied to an individual in a tax year where they had been resident for seven out of the preceding nine years and the charge was £30,000. The

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charge was increased to £60,000 for those who had been resident in the UK for at least 12 of the previous 14 tax years.

The transition from 6 April 2025

From 6 April 2025, all UK residents, who are not newly resident, are taxed on a worldwide arising basis but there will be a 'Temporary Repatriation Facility' (TRF) available to those who have been subject to the remittance basis in any tax year up to and including 2024/25. This is to encourage individuals to remit to the UK their FIG which arose in earlier periods and were not taxed in the UK in previous years following a claim for the remittance basis.

The TRF will be available for three years and designated amounts will be charged to tax at a rate of 12% in 2025/26 and 2026/27 and 15% in 2027/28. This will provide a significant tax saving given the differential between these special tax rates and normal rates (up to 45%).

To use the TRF taxpayers will need to designate amounts or assets ('designated funds') and pay the relevant TRF charge in relation to them. Interestingly, there is no requirement for amounts to actually be remitted during the year in which they are designated or in any later tax year. Identifying and designating the funds however is a complex area and advice as to how to proceed is recommended.

Once the TRF opportunity has ended, all UK residents except for the newly resident, will be assessed on a worldwide basis for income and gains.

New CGT rebasing opportunity

UK resident individuals, who are not newly resident, will be subject to CGT on foreign gains in the normal way.

Under transitional rules, past remittance basis users will, for disposals on or after 6 April 2025, be entitled to rebase any foreign asset personally held at 5 April 2017 to its market value on 5 April 2017. This is provided the individual has never been UK actual or deemed domiciled and that they have made an actual past remittance basis claim for 2017/18 onwards. Further, the asset must have been situated outside the UK from 6 March 2024 to 5 April 2025.

What is a remittance?

Two conditions must generally be in place for a remittance to arise. Firstly property, money, or consideration for a service, must be brought into the UK for the benefit of a relevant person and secondly, the funds for that property etc must be derived directly or indirectly from FIG. The rules are widely drawn and in this current overhaul the core definition will be further extended to cover the use of FIG **outside** the UK for the benefit in the UK of a relevant person.

Some examples will help to explain the basic scope.

Example

Alex, a wealthy Canadian, lives in the UK with his wife and young children. He has a significant bank deposit in Jersey which generates a large amount of income each year. Any of the following uses of that income would constitute a remittance for UK tax purposes:

- he buys an expensive car in Germany and brings it into the UK
- he opens a bank account in the UK for each of his children with funds from Jersey
- he sends his wife on an expensive weekend at a spa and the bill for the break is sent direct to Jersey for settlement
- he uses a credit card in the UK which is settled on a monthly basis out of the Jersey income.

There are some exceptions for example clothes, watches and jewellery for personal use and other goods up to a value of £1,000.

A more indirect route is also caught

In the past it had been possible to use a route known as 'alienation' to avoid the remittance basis. This would involve an individual giving someone else their overseas

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income and then that individual bringing the money into the UK. In the recipient's hands it would have represented capital and the remittance would have been avoided. Now such a route is not possible. Any attempt at 'alienation' which involves the funds ultimately being brought into the UK for the benefit of a relevant person will be caught as a remittance by the taxpayer. This rule is likely to cause some difficult situations.

Example
Alex gives some of the Jersey income to an adult son Tom. Tom uses the money to pay for a UK school trip for his own son. The grandson is a relevant person as far as Alex is concerned and this payment will constitute a remittance on which Alex is taxable in the UK.

Relief for business investment

Where a non-dom remits funds to the UK which are then invested in a qualifying business in the UK those funds are not treated as a remittance so the remittance basis rather than arising may be more attractive. The rules for Business Investment Relief (BIR) are detailed but the key elements are:

- the investment must be in shares or loans to a trading company or a company which will invest in trading companies, or a company which is a combination of the two
- the company must be unquoted
- the non-dom (or any relevant person in relation to the non-dom) must not receive any benefit from the company which is directly or indirectly attributable to the investment
- when the investment is subsequently realised the non-dom will have 45 days to either reinvest in another qualifying company or remove the funds from the UK otherwise they will be treated as a remittance in that later year.

During the TRF period 2025/26 to 2027/28 investments made with non-designated FIG which arose on or before 5 April 2025 will remain eligible for BIR claims.

Any investments made with already designated amounts will be non-qualifying investments for the purposes of the BIR rules.

From 6 April 2028, when the TRF period ends, it will not be possible to claim BIR on any new investments, or reinvestments.

The new rules for IHT from 6 April 2025

For IHT, a 'long term' UK resident (LTR) will be within worldwide (WW) scope for both lifetime transfers and the death estate. For non-long term residents only UK assets will be chargeable.

An individual is a LTR for the whole tax year if they were UK resident for at least 10 of the previous 20 tax years immediately preceding the tax year in which a chargeable event for IHT (including death) arises.

An individual will not be treated as LTR for IHT purposes in the year following 10 consecutive years of non-residence, even if they return to the UK. The test is effectively reset.

The time an individual remains in scope after leaving the UK will be shortened where they have only been resident in the UK for between 10 and 19 years as follows:

- For those who are resident between 10 and 13 years, they will remain in scope for three tax years.
- This will then increase by one tax year for each additional year of residence.

Example
Melissa has been a UK resident for 13 out of the last 20 years in 2026/27 so is within UK WW IHT scope.
She will remain a UK resident for IHT for three years, if she then leaves the UK.

If she had been resident 15 out of the last 20 years, then she will remain a UK resident for IHT for five years.
If she had been resident 17 out of the last 20 years, then she will remain a UK resident for IHT for seven years.

An individual will not be treated as long-term resident for IHT purposes in the year following ten consecutive years of non-residence, even if they return to the UK.

There are transitional rules for non-domiciled or deemed domiciled individuals who were non-resident in 2025/26.

Spouses and LTR

Where one spouse (or registered civil partner) is LTR and one is not LTR, this **may** create a restriction on the inter-spouse exemption. Only £325,000 is available as a combined lifetime and death exemption where the LTR spouse gifts to the non LTR spouse. It does not apply in other scenarios such as where both spouses are not LTR. However, where the restriction does impact an election can be made by the non LTR spouse to become LTR. The impact of the election is that the unlimited exemption is now available but both are now on a worldwide scope. Once made the election is irrevocable unless there is ten years of non UK residence.

How can we help

Every non-dom must give very careful consideration to their new UK tax position and take extreme care in planning their foreign income and capital gains or their IHT position.

Each individual's situation is going to require different considerations. Please contact us if you would like to discuss how these rules impact on you and the steps you can take to mitigate their impact.

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