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Residence and domicile: Frequently Asked Questions (FAQs)

Please note: The FAQs and corresponding answers presented here relate to the [draft legislation \(PDF 116K\)](#) and reflect current policy intentions. However, some details may change before the legislation is finally enacted. HMRC will continue to update the information available in line with any changes.

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Arising Basis

1) What is the 'arising basis' of taxation?

If an individual pays tax on the arising basis then they pay tax on their worldwide income and gains.

It is called the arising basis because you pay the tax when the income and/or gains arise. This means that you pay tax on income in the year that you earn it and you pay tax on gains in the year that you make the gain.

2) What is the 'remittance basis' of taxation?

If an individual pays tax on the remittance basis, then they pay tax on their UK income and gains in the year that these arise. But they only have to pay UK tax on foreign income and gains when these are remitted (i.e. brought into) the UK, even where they arose in an earlier year. Foreign income which is not remitted to the UK is not taxed here.

3) I am a UK resident but I am not domiciled in the UK. I am unable to afford the £30,000 charge that has been proposed so I wish to be taxed on the arising basis from 6 April 2008, even though I have been using the remittance basis until now. Is this possible?

Yes. Under the new rules it will always be possible to pay tax on the arising basis even if you have previously used the remittance basis.

Unless you make a claim to pay tax on the remittance basis, we will assume that you wish to pay tax on the arising basis.

If you pay tax on the arising basis you will not have to pay the £30,000 charge and you will be eligible for the appropriate Personal Allowances.

4) If I switch to the arising basis can I remit money to the UK with no tax to pay on the remittance?

If you pay tax on the arising basis you will pay tax on your worldwide income and gains arising in that year, and there will be no further tax when you remit that income or gains to the UK.

However, if you have untaxed unremitted foreign income or gains which arose in a year when you were claiming the remittance basis then you will have to pay tax if you subsequently remit that income or gains to the UK.

5) How do I notify HMRC that I wish to be taxed on the arising basis from April 2008? The current intention is that everybody will be taxed on the arising basis unless they make a valid claim to be taxed on the remittance basis.

If you wish to be taxed on the arising basis and you have offshore income or gains that you need to tell us about you must fill in a Self Assessment tax return. If you do not already receive one of these you should request one from your local tax office by 5 October after the end of the relevant tax year.

If you have less than £1000 of unremitted foreign income and gains arising in a tax year it will not be necessary to make a claim for the remittance basis but you will need to fill in a Self Assessment tax return if you have tax to pay on income or gains that you remit to the UK.

6) If I opt to pay tax on the arising basis, will all offshore unremitted income and capital gains for the tax year 2007/08 have to be declared and appropriate tax paid, or will the tax only apply to unremitted offshore income and capital gains arising on or after 6th April 2008?

The arising basis means that you will pay tax on income and gains arising in that year. However, if you have previously paid tax on the remittance basis you may have to pay tax on income and gains arising in a previous tax year if you subsequently remit this to the UK.

The remittance basis and the £30,000 charge

7) Do all non-domiciles have to pay the £ 30,000 tax charge

No. The charge is only relevant where someone wants to use the remittance basis and has been resident in the UK for the year of the claim and at least 7 of the previous 9 years.

8) I have a non-domiciled child. Will they be affected by these changes?

Yes. Children will be treated in exactly the same way as any other individual.

9) I am currently able to use the remittance basis because I am not-ordinarily resident. Will these changes affect me?

Yes. If you are resident in the UK but not-ordinarily resident then the changes to the rules will be applied to you in the same way as they are applied to non-domiciles. You will have to make a claim for the remittance basis through the Self Assessment system and you may have to pay the £30,000 charge. You will lose access to personal allowances for income tax and the annual exempt amount for capital gains tax if you chose to pay tax on the Remittance Basis.

10) Can I opt in and out of the remittance basis?

Yes. For example, it will be possible to claim the remittance basis in one year, opt for the arising basis the next year and then claim the remittance basis for the year after that.

11) If a taxpayer pays the flat rate charge, will this be creditable against any tax due on subsequent remitted income and gains in the same tax year?

No. The £30,000 is an additional tax charge. It is in addition to, and will therefore not be creditable against, any tax due on foreign income and gains remitted to the UK or on UK income and gains.

12) If I remit £30,000 to the UK in order to pay the additional tax charge but I remit no other money, will I have to pay tax on the £30,000 when I remit it?

Yes. The £30,000 is in addition to any tax due on foreign income and gains remitted to the UK. It is up to the taxpayer whether they wish to pay the £30,000 charge by remitting money to the UK.

13) I am a resident non-domicile and wish to pay tax on the remittance basis. How do I tell if I need to pay the £30,000?

From April 2008, you will need to pay the £30,000 charge for a tax year if;

- You make a claim to have access to the remittance basis;
- You have unremitted foreign income and gains of £1000 or more arising in the year of the claim;
- You are resident in the UK for that tax year; and
- You have been resident in the UK for at least seven of the nine tax years immediately preceding

that tax year.

14) Will the eight year exemption from the flat rate charge be based on the Taxpayer's residence status for the tax year or will it be based on actual days spent in the UK?

It will be based on an individual's residence status for a tax year. Split years will count as a year of residence. So from April 2008, you will need to pay the £30,000 charge for a tax year if;

- You make a claim to have access to the remittance basis;
- You have unremitted foreign income and gains of £1000 or more arising in that tax year;
- You are resident in the UK for that tax year; and
- You have been resident in the UK for seven out of the preceding nine tax years.

15) I am considering coming to the UK to work for 3 years but I am concerned about the £30,000 charge. How will this affect me?

Unless you have been resident in the UK quite recently, the proposals will probably not affect you.

From April 2008, you will need to pay the £30,000 charge for a relevant tax year if;

- You make a claim to have access to the remittance basis;
- You have unremitted foreign income and gains of £1000 or more arising in that tax year;
- You are resident in the UK for the relevant tax year; and
- You have been resident in the UK for at least seven of the nine tax years immediately preceding the relevant year.

16) How do I pay the £30,000 charge?

The £30,000 charge will be administered and collected through the Self Assessment system.

17) When will I have to pay the £30,000 charge?

The £30,000 charge will be administered and collected through the Self Assessment system and normal filing and payment dates will apply.

18) Will the £30,000 charge be offsettable against tax in other countries for the purposes of Double Taxation Agreements?

It is up to each individual country whether or not they consider the £30,000 charge to fall within the terms of their Double Taxation Agreement (DTA) with the UK. The charge is not income tax, but for UK purposes it will be treated as if it were income tax for the purposes of payment, accounting, collection and recovery of the charge.

19) AT PBR, it was announced that a number of anomalies in the Remittance Basis would be corrected. What are the changes being made under this announcement?

A number of anomalies in the remittance basis are being rectified:

- Anti-avoidance legislation around non-resident trusts and non-resident companies will be applied to non-domiciles as well as domiciles.
- An amendment to legislation to override the effect of the 'source' doctrine so that income where the source has ceased is still liable to tax if it is remitted to the UK.
- Clear rules on the treatment of mixed funds.
- An amendment to the Accrued Income Scheme so that the income tax charge applies to non-domiciles as well as domiciles.
- Changes to the rules on transfer of assets.
- Changes to the existing claims mechanism to prevent offshore income and gains from being remitted tax free in a year of no claim.
- Look-through provisions to prevent alienation of offshore income and gains.
- Changes to the rules such that relevant foreign income remitted to the UK is taxed whatever form it is in, not just when it is actual money.

Day Counting

20) What changes are being made to day counting?

From April 2008, when deciding if an individual is resident in the UK for tax purposes, days of arrival and departure will be counted as days of presence in the UK for residence test purposes.

21) What are the residence rules?

A person who is currently not resident in the UK will always be treated as resident in the UK if they spend 183 days or more in the UK in a tax year. If they visit the UK on a regular basis, and spend, on average, 91 days or more in the UK in a tax year (taken over a period of 4 years) they will be treated as resident in the UK.

If they know that they are going to visit regularly and that the time spent in the UK in that and the next 3 tax years will average 91 days or more in the UK, they will be resident from the beginning of the tax year in which they make the first visit.

22) Will the current formula by which my tax is calculated remain unchanged if I remain non-resident?

There are no current plans for changing the basis on which non-resident individuals are assessed for UK tax.

23) Will days travelling to the UK, even if not for the purposes of work, still count towards the yearly total?

All days travelling to and from the UK will count as a day of presence for the purpose of the day-counting tests. It will not matter what the reason for travelling is.

24) If I arrive in the UK and depart from the UK on the same day, will I have to count this as a day of presence in the UK for the purposes of residency tests?

All days of arrival and departure will count as days of presence in the UK. This includes a day where an individual both arrives in and departs from the UK.

The only exception to this rule is for passengers who are in transit, so that where the individual is a passenger remaining in a part of an airport or port not accessible to members of the public (except when they are arriving in or departing from the UK) the day will not count as a day of presence. For day counting purposes this would exclude, for example, passengers in transit between two countries via the UK, who are required to disembark whilst their aircraft is refuelled, but remain 'airside' until reboarded.

Domicile status

25) What is 'domicile'?

Domicile is a general law concept and is distinct from nationality or residence. It is not possible to list all the factors that affect your domicile but broadly speaking, you are domiciled in the country where you have your permanent home. More information is available from [Booklet IR20](#).

Your domicile is only relevant for tax purposes if you wish to claim access to the remittance basis.

26) How do these changes affect my domicile status?

These changes do not affect your domicile in any way. The changes affect how people who are not domiciled in the UK are treated for tax purposes.

27) How do these changes affect the 'deemed domicile' provision in IHT rules?

This proposal does not affect the rules around domicile status for inheritance tax purposes in any way.

Personal Allowances

28) Will all non-domiciles lose their allowances?

No. Only non-domiciles who choose to use the remittance basis will lose their allowances.

29) I am a resident non-domicile and I wish to retain my Personal Allowances. Is this possible?

Yes. If you choose to pay tax on the arising basis then you will be eligible for Personal Allowances and the Annual Exempt Amount for capital gains. However, if you choose to pay tax on the remittance basis you will lose your Personal Allowances and the Annual Exempt Amount for capital gains.

30) If I pay the £30,000 for access to the remittance basis, will I retain my Personal

Allowances?

No. If you pay tax on the remittance basis you will lose your Personal Allowances and the Annual Exempt Amount for capital gains.

31) If I opt for the remittance basis, will I lose access to the Annual Exempt Amount, even if I have no foreign assets?

Yes. If you pay tax on the remittance basis you will lose access to the Annual Exempt Amount and Personal Allowances.

32) I am domiciled in the UK but not Ordinarily Resident. How do the proposals affect me?

If you are eligible to claim the remittance basis and do so then you will lose Personal Allowances and, depending on how long you have been resident in the UK, you may also be required to pay the £30,000 charge.

Miscellaneous

33) Are these changes merely proposals or are they certain?

The Government intends to introduce these changes from April 2008. However, as with all policy proposals, the legislation is subject to Parliamentary review and will not be finalised until it receives Royal Assent.

34) What is the consultation about?

The Government has published a consultation document 'Paying a fairer share: a consultation on residence and domicile'. The consultation asks for views on whether further changes should be considered to increase the contribution of non-domiciles who are resident in the UK in the longer term.

The consultation document is available at [HM Treasury](#) .

The consultation will run until 28 February 2008.

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