

# Gibraltar, an attractive alternative



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**F**ollowing the UK 2015 Budget, Gibraltar has become even more of an attractive alternative for long-term UK resident non-UK domiciled individuals or non-doms as they are more frequently termed.

The UK budget in June proposed changes to the taxation of non-doms, that may be so significant for some individuals that they may reconsider their residency in the UK. Non-doms planning to relocate away from the UK would do well to consider Gibraltar given its attractive taxation system and its British heritage and institutions, as well as its idyllic Mediterranean lifestyle.

The UK system of taxation for non-doms has always been considered very attractive. As it stands, individuals who are resident and domiciled in the UK are taxed on their worldwide income and gains, unlike non-doms who have the option to elect for the remittance basis of taxation, such that their non-UK derived income and gains are only taxed in the UK when this is transferred (“remitted”) to the UK and not otherwise.

Non-doms residing in the UK can make the election to be taxed under the remittance basis of taxation at the end of a relevant tax year. Being taxed under the remittance basis is not an automatic election and therefore grants the taxpayer a chance to determine whether they would be better off under this system or not. This is particularly important for non-doms who have been long-term residents of the UK (i.e., those who have been resident for more than seven years) given that they will have to pay an annual charge in order to be able to claim the remittance basis. Electing for the remittance basis at the end of the UK tax year enables non-doms the chance to ascertain whether this applied charge exceeds the benefits derived were they to elect to be taxed under the remittance basis.

## IHT

Further, UK domiciled individuals are liable to Inheritance Tax (IHT) on the chargeable transfer of their worldwide assets. In contrast, a non-dom is currently only liable to UK IHT

on the chargeable transfer of assets that are located within the UK.

Under UK law, an individual acquires their domicile status at birth (domicile of origin), which tends to be that of their father. This is not influenced by the father’s residence status at the time of birth, e.g. a child born in Australia from Australian-resident but UK domiciled parents will acquire a UK domicile of origin.

Whilst a domicile of origin can never be changed, this can be ‘displaced’ when an individual can demonstrate a settled intention to permanently reside in another jurisdiction other than the UK.

In the recently announced 2015 UK Budget the Chancellor proposed three main measures that could bring about far-reaching changes on how non-doms residing in the UK will be taxed.

1. Longer term UK non-domiciled individuals will not be able to claim the remittance basis of taxation after 15 years of tax residence in the UK.
2. Individuals born in the UK to UK domiciled parents will always be treated as UK domiciled when they are UK resident.
3. UK residential property, even if owned via a non-UK corporate, will in all circumstances be within the UK IHT net.

## Proposed changes

These proposed changes means that non-doms that have been UK resident for 15 years, or more, will now need to make a choice as to whether they stay and pay tax in the UK on their worldwide income and gains, or whether they relocate outside the UK.

Furthermore, individuals who were born with a UK domicile of origin who subsequently managed to displace this by creating a ‘domicile of choice’ in another jurisdiction will be impacted by these new measures if they return and become resident in the UK at a later date. On becoming UK resident once more, said individuals would be taxed in the same way as a UK domiciliary, irrespective of their domicile status under general law. Upon leaving the UK, said individuals can once again lose their UK domiciled status subject to certain conditions being met.

Lastly, the budget changes would also see non-doms being chargeable to UK IHT on indirectly held UK-located residential

property. Thus trusts or individuals owning UK residential property via a non-UK company, partnership or other opaque vehicle will be liable to IHT on the value of the property, much in the same way as if it was held directly by said individuals.

Long-term UK resident, non-UK domiciled individuals that have decided to leave the UK and are considering relocating to Gibraltar will benefit from the fact that unlike other jurisdictions Gibraltar does not charge IHT, nor does it charge death duties, VAT or capital gains tax. Furthermore, investment income tends not to be chargeable to Gibraltar income tax, thus making Gibraltar an attractive residency choice.

Additionally, the Rock of Gibraltar provides an appealing alternative to those looking for a British way of life in the sun, given it is a safe and friendly jurisdiction with a very low crime rate, offering a relaxed Mediterranean lifestyle and a gateway to the European mainland.

## Category 2

An added incentive to relocate to Gibraltar is the special qualifying Category 2 (CAT2) tax status, which enables individuals with demonstrable wealth of over £2 million to limit the income that is considered when calculating the tax they need to pay in Gibraltar to £80,000, with a minimum tax payable of £22,000 per tax year. If the individual declares assessable income in excess of £80,000 then the tax payable will be based only on income of £80,000 resulting in a maximum tax charge at 2015/2016 rates of £27,560.

A CAT2 Individual may elect for the income of a spouse, civil partner or any child of his or his spouse be deemed to be that of the CAT2 Individual for the purpose of the rules, so that the spouse, civil partner or children will not themselves be taxed in their own right. This election may only be made if the spouse, civil partner or child is not prevented by virtue of their previous residency, nor activity undertaken in Gibraltar, to apply for this status in their own right.

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