



### In this issue:

Portugal: Personal Income Tax Reform.....	1
United Kingdom: HMRC Publish Awaited Guidance Relating to the New PAYE Special Arrangement for STBVs Liable to UK Tax.....	3
United Kingdom: Reforms to the Taxation of Non-UK Domiciled Individuals.....	4

## Portugal: Personal Income Tax Reform

### Overview

Included here are some brief highlights on the most significant new features of the Portuguese Personal Income Tax Reform.

The tax reform introduced several major changes to the Portuguese Personal Income Tax Code which entered into force on January 1, 2015.

### Main highlights

**Tax residency definition:** The Portuguese tax residency regime was defined on a yearly base regime (i.e., an individual qualified as resident or non-resident for the full tax year).

The tax year in Portugal corresponds to the calendar year (between January 1 and December 31).

New rules to determine residency and part-year residency basis. An individual qualifies as resident for tax purposes in Portugal if the following conditions are fulfilled:

- Spends more than 183 days in Portugal, counted in any 12-month period starting or ending in the respective tax (calendar) year;
- When staying for less than 183 days, the individual has, at any time of that period, a dwelling with the intention of maintaining and using it as his habitual residence.

Only the days of arrival and full days of physical presence count as a day for tax purposes. The days of departure are not considered.

The reform also introduced the concept of part-year resident. The day of arrival is the first day for purposes of being considered as a resident, for tax purposes, in Portugal.

The loss of tax residency status occurs from the last day of permanence in the Portuguese territory.

Special rules apply for individuals moving to non-treaty territories or tax havens, which may ultimately determine the continuance of the tax residency in Portugal throughout the period of absence.

### **Filing obligations:**

- Tax returns for residents and non-residents: Considering that the tax rules now foresee part-year residency concept, it is possible that the taxpayer may have to file two tax returns: one for the period of residency and another for the period of non-residency.
- Family taxation system: Prior to the reform, married couples had a joint filing obligation. The reform introduced the concept of separate filing for married taxpayers (or people living together as a couple) as the normal filing rule. There is still the option of joint filing.

**Filing deadlines:** The tax reform changed the filing deadlines for the filing of the tax return – 15 March to 15 April for employment and pension income and 16 April to 16 May in all other cases.

The tax reform also introduce an extended deadline up to 31 December for taxpayers who are entitled to claim a double tax credit on foreign income, which could not be determined up to the end of the normal deadline.

**Tax regime for income derived from trusts:** The tax reform introduced new rules concerning the taxation of income derived from Trusts.

- **Distributions:** Distributions from Trusts are clearly deemed investment income taxed at a flat tax rate of 28% (or 35% if the Trust is located in a tax haven).
- **Upon the unwinding:** The tax regime is as follows:
  - If the beneficiary of the Trust is the settlor: any amount exceeding contributions made by him to the Trust qualifies as a capital gain, taxed at a flat rate of 28% (or 35% if the Trust is located in a tax haven).
  - If the beneficiary of the Trust is not the settlor: amounts received are subject to stamp tax at a flat tax rate of 10%.

**Exemption for outbound expatriates performing work abroad:** An exemption for employment income, capped at Euro 10.000, has been introduced on allowances paid for short-term assignments, whereby the individual goes abroad for a period not less than 90 days of which 60 days must be consecutive.

## Deloitte's view

The tax reform emphasizes the international perspective to allow more mobility of employees and include a special focus concerning social and family taxation.

— Rosa Soares (Lisbon)  
Partner  
Deloitte Portugal  
rosoares@deloitte.pt

Luis Leon (Lisbon)  
Partner  
Deloitte Portugal  
luleon@deloitte.pt

Aline Almeida (Lisbon)  
Associate Partner  
Deloitte Portugal  
marialmeida@deloitte.pt

---

## United Kingdom: HMRC Publish Awaited Guidance Relating to the New PAYE Special Arrangement for STBVs Liable to UK Tax

### Overview

This update follows on from that issued in August 2015, which outlined a new Pay As You Earn (PAYE) special arrangement that can be used to simplify employer and employee reporting where individuals are subject to PAYE withholding, cannot claim relief from UK tax under the provisions of a Double Tax Treaty (DTT), and work in the UK for no more than 30 days in a tax year. As we reported, this arrangement is available for use from 2015/16 onwards. HMRC has now published its guidance regarding the arrangement in the PAYE manual at PAYE81950 that includes a template for applications.

### Key features

The key features of this new arrangement were set out in detail within our previous GES NewsFlash and can be found in the guidance referred to above. Employers were encouraged to identify whether or not they were likely to have short-term business visitors (STBVs) who would not be able to claim relief from UK tax under the provisions of a DTT and would have no more than 30 UK workdays in the current and/or future tax years.

Employers are now free to approach HMRC using the template provided for an agreement to use these new arrangements from 2015/16 onwards. They must ensure that they can meet the necessary requirements, and, in particular, will be able to report accurate figures of pay and benefits and calculate the tax due by the Month 12 deadline of 19th April following each tax year-end.

## Deloitte's view

This new arrangement will be of great benefit to those employers who have PAYE obligations in respect of very short-term business visitors and would otherwise have to provide tax return

preparation assistance. Applications submitted to HMRC will result in the creation of a new PAYE scheme specifically for the qualifying STBVs. HMRC's expectation is that for 2015/16 such existing taxable STBVs should already be subject to PAYE under local or modified PAYE schemes and that some transition will be required to move such individuals into the new arrangement. This will involve notifications being given to HMRC via Full Payment Submission (FPS) reports under each PAYE scheme reference.

It should be remembered that use of this new arrangement is not mandatory. It has been introduced as an easement for employers, but HMRC accept that some may prefer to continue with reporting via existing PAYE schemes and individual Self Assessment Returns. This is a matter of choice for employers based on their ability to meet the reporting requirements of the new arrangements.

— Michael Eckes (London)  
Partner  
Deloitte United Kingdom  
meckes@deloitte.co.uk

Richard Day (Birmingham)  
Partner  
Deloitte United Kingdom  
rjday@deloitte.co.uk

Mark Groom (London)  
Partner  
Deloitte United Kingdom  
mgroom@deloitte.co.uk

Martin Dwyer (Manchester)  
Director  
Deloitte United Kingdom  
mdwyer@deloitte.co.uk

James Macpherson (London)  
Partner  
Deloitte United Kingdom  
jmacpherson@deloitte.co.uk

Helen Kaye (Leeds)  
Partner  
Deloitte United Kingdom  
hkaye@deloitte.co.uk

Rosemary Martin (London)  
Director  
Deloitte United Kingdom  
rosemartin@deloitte.co.uk

John Lewis (Reading)  
Partner  
Deloitte United Kingdom  
jlewis@deloitte.co.uk

James Warwick (London)  
Partner  
Deloitte United Kingdom  
jwarwick@deloitte.co.uk

Ian McCall (Edinburgh)  
Partner  
Deloitte United Kingdom  
ianmccall@deloitte.co.uk

---

## United Kingdom: Reforms to the Taxation of Non-UK Domiciled Individuals

### Overview

On 30 September 2015, the government issued a consultation document, promised at the time of the Summer Budget, regarding the proposed reforms to the taxation of non-UK domiciled individuals. The proposed changes impact:

- Long-term residents of the UK who have a domicile of origin outside of the UK; and
- Individuals with a domicile of origin in the UK who were also born in the UK but claim to have acquired a domicile of choice outside of the UK.

The document includes a number of questions and invites interested stakeholders to submit responses by 11 November 2015.

The government's intention is that draft legislation, including that published with the consultation, will form part of Finance Bill 2016 and that the reforms will take effect from 6 April 2017. Further draft legislation (on inheritance tax and trust aspects) will follow in Finance Bill 2017.

### **Impact on long-term residents of the UK who have a domicile of origin outside of the UK**

This proposal impacts individuals with a domicile of origin outside of the UK who have been resident in the UK for any part of at least 15 of the previous 20 UK tax years (6 April to 5 April).

Individuals who meet the 15 out of 20 year rule (the "15/20 rule") will be regarded as deemed domiciled for all UK tax purposes from the start of the sixteenth tax year. This means that for any year for which they are regarded as UK resident for tax purposes, they will no longer be entitled to claim the remittance basis and will instead be liable to UK tax on their worldwide income and capital gains. They will also be liable to UK inheritance tax on their worldwide assets.

Notwithstanding the above, special rules will be introduced to offer some protection from UK tax for individuals who had set up an offshore trust before they became deemed domiciled.

Further, the government recognizes that reporting on a worldwide basis foreign income and gains that have accrued abroad and become mixed over many years represents a compliance challenge for those becoming deemed domiciled and will consider how best to legislate in a way that minimizes the compliance burden.

Of specific interest to employers who employ long-term resident non-UK domiciled individuals:

- The consultation document confirms that earnings, including earnings and other income from employment-related securities, that relate to a period when an individual was not domiciled and not deemed domiciled, which are paid or received after the individual becomes deemed domiciled will still be eligible to be taxed on the remittance basis where the relevant conditions are met.
- Individuals regarded as deemed domiciled will not be able to claim travel deductions under the normal 'home leave' provisions even if they otherwise would be able to do so.
- Individuals regarded as deemed domiciled, who are in receipt of a non-UK pension, will be entitled to benefit from the normal 10% abatement available to all individuals who are taxed on the arising basis. However, it will not be possible to claim the remittance basis on such pension income even where the right to receive the pension income arose during a period of employment during which the individual was able to and did in fact claim the remittance basis.

- Individuals who become deemed domiciled will be able to claim foreign capital losses even if they did not make a foreign capital loss election within four years of claiming the remittance basis for the first time for 2008/09 or any subsequent tax year.

### **Impact on individuals with a domicile of origin in the UK but a domicile of choice elsewhere**

This proposal impacts individuals who have a domicile of origin in the UK and were also born in the UK but claim to have acquired a domicile of choice outside of the UK. From 6 April 2017, such individuals will no longer be able to claim the remittance basis of taxation in the event they reestablish tax residence in the UK. Instead, they will be taxed on their worldwide income and capital gains from the date they become tax resident in the UK. They will also be liable to UK inheritance tax on their worldwide assets.

In contrast to individuals caught by the 15/20 rule, the 'returning UK dom' will not be protected from UK income tax or capital gains tax in respect of income or gains arising within any trusts set up after the individual had established a domicile of choice outside of the UK. Once the individual has been resident for a year, there will be no protection from UK inheritance tax on their worldwide assets.

Individuals who are caught by the new provisions will revert to being taxed as a non-UK domiciled individual as soon as they become UK not resident again, unless they are then caught by the 15/20 rule noted above.

### **Deloitte's view**

**Impact on long-term residents of the UK who have a domicile of origin outside of the UK:** Employers may wish to consider the impact these proposals could have on employees. Individuals caught by the 15/20 rule may find the UK a less attractive place to live and work. This could impact whether employees wish to remain in the UK and also whether individuals who have lived and worked in the UK previously are prepared to undertake a further period of employment in the UK.

Employers may wish to consider what steps they wish to take to identify which employees could be impacted by these proposals, particularly in the cases of individuals who may return to the UK after a previous period of employment in the UK. Individuals who have been long-term residents of the UK will need to be UK nonresident for six complete tax years in order to reset the clock.

**Impact on individuals with a domicile of origin in the UK but a domicile of choice elsewhere:** As noted above, the government's intention appears to be that this proposal should only impact individuals who are born in the UK and have a UK domicile of origin, taken normally from their father. This appears a slightly arbitrary differentiator and, for an internationally mobile family, may result in siblings being impacted differently, depending on where they were born.

As with the 15/20 rule, employers may wish to bear in mind that this proposal may have the effect of making the UK a less attractive place for individuals impacted by the proposals to live and work.

— James Macpherson (London)  
Partner  
Deloitte United Kingdom  
jmacpherson@deloitte.co.uk

Richard Day (Birmingham)  
Partner  
Deloitte United Kingdom  
rjday@deloitte.co.uk

Rosemary Martin (London)  
Director  
Deloitte United Kingdom  
rosemartin@deloitte.co.uk

Ian McCall (Edinburgh)  
Partner  
Deloitte United Kingdom  
ianmccall@deloitte.co.uk

Joanne Ahmed (Manchester)  
Partner  
Deloitte United Kingdom  
joahmed@deloitte.co.uk

Theresa Williams (Bristol and Cardiff)  
Director  
Deloitte United Kingdom  
theresawilliams@deloitte.co.uk

Andrew Buckle (Reading)  
Partner  
Deloitte United Kingdom  
abuckle@deloitte.co.uk

#### Have a question?

If you have needs specifically related to this newsletter's content, send us an email at [clientsandmarketsdeloittetax@deloitte.com](mailto:clientsandmarketsdeloittetax@deloitte.com) to have a Deloitte Tax professional contact you.

#### About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see <http://www.deloitte.com/about> for a more detailed description of DTTL and its member firms.

#### Disclaimer

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.