

# Finance (No.2) Act 2017 Becomes Law: The Wait is Over for RNDs



This lengthy period of uncertainty is now over, freeing clients to conclude their planning for the current tax year and make suitable arrangements for the future.

## What to Do?

Clients who now know that they became deemed domiciled in April of this year are likely to have prepared for the eventuality and they can now move ahead with those plans. Others will become deemed domiciled in April of next year or in subsequent tax years and they will be considering their options.

In all cases, it will be a question of assessing the effectiveness of current structures, in particular in light of the extension of tax exposure to worldwide income and gains and, for some, the drawing of UK residential property into the inheritance tax net.

There are numerous options and these include Lombard International Assurance S.A. life assurance policies, which can continue to protect policyholders from tax on underlying investments, do not suffer from the risk of tainting, and can remain effective for clients with family, financial and other interests in multiple jurisdictions.

## Have we heard the last?

Not quite. We can expect further changes in the form of Finance Bill 2017 to 2018, which will eventually become Finance Act 2018. The Bill, draft clauses for which were published on 13 September 2017, is expected to make further amendments to the taxation of offshore trusts, including a prohibition on the washing-out of trust gains by via payments offshore, and an anti-conduit rule designed to tax onward trust distributions to UK taxpayers. In the meantime, we await HMRC guidance on the practical application of the April 2017 changes and many will be keen to hear the Chancellor's comments at the Autumn Budget next week on 22 November.

There will be plenty to be done over the Winter period and Lombard International Assurance S.A. is well-placed to work with partners and clients as they act on the changes afoot.

Finance Bill 2017 to 2019 received Royal Assent yesterday, the 16th November, and now becomes Finance (No. 2) Act 2017. The Act introduces a series of provisions that were left out of the pre-election Finance Act as a result of the shortage of time available for debate. The legislation now coming into force includes the sweeping changes to the taxation of UK resident non-domiciled (RND) individuals on which we have previously commented:

- RNDs resident in the UK for 15 of the past 20 tax years are deemed domiciled in the UK for all tax purposes;
- Returning Doms (those who were born in the UK with UK domicile of origin, shed their UK domicile and subsequently return to the UK) are treated as deemed domiciled for all tax purposes while they are in the UK (subject to a one-year grace period for inheritance tax);
- Two key items of transitional relief are introduced (other than for Returning Doms):
  - Rebasing, which allows individuals who became deemed domiciled in April this year to rebase certain foreign assets to their value as at 5 April 2017;
  - Cleansing, which permits the separation of mixed funds into their component items of capital, income and gains during this tax year and next.
- Protected trusts (those established by a RND prior to acquiring deemed domicile) will protect UK deemed domiciled individuals from tax in respect of trust income and gains provided the trusts are not tainted, for example by additions. (Protected trust status is not available where the taxpayer is a Returning Dom.)
- Interests in UK residential property held indirectly by non-domiciliaries, such as via non-UK trusts, companies and partnerships are brought within the scope of UK inheritance tax.

The delay to the introduction of the above rules has been controversial, particularly as they are backdated to 6 April 2017. It has also been unsettling for clients, who have been uncertain of their status, and that of their wealth, for tax purposes and therefore unable confidently to plan for the future. Practitioners have been equally wary, having been surprised by the dropping of the provisions at the last minute from this year's first Finance Act, with many unwilling to advise clients on their options before the legislation was on the Statute books.