Implications and opportunities from the UK Government's Autumn Statement

November 2015

Yesterday George Osborne, the UK's Chancellor, delivered the UK Government's Autumn Statement. Although stranger things have happened, Osborne's u-turn on certain matters did not extend to the proposed changes to the tax treatment of long-term UK resident, non-UK domiciled individuals.

As announced in the 2015 Summer Budget it is proposed that from 6 April 2017 the UK will create a new club – 'the deemed domiciled for all tax purposes' club – and will welcome into such club all those non-UK domiciled individuals who have a foreign domicile of origin who have been UK resident for 15 out of the last 17 tax years. This will bring an end to the permanency of non-UK domiciled status for the purposes of tax. From 6 April 2017 members of such club will have the pleasure of paying UK income tax and capital gains tax on their worldwide income and gains on an arising basis in the same way as UK domiciled and resident individuals (there will be no option to claim the remittance basis of taxation) and will also be liable to UK inheritance tax on their worldwide assets.

The proposed reforms are the most wide ranging changes to the taxation of UK resident, non-UK domiciled individuals for many years and while long-term UK resident, non-UK domiciled individuals might not be too enthralled with the prospect of belonging to such club and paying UK tax on their worldwide income and gains, there may still be opportunities for such individuals to undertake some wealth enhancement and preservation planning.

Excluded property settlements have long been created by non-UK domiciled individuals to protect assets situated outside the UK from inheritance tax. An excluded property settlement is one created by an individual at a time when he or she is neither domiciled nor deemed domiciled in the UK and the trust fund of which contains non-UK assets only. Assets held in an excluded property settlement are generally outside the scope of the UK's inheritance tax regime. Under current rules once an individual has been resident in the UK for 17 out of the last 20 tax years they become deemed domiciled in the UK for inheritance tax purposes only. Once an individual has become deemed domiciled in the UK the opportunity to create an excluded property settlement is lost.

Under the proposals, from April 2017 it should still be possible for non-UK domiciled individuals to create an excluded property settlement prior to becoming deemed domiciled in the UK for tax purposes but such individuals may now find themselves becoming deemed domiciled sooner than they anticipated because they will be deemed domiciled after having been resident in the UK for 15 out of the last 17 tax years (instead of 17 out of the last 20 tax years).

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