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Are you ready for 5 April?

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We know that the UK non-dom regime changed significantly in 2017 with more changes yet to be fully implemented. One change is how long a non-domiciled individual can reside in the UK before becoming deemed domiciled for UK inheritance tax purposes. The old rule stated that an individual would become deemed domiciled in their 17th (out of 20) years of residency. Now the rule is that an individual will be deemed domiciled after residence in 15 of the prior 20 years. The distinction is important and means that an individual does not need to be resident in the UK in the 16th year for the deemed domicile tail to attach, which makes that 15th year critical for planning for those who are unable to leave the UK and avoid tax residence in that year.

If we couple this UK non-dom change with the very recent US estate and gift tax increase as of 1 January 2018, the impetus for Americans especially to do something before becoming deemed domiciled for UK inheritance tax purposes is greater than ever. Once deemed domiciled, Americans residing (and even after ceasing residence for a period) become subject to UK inheritance tax on their worldwide assets, just as they are in the US. The crucial difference is that the US estate tax exemption is now a massive $10 million per person (about $11.2 million adjusted for inflation) while the UK inheritance exemption remains at £325,000 per person (with the additional 'residence nil are band' effectively phased out for those with estates in excess of £2 million). With proper planning, Americans in the UK can preserve that differential and, in essence, keep the benefit of the larger US estate tax exemption if they have sufficient non-UK assets. Proper advice must be taken in establishing these trusts as the residence o
f the trust itself, its terms and any tax consequences of funding the trust must be carefully thought through and there is still just about enough time to take action before 5 April this year.

If you have already become deemed domiciled, funding trusts carries an up-front 20% entry charge, which will deter most. Other planning options are available, including family limited partnerships, as an alternative to trust planning but achieving a tax-efficient means of transferring wealth but having control of it. Insurance is also a great way to protect against the UK inheritance tax exposure and a properly structured insurance trust can keep the insurance proceeds outside of both the US estate tax and UK inheritance tax nets.

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