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A Post-Budget Review of the UK Tax Landscape for Non-Doms and Family Offices

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During Katten's recent tax planning seminar, a panel of leading experts analysed the impact of the Autumn Budget 2024 (Budget) on the United Kingdom's non-dom tax regime — specifically related to family offices and foreign individuals living in the United Kingdom. The speakers were keen to highlight that careful planning can still allow individuals in the United Kingdom to maintain a robust tax position and consider measures that may be taken both before and after 6 April 2025. Below, we have detailed several key insights and takeaways from the event:

1. A new foreign income and gains (FIG) regime will replace the remittance basis of taxation for non-UK domiciled individuals from 6 April 2025. Individuals who have not previously been UK tax residents will benefit from a full exemption from UK tax on any FIG for the first four years of UK residence and the ability to bring any FIG (including distributions from offshore trusts) to the United Kingdom tax-free.

2. A three-year temporary repatriation facility (TRF) will allow individuals who previously used the UK remittance basis to designate and remit their previously untaxed FIG to the United Kingdom at a preferential tax rate, including from offshore trusts. The TRF will be in effect from 6 April 2025 to 5 April 2028. The tax rates will be 12 percent for FIG designated in 2025-2026 and 2026-2027, and 15 percent for 2027-2028. The speakers noted that it is likely that individuals wishing to remain in the United Kingdom will use the TRF to wind up offshore trusts and bring the trust proceeds to the United Kingdom.

3. Protected settlements will be abolished, and settlors will be liable to pay tax on trust income and gains arising on or after 6 April 2025 (such tax can, however, be claimed back from trustees). In the cases of offshore trusts, when the original settlor of a trust has died, there are two benefits. First, there are no attribution rules in respect to inheritance tax, capital gains tax or income tax. Second, the transitional rules mean that the beneficiary can withdraw from the trust for three years and pay 12 percent (then 15 percent) tax.

   The situation, however, is more difficult when the settlor of the offshore trust is still alive and will be considered a long-term resident in the United Kingdom under the new legislation. The speakers highlighted that these individuals are typically the people who are active participants in the UK economy and, as such, play an important role in the United Kingdom's position as a financial hub. Purely from a taxation perspective, they could now be motivated to leave the United Kingdom — this remains an area of concern.

4. If assets are disposed of on or after 6 April 2025 by a current or past remittance basis user, they will be entitled to rebase personally held foreign assets for capital gains purposes to their value as of 5 April 2017. The speakers highlighted that this is advantageous as the gain on disposal could be substantially reduced, especially if the asset has been held for a significant time before 2017.

5. One of the more controversial Budget measures relates to the change to inheritance tax (IHT). From 6 April 2025, a residence-based regime for inheritance tax will be introduced, replacing the domicile-based system. Those residents in the United Kingdom for at least 10 out of the past 20 tax years will qualify as

"long-term residents," bringing their worldwide assets into the scope of IHT. Individuals leaving the United Kingdom will retain their long-term resident status for three years if they have been residents for 10 to 13 of the past 20 tax years plus an additional year for each additional year of tax residence.

Trust assets will now be brought into the "relevant property regime" and come within the charge to IHT at times when the settlor is classified as a "long-term resident." Where settlors are "long-term residents" from 6 April 2025, the trusts will be subject to the "relevant property regime" from the same date. Exit charges for settlors leaving the United Kingdom will apply — however, no exit charges will be due if a settlor leaves in the current tax year.

The speakers who specialise in litigation mentioned that the introduction of new rules always causes more litigation. They also emphasised the importance of having evidence to support an individual's domicile and residence position. When HM Revenue & Customs (HMRC) reviews the domicile or residence of an individual, it is a qualitative assessment, and any evidence should clearly establish a lifestyle pattern. In the context of domicile, HMRC has been seen to inquire into the past domicile position of an individual, even in cases where HMRC has previously given clearances — further highlighting the importance of keeping contemporaneous evidence.

6. The seminar also addressed the changes to the carried interest rules, which include that the current 28 percent capital gains tax rate effectively increases to 34 percent from April 2026 and that any profit will be taxed as income. The speakers considered that the rate change on its own is unlikely to cause individual managers who are currently relying on the remittance basis to leave the United Kingdom. However, HMRC and HM Treasury are still consulting with the industry on significant aspects of the new rules, such as individual minimum holding periods and the level of any co-investment requirement for General Partners (GPs). Therefore, a level of uncertainty remains.
7. The seminar closed with a brief assessment of the likely impact of the incoming US Trump administration on inbound US investment.

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