LSR Partners Webinar

Changes to the UK Non-Dom Tax Regime

12:30pm, 24th February

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Webinar Agenda

1. The Current Regime
2. The New FIG Regime
3. New Regime Relief
4. Limitations on Relief
5. Limitations on Trust Protections
6. Overseas Workday Relief
7. The Temporary Repatriation Facility
8. Inheritance Tax Changes
9. Planning Considerations

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1. The Current Regime

The Current Rules – to 5 April 2025

- ➢ Concept of Domicile
- ➢ The Remittance Basis:
    - Years 1 - 7
    - Years 8 – 12
    - Years 13 – 15
    - Deemed domicile

2. The New FIG Regime

- ➢ The new regime starts from **6th April 2025.**
- ➢ After that date, all Foreign Income & Gains (FIGs) are taxable in the UK if you're resident in the UK unless you fall within the new regime.

How do you qualify?

- ➢ You must not have been a UK tax resident in ANY of the preceding ten tax years before your arrival into the UK.
- ➢ You must be within your first four years from arrival in the UK.
- ➢ You can leave the UK in those first four years, but the clock keeps ticking...

Example 1: Alan

- Alan has never previously lived in the UK and has never spent more than 45 midnights in the UK in any tax year.
- He arrives in the UK during the 23/24 tax year and claims split-year treatment.
- The 25/26 tax year will be his third year of UK tax residence – 23/24 counts as a full year even though he claimed split-year treatment.
- Alan would, therefore, be eligible for the FIG regime in 25/26 & 26/27.
- From 27/28, though, he will be fully taxable on his worldwide income and gains.

Example 2: Bob

- Bob is Canadian and came to the UK as a student 20 years ago.
- He'd been living outside the UK since April 2004, other than a 12-month assignment to the UK from Jan to Dec 2019.
- Bob's family remained in Canada during his assignment and Bob was 'treaty' resident in Canada even whilst in the UK.
- Under the Statutory Residence Test, Bob was UK tax resident (split year) in both 18/19 and 19/20 during his assignment.
- Bob came back to the UK in April 2024 and was eligible to be taxed on the remittance basis in 24/25 and will make this claim and claim overseas workday relief.
- He won't be eligible for the FIG regime as he hasn't had ten consecutive years of UK tax non-residence.

Example 3: Carol

- Carol was born and raised in the UK to a UK-domiciled father.
- Carol left the UK in 1999 and has lived overseas since then and has remained non-resident in the UK under the Statutory Residence Test (SRT).
- She returned to the UK in April 2024 but was not eligible for the remittance basis of taxation as she remains domiciled in the UK.
- However, as she has been UK tax non-resident for ten consecutive years prior to her arrival in April 2024, she will be eligible for the new FIG regime.
- Carol will be eligible for 25/26, 26/27 & 27/28.

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3. New Regime Relief

Under the new regime, there will be 100% relief for nominated foreign income and gains for those eligible for the scheme.

This is not automatic relief, and a claim must be made for each source of income and/or gains where relief is required.

If a claim (or election) is made to relieve income, gains or overseas workdays, will lose the following in the year of claim:

- Personal allowance
- Annual exemption
- Relief on foreign income losses
- Relief on foreign capital losses

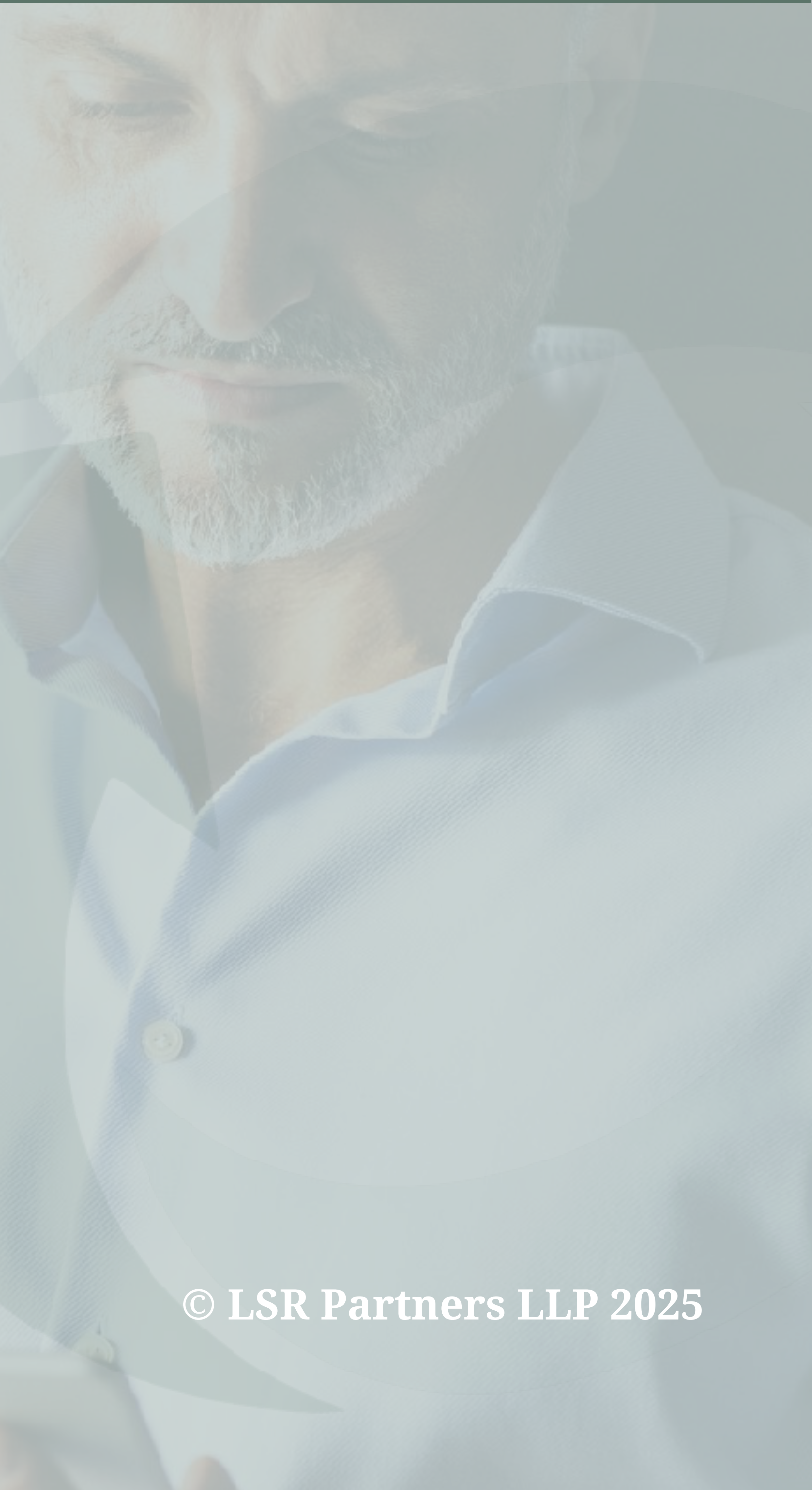
Example 4: Doug

- ➢ Doug is a UK tax resident who is eligible for the FIG regime in the 25/26 tax year. He is originally from South Africa and has a portfolio of listed shares there.
- ➢ During the 25/26 year, he sells part of his portfolio and realises a capital gain of £15,000, which he remits to the UK.
- ➢ In his UK self-assessment for 25/26, he specifies this gain under the FIG regime, and consequently, it's not UK-taxable.

Note: If the gain is not specified in a tax return, it is automatically taxable in the UK. It also doesn't matter whether the gain is remitted or not.

This change is significant vs the remittance basis, where the starting point is that unremitted foreign income and gains are NOT taxable.

4. Limitations on Relief



➢ Relief is available on most foreign sources of income and gains.

➢ There are limits to relief that is available:

- Employment income *.
- Certain foreign pension income.
- Profits from disposals of UK land treated as trading profits.
- Offshore chargeable events gains on foreign life insurance policies and investment bonds.

➢ Limitations on relief are a complex area, and it will be important to look carefully at income streams that UK residents receive from abroad.

5. Limitations on Trust Protections

- ➢ Trust rules are complex and are not our focus here.

However…

- ➢ Under current rules, certain Settlor-interested Trusts could avoid tax if the settlor was non-domiciled or deemed domiciled (in certain situations).
- ➢ Under the new rules, the ability to avoid tax is only available if the settlor is eligible for the FIG regime.

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6. Overseas Workday Relief (OWR)

The Current Rules

- Under the remittance basis, for the first three years of UK tax residence, overseas workday relief can be claimed.
- Qualifying bank account required.
- Provided this employment income is not remitted to the UK, a UK tax resident claiming the remittance basis can claim relief from taxation on all foreign-earned income.

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Example 5: Elsa

- Elsa is from Sweden and moved to the UK for the first time in the 22/23 tax year. She works for a large multinational, and her job requires significant travel throughout Europe. Her employer pays her salary into an Offshore Expatriate account in Jersey.
- Elsa's salary for the 23/24 tax year is £464,000.
- Elsa works 232 days and has 100 workdays outside the UK in the 23/24 tax year. £200,000 of her earnings are in relation to overseas workdays.
- She ensures that £200,000 of her pay is not remitted to the UK. She claims overseas workday relief and is therefore not taxed on this income unless and until it is remitted to the UK.

Overseas Workday Relief (2)

The New Rules

➢ OWR will be available for up to four years, but only for those eligible for the FIG regime*.

➢ The relief will only be available for earnings that relate to duties performed outside the UK.

➢ An election for relief is required.

➢ However, there will be limits on the amount of relief that can be claimed: the lower of

- 30% of the qualifying employment income and,
- £300,000 per tax year.

➢ Whether the funds are remitted will make no difference to the relief. But by claiming the relief, an individual will lose their personal allowance and annual exemption.

➢ Note, forward thinking might be needed in relation to a claim!

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Example 5b: Elsa

- ➢ Elsa is eligible for the new FIG regime in the 25/26 tax year
- ➢ Elsa's salary for the 25/26 tax year is again £464,000.
- ➢ Again, Elsa works 232 days and has 100 workdays outside the UK in the 25/26 tax year, meaning £200,000 of her earnings are in relation to overseas workdays. This is paid into a UK bank account.
- ➢ Elsa's relief for 25/26 is limited to the lower of:
  - ➢ 30% of £464,000 = £139,200
  - ➢ £300,000
- ➢ Elsa makes an election for overseas workday relief of £139,200

Overseas Workday Relief (3)

Transitional Rules

➢ For those who claimed OWR pre-6 April 2025:

  ➢ If ineligible for FIG regime, can claim for remainder of 3 years

  ➢ If eligible for FIG regime, can claim for remainder of 4 years

➢ Periods after 6 April 2025 under new regime and subject to financial limits

➢ "Trailing income" for periods pre-6 April 2025 subject to old rules, need to be kept offshore in a qualifying bank account.

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Example 6: Fred

- ➢ Fred becomes UK resident in the 24/25 tax year and is eligible for and chooses to claim OWR via the Remittance Basis for this period.
- ➢ He is eligible for the FIG regime in 25/26 but doesn't make an OWR election for this period.
- ➢ In 26/27 he receives into his UK account:
    - £1.2m earnings in relation to 26/27 (£480K in relation to OWD)
    - £200K in relation to 25/26 (£10K in relation to OWD)
    - £200K in relation to 24/25 (£25K in relation to OWD)
- ➢ For 26/27, Fred can claim up to £300K OWR, subject to a tax return claim.
- ➢ For 25/26, Fred cannot claim as no OWR election made at the time.
- ➢ For 24/25, Fred could have claimed OWR, but this would have had to been kept offshore.

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7. The Temporary Repatriation Facility (TRF)

- The TRF is a facility designed to assist those who’ve been in the UK and claimed the Remittance Basis of taxation.
- Under the new rules, previous remittance basis users will be able to use the TRF to designate previously untaxed foreign income or gains that arose prior to 6th April 2025.
- The TRF designation window lasts for three years from 6th April 2025.

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7. The Temporary Repatriation Facility (2)

- You can choose what income and/or gains to designate.
- The designation must be made by tax return & records should be kept.
- The tax point under the TRF is the year of designation, not the year of eventual remittance.
- The tax rate charged on designated income or gains is 12% in 25/26 & 26/27 but 15% in 27/28.
- Cannot claim a foreign tax credit or an offset of the remittance basis charge.
- The payment of a TRF charge will constitute a remittance.
- What if you don't designate unremitted funds?

Example 7: Guillaume

- Guillaume has been a UK tax resident since 22/23 and has been claiming the remittance basis for both the 22/23 and 23/24 tax years.
- In the 23/24 tax year, Guillaume made a gain of £50,000 on the sale of a property in France.
- Guillaume is planning to purchase a property in the UK in the 25/26 tax year.
- He remits the income in 25/26 to buy the property and then includes it on his 25/26 tax return as a remitted foreign gain under the TRF. Consequently, he only pays a flat tax of 12% on the gain.
- Guillaume also made a gain of £10,000 on the sale of some shares, kept in a separate account.
- However, he intends to keep these funds permanently in France, doesn't nominate them under the TRF, and so is not taxed in the UK – whilst knowing that were he to need to bring those funds into the UK after the 27/28 tax year without nomination, he would be taxed at full UK tax rates.

8. Inheritance Tax Changes

- The concept of domicile will be removed from IHT from 6 April 2025.
- IHT will be due on worldwide assets, including on settlements, if an individual is “long-term resident” when they pass.
- This would apply if you have been UK tax resident for 10 out of 20 years prior to the year the chargeable event happens.
- Shortening on length of time remaining long-term resident for those in the UK 10-19 years before leaving.
- For those who have 10 consecutive years of non-residence, the “count” is reset.
- Transitional rules for current non-doms who are non-resident in 25/26*.

9. Planning for those eligible for FIG Regime

- Check residence eligibility for the regime?
- Will overseas income and gains be eligible for relief?
- Timing of income/gains consideration where possible?
- Keep track of offshore income and/or gains and overseas workdays.
- Make sure tax returns are filed with nominations for relief, where required.

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9. Planning for those not eligible for FIG Regime

- Realising any available income and/or gains before the end of 24/25 tax year.
- Making a designation under the TRF in 25/26 – 27/28 and pay reduced tax rates if money needed in the UK*.
- If money not needed, rebasing of assets*.
- If gains not realised before end of 24/25 (e.g. property), 2017 rebasing for remittance basis users.
- Consider availability of transitional OWR and bank set up.

Example 8: Hanna

- Hanna will be claiming the Remittance Basis in 24/25, but she will be ineligible for the new FIG regime. She is an additional rate taxpayer and has a share portfolio in Germany. There are unrealised gains of £50,000 in the portfolio. She expects to need this money in the UK in the future, but for the time being she wants to remain invested.
- Hanna sells her shares on 28th February and realises the gain but does not remit it.
- During the 25/26 tax year, Hanna needs the funds in the UK so makes a designation under the TRF and pays 12% on the gain, a total of £6,000.
- Had Hanna remitted the funds in 24/25, or left the gain to crystallise in 25/26 the tax on the £50,000 gain would have been £12,000 (CGT at 24%).
- Note, had Hanna's gains been on non-reporting funds, the gains would have been subject to income tax rates, and thus the tax liability could have been up to £22,500 if the TRF were not utilised.

Example 8b: Hanna

- In this instance, Hanna sells her shares on 28th February and realises the gain but does not remit it. On 1st April, she repurchases the same shares (avoiding the bed and breakfast restrictions).
- During the 25/26 tax year, needing the funds in the UK, she sells the shares again, with a gain of £5,000 after annual exemption, from the price at which the shares were repurchased on 1st April. The gain of £5,000 is taxable at 24%, giving a liability of £1,200, regardless of whether the gain is remitted.
- The remaining £50,000 gain can be designated under the TRF in 25/26, and so, be subject to a tax liability of £6,000, rather than £12,000 if the money is needed in the UK.
- If the money was not needed in the UK, Hanna would not need to pay any UK tax on the 24/25 realised gain.
- Hanna ran market risk during the month she didn’t own the shares but has significantly reduced her tax liability.

Thanks for listening

Any questions?

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