

UK FATCA and UK Resident non Domicillaries (RND)

Under the UK Foreign Account Tax Compliance Act (UK FATCA), financial institutions in Crown Dependencies and Overseas Territories have until 30 September 2016 to provide HMRC with information on UK-resident account holders. Although the deadline is 18 months away, it relates to reportable accounts in 2014 and 2015, so UK residents are being advised to consider making the necessary disclosures now.

UK resident non-domicillaries (RNDs) – broadly individuals whose permanent home is outside the UK – do not have to declare or pay UK tax on income earned overseas. They can elect instead to pay an annual remittance basis charge if they have lived in the UK for a certain number of years. Under UK FATCA, individuals who pay the remittance basis charge can also elect to have an alternative reporting regime (ARR) apply to their offshore funds.

Normal reporting would require the overseas financial institution to provide details of interest and income received, as well as proceeds from the sale or redemption of property credited to the account.

However, under the ARR, the only information supplied to HMRC will be:

- The identity of UK individuals holding assets offshore
- The name of the financial institution holding their assets
- Flow of funds from the UK to the reportable offshore account
- Income derived from offshore assets and the proceeds of the sale of assets remitted to the UK
- In the case of offshore trusts, the identity of the settlor (if UK resident)
- Distributions received by UK beneficiaries (where remitted to the UK)
- In the case of offshore companies, the identity of beneficial owners (if UK resident) and movement on shareholder loan accounts (where funds are transferred between the company and the UK).

The financial institution must make a one-off election for the ARR regime to apply. The individual must also submit an election to the reporting financial institution by 30 May following the end of each relevant tax year.

The individual must also confirm to the financial institution that their UK tax return contains

- A claim that they are non-UK domiciled and want the remittance basis to apply
- Confirmation that this is not being disputed by HMRC

This must be done no later than 28 February following the end of the relevant tax year.

UK FATCA means that HMRC will be able to identify resident non-domicillaries with interests in offshore accounts and trusts in Crown Dependencies (Jersey, Guernsey and the Isle of Man) and Overseas Territories (Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat and the Turks and Caicos Islands).

In addition to considering making an election, it would be sensible for affected individuals to review their affairs to ensure they are UK tax compliant ahead of 2016 deadline.