

Time to scrap the non-dom rule

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I have an article on [Comment is Free today](#):

Lord Ashcroft's [disclosures about his non-dom status](#) are a story of the moment, and rightly so. That should not disguise the fact that the abuse facilitated by the [domicile rule](#) when applied to taxation in the UK is long-standing and ongoing and will not be resolved even if Lord Ashcroft does become domiciled in the UK after the next election. Nor was it resolved by the very partial reform to the domicile rule introduced in 2008, after which a person could only use the rule cost-free for seven years, whereafter they have to pay £30,000 a year to continue to take advantage of it.

It's important to stress what a person's domicile is: it's their place of natural allegiance; the place they consider to be their real home. It's not about ethnicity, race or nationality. It can fairly be said to be about national origin. Let's leave aside for the moment the fact that discrimination on the grounds of national origin has been illegal in the UK since 2003, and that the domicile rule might afford an [illegal advantage](#) to those claiming it under that legislation, and instead concentrate on what this means.

The domicile rule does, in effect, mean that through paternal inheritance (this rule is also decidedly sexist), a child acquires their parents' domicile or place of national origin and keeps it for life, unless they declare otherwise or HM Revenue and Customs choose to challenge their claim, and proves otherwise. As we all know, challenging a state of mind is nigh on impossible, especially when the assumption is granted by law that such a state of mind involves national origin being elsewhere. Unsurprisingly, the number of challenges to domiciled status are few, the rate of success unknown but probably limited, which in turn reduces the number of challenges and so the system self-perpetuates, granting an unfair and unmerited advantage to some in society at expense to others.

There is neither logic, nor natural justice, nor human rights and maybe even law (as previously noted) that can justify perpetuation of this situation, whose survival has been largely necessitated by the chaotic, undocumented and non-statutory basis for determining the unrelated, but equally important, status of tax residence in the UK. It is

important to stress we note the difference. It is equally important to stress that the way in which the UK tax system works is that the tax affairs of many temporary residents in the UK are subject to "blind-eye" treatment by HM Revenue and Customs on the grounds that the domicile rules will in most cases allow them to ignore that person's income arising outside the UK, which they presume (in most cases quite reasonably, no doubt) is not remitted here.

We argue that it is ludicrous that the weaknesses in the UK's tax residence laws have to be covered by the maintenance of a discriminatory law based on unprovable claims as to a person's national origin. The consequence is a state of uncertainty that is exploited by many with wealth, but which leaves the vast majority who come to the UK to work uncertain as to their obligations to pay tax and leaves many of those who do so with lower tax liabilities on similar earnings to those who have been resident and domiciled here throughout their lives. Uncertainty in tax systems is widely condemned, not least by all in the tax profession. Unfair competitive advantages distort markets. This is a situation that has top end, whatever the outcome of the Ashcroft affair.

Our solutions are simple. We need a new statutory law for determining who is, and who is not, resident in the UK. This should provide temporary residents who are not citizens of the UK a period of grace during which they should not be subject to full UK tax on their worldwide income: a period of no more than four years should provide the necessary period in which they can either leave again (as many will) or reorganise their affairs to comply with UK requirements. At the same time, UK residents should have a duty to pay UK tax unless they can show they are paying equivalent taxes elsewhere in the world.

If this were to happen, the remaining implicit administrative justification for the domicile rule would disappear: the residence rules could cover the need. In that case, subject to a four-year period of notice being given all those still using the domicile rule to avoid declaration any part of their income or gains in the UK. That rule should disappear from our tax law, sweeping away in the process an anachronism based on prejudice and discrimination from a bygone age that is long overdue for elimination in the 21st century. And, as I have [previously argued](#), the net gain to the UK exchequer might be some £3bn a year, revenue the country is badly in need of.

Surely we can do it now?