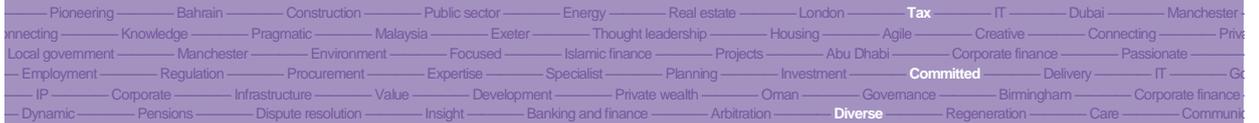




Legal update — September 2017

Tax and Private Wealth Brexit immigration



Article 50 was triggered on 29 March 2017. According to the Treaty invoking Article 50 sets a two year clock which means the UK automatically ceases to be a member in April 2019. At this point the UK will no longer be bound by EU treaties and laws and therefore any EU migrants exercising treaty rights in the UK automatically lose the right to remain in the UK.

Although nothing can be said to be certain, the Government has indicated that;

1. Free movement rights will not continue after April 2019
2. EU nationals currently living in the UK will have their right to remain protected.

The UK's offer to the EU to protect the status of EU nationals in the UK puts EU nationals into three broad categories;

- Those who arrived in the UK before the **cut-off** date and have had five or more years continuous residence in the UK
- Those who arrived in the UK before the **cut-off** date and have had less than five years continuous residence in the UK
- Those who arrived in the UK after the **cut-off** date.

The cut-off date has yet to be determined but the Government has indicated that it should not be before 29 March 2017.

The way this would work in practice would be that EU citizens falling within the first category will be able to apply for **'settled status'**. Migrants falling within the second category would be able to apply for leave that would allow them to remain in the UK until they complete five years continuous residence at which point they too will be able to apply for settled status. Those who arrived in the UK after the cut-off date will have to apply to regularise their stay in the UK under the new post Brexit immigration rules which are yet to be announced.

Settled Status will also be replacing 'permanent residence' which is a status that is currently granted to EU migrants who have completed five years in the UK. EU migrants who already have permanent residence will also be required to apply for settled status. The question is what should EU citizens currently living in the UK do to protect their status in the UK come April 2019?



Source: Shutterstock

Since the Government plans to introduce a 'settled status' as opposed to the current 'permanent residence' status for EU citizens, it is dissuading EU citizens from making any applications for permanent residence to avoid duplication. The Government is urging EU citizens from not making any applications at this stage as they intend to introduce a 'streamlined' and 'user-friendly' service at some point in 2018.

Our advice to EU nationals is to start collating evidence of their residence and evidence of their economic activity in the UK. At some point EU nationals living and working in the UK will have to prove their right to remain in the UK and providing historic documents may prove to be the biggest hurdle. The Government has suggested, however, that it intends to use existing government data, such as income records to help EU migrants evidence their time in the UK.

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