Tolley®CPD

Finance Bill 2024-25

Disclaimer

Tolley CPD takes every care when preparing this material. However, no responsibility can be accepted for any losses arising to any person acting or refraining from acting as a result of the material contained in these notes.

CONTENTS

Income tax

Rate of tax

The main rates of income tax, the default rates of income tax and the savings rate of income tax remain at 20%, 40% and 45% (Clauses 2 and 3). The savings rate limit remains at £5,000 as the legislation specifically removes the indexation (Clause 4).

Car benefit

Clauses 5 and 6 introduce car benefit rates for 2028/29 and 2029/30. The figures are below, with 2027/28 included for comparison purposes.

Emissions	**Electric range**	**2027/28**	**2028/29**	**2029/30**
0	n/a	5%	7%	9%
1-50	130 or more	5%	18%	19%
1-50	70 – 129	8%	18%	19%
1-50	40 – 69	11%	18%	19%
1-50	30 – 39	15%	18%	19%
1-50	Less than 30	17%	18%	19%
51 – 54		18%	19%	20%
55 – 59		19%	20%	21%
60 – 64		20%	21%	22%
And then a 1% increase for each band up to a maximum as shown below				
155 +		37%	38%	39%

The biggest change will be for cars where the electric range is currently used to determine the benefit rate as this parameter is being removed.

Example

An individual, who is the director of his own limited company, is provided with a car which has a list price of £48,322. The emissions are 26g/km and it has an electric range of 142 miles.

In 2027/28, the car benefit percentage is 5%, giving a car benefit figure of £48,322 x 5% = £2,416. He is a higher rate taxpayer so that the tax cost is £2,416 x 40% = £966.44. The Class 1A NICs cost for the company is £2,416 x 15% = £362.40. This assumes the rates are the same as for 2025/26.

In 2028/29, the car benefit percentage is 18%, giving a car benefit figure of £48,322 x 18% = £8,697. He is a higher rate taxpayer so that the tax cost is £8,697 x 40% = £3,479.18. The Class 1A NICs cost for the company is £8,697 x 15% = £1,304.55. This assumes the rates are the same as for 2025/26.

There will be a further increase in those figures in 2029/30 when the car benefit percentage is 19%.

The same percentage is applied to the car fuel benefit multiplier if fuel is provided for private mileage so the cost of this will also increase.

For vehicles registered before 1 January 1998 or those without emissions data, the car benefit is as follows (again with comparative figures for earlier years for comparison):

Cylinder capacity	**2027/28**	**2028/29**	**2029/30**
1,400 or less	24%	25%	26%
More than 1,400 but not more than 2,000	35%	36%	37%
More than 2,000	37%	38%	39%

Although not mentioned in the Finance Bill, it was announced at the time of the Budget that the treatment of Double Cab Pick-Ups (DCPUs) for direct tax purposes would be changing. HMRC had previously indicated that they were going to legislate such that the VAT treatment, whereby a DCPU with a payload of 1 metric tonne or more is a van and not a car, would be applied. This is not now going to happen.

All such vehicles will be treated as cars for direct tax purposes from 6 April 2025, although there may be some scope in individual cases to argue that a particular vehicle is a van.

HMRC have indicated that vehicles provided before that date can be treated as vans until 5 April 2028 or earlier if the lease expires before that date. As many of these vehicles will have high emissions, there is likely to be a significant increase in the benefit in kind which will result from provision of such a vehicle.

Capital gains tax (Lecture B1473 – 23.21 minutes)

Clause 7 sets the capital gains tax rates as follows:

- Repeal of legislation setting a separate rate for residential property;
- Setting the rates as 18% for gains falling within the basic rate band and 24% for gains falling outside of the basic rate band; and
- Setting the rate on trustees and personal representatives at 24%.

These rates do not apply to carried interest gains.

Schedule 1 contains further provisions and this legislation applies for disposals made on or after 30 October 2024.

Schedule 1B TCGA 1992 which contains the definition of residential property for the purposes of CGT is repealed in full. However, this definition is relevant, in particular for non-residents disposing of UK land where the status of the land will determine the basis of calculation of the gain. Schedule 4AA TCGA 1992 is amended with a new definition of residential property being included as Para.16A – 16H Schedule 2 FA2019. This broadly replicates the definition which was in Schedule 1B.

Clause 8 specifies that the rate of capital gains tax for gains which qualify for business asset disposal relief will increase to 14% for disposals made on or after 6 April 2025 and further to 18% for such gains for disposal made on or after 6 April 2026.

Clause 9 imposes an equivalent change in the rate of tax for gains which qualify for investors' relief. Clause 10 reduces the lifetime limit for investors' relief to £1 million (from £10 million) with effect for disposals made on or after 30 October 2024.

Schedule 2 contains further provisions relating to Clauses 7 – 9:

- Gains or losses which arise in 2024/25 where an individual falls within the temporary non-resident rules, but becomes UK resident during that year, will be treated as accruing before 30 October 2024;
- Foreign chargeable gains treated as remitted to the UK under s809J ITA2007 (which specifies the order of remittances being made to the UK following remittance of nominated income), will be treated as remitted before 30 October 2024;
- Gains which are taxable under s86 TCGA 1992, where gains of an offshore trust are attributed to the settlor, will be treated as accruing before 30 October 2024;

- Gains which are taxable under s87 or 89 TCGA 1992, where capital payments made to beneficiaries of offshore trusts are matched to gains arising in the trust, will be taxed according to when the capital payment was received. If this was between 6 April and 30 October 2024, the gain will be taxed at the old CGT rates with later payments being taxed at the new CGT rates.

Under (unchanged) basic principles, a taxpayer can allocate losses, annual exemption and basic rate band in a way which gives the best outcome. This applies where there has been a change in the rate during the year, unless specific provisions disapply those rules. Since that is not the case, there will be some flexibility for clients with multiple disposals.

Example

Angie has income of £35,000.

She disposes of shares in May 2024, generating a gain of £12,000 and then sells a buy-to-let property in November 2024 for a gain of £37,000.

She has losses brought forward of £15,000 and the normal annual exemption.

Calculation of capital gains tax

Angie has unused basic rate band of £15,270.

The rate of tax on the shares will be 10% or 20%, and on the property, it will be 18% or 24%.

It would be best to offset the losses and the annual exemption against the property gain as the relief will be at a higher rate, but to utilise the basic rate band against the gain on the shares, as this will allow the 10% rate to apply.

	Shares	Property	Total
	£	£	£
Gains	12,000	37,000	49,000
Losses		(15,000)	(15,000)
Annual exemption		(3,000)	(3,000)
Net gains	12,000	19,000	31,000
Taxed:			
12,000 @ 10%	1,200		
3,270 @ 18%		588.60	
15,730 @ 24%		3,775.20	
Total			5,563.80

Schedule 2 also contains anti-forestalling provisions relating to these CGT changes.

Main rates of CGT/reduction in lifetime limit for investor's relief

The first set of provisions apply for the purposes of the change in the main rates of CGT and the reduction in the lifetime limit for investors' relief.

Where a contract was exchanged before 30 October 2024 under an unconditional contract, but not completed by that date, the date of disposal will be treated as the date of completion, rather than exchange, unless the contract is an excluded contract. S28 TCGA 1992 determines that the date of disposal would normally be exchange where the contract is unconditional.

A contract is 'excluded' if:

- Neither party entered into it with the purpose of obtaining an advantage through the operation of the normal CGT timing rules and
- Where the contract was between connected persons, the contract was entered into wholly for commercial reasons.

A claim that includes a specific statement that those conditions are met must be included as part of the reporting of the gain unless the gain on that disposal plus all other disposals made under excluded contracts does not exceed £100,000.

This claim would have to be a joint claim where business asset disposal relief or investors' relief is being made jointly with trustees.

Additionally, for the purposes of investors' relief, where a reorganisation has taken place on or after 6 April 2024, but before 30 October 2024, where the disposal would have been treated as being on a no gain/no loss basis, there is an amendment to the procedure where the reorganisation provisions can be disapplied to allow the gain to crystallise. If an election to disapply the share reorganisation provisions is made on or after 30 October 2024, the disposal of the original shares will be treated as taking place at the date of the election and not at the date of the reorganisation.

Increases in rate of BADR/IR

The second set of provisions apply for the purposes of the increase in CGT rates where business asset disposal relief and investors' relief are claimed (from 6 April 2025 and then 6 April 2026).

General

These rules apply where:

- an asset is transferred on or after 6 April 2025 under an unconditional contract made before 30 October 2024;
- an asset is transferred on or after 6 April 2025 under an unconditional contract made on or after 30 October 2024 but before 6 April 2025; or
- an asset is transferred on or after 6 April 2026 under an unconditional contract made at any time in 2025/26.

In each case, the disposal will be treated as taking place when the asset is transferred (rather than on exchange) unless it is an excluded contract.

Although the rules are the same as outlined above, these are repeated here. A contract is 'excluded' if:

- Neither party entered into it with the purpose of obtaining an advantage through the operation of the normal CGT timing rules; and
- Where the contract was between connected persons, the contract was entered into wholly for commercial reasons.

A claim that includes a specific statement that those conditions are met must be included as part of the reporting of the gain unless the gain on that disposal plus all other disposals made under excluded contracts does not exceed £100,000.

This claim would have to be a joint claim where business asset disposal relief or investors' relief is being made jointly with trustees.

Business asset disposal relief

There are provisions relating to claims for business asset disposal relief where there has been a share reorganisation.

As with the provisions discussed above for investors' relief, where an election is made to disapply the share reorganisation provisions, the disposal of the original shares will be treated as taking place at the time of the election rather than at the time of the reorganisation.

The legislation considers two situations.

1. Reorganisation takes place on or after 6 April 2023 but before 30 October 2024 and the election to disapply the reorganisation provisions is made on or after 30 October 2024. Additionally, as at 30 October 2024 the company is the individual's personal company, is a trading company or holding company of a trading group and the individual is an officer or employee of a relevant company.
2. Reorganisation takes place on or after 30 October 2024 but before 6 April 2026 and the election to disapply the reorganisation provisions is made on or after 30 October 2024. Additionally, as at the date of the election, the company is the individual's personal company, is a trading company or holding company of a trading group and the individual is an officer or employee of a relevant company. The rules do not apply in this scenario if the reorganisation and the election occur in the same tax year. If, in this scenario and before the making of the election, the company ceases to qualify under the BADR rules (so is not the individual's personal company etc), then the disposal is treated as taking place at that point rather than at the time of the reorganisation.

These do not apply where the reorganisation falls within s135 or s136 TCGA 1992. However, there are specific provisions where a reorganisation falls within this legislation. Again, this is split into two parts.

Firstly, where the reorganisation takes place on or after 6 April 2023 but before 30 October 2024 and the election to disapply is made on or after 30 October 2024. If condition A or B is met, the disposal of the original shares takes place at the time of the election and not at the time of the original exchange.

Condition A is that the persons who hold shares (or securities) in company B immediately after the exchange are substantially the same as those who held shares (or securities) in company A before the exchange. For these purposes, connected persons are treated as the same person. Alternatively, this condition is met if the persons have control of company B after are substantially the same as those who have control of company A before. For the latter condition you do not treat connected persons as the same person.

Condition B is that for shareholders who hold shares in both company A and company B hold a greater percentage of ordinary share capital in B immediately after the exchange than they held in company A immediately before the exchange and as at 30 October 2024, B is the individual's personal company, is a trading company or holding company of a trading group and the individual is an officer or employee.

There are equivalent provisions for reorganisations which take place on or after 30 October 2024 but before 6 April 2026 where an election to disapply the exchange provisions is made on or after 30 October 2024. Again, this second restriction does not apply if both the exchange and the election occur in the same tax year.

The wording of the legislation is slightly different but the impact is the same. If either condition A or condition B is met, then the date of disposal is the date of the election. Again, there is a modification where the company ceases to qualify under the BADR rules before the election is made, where the disposal is treated as taking place at that point rather than at the time of the reorganisation.

Investors' relief

There are provisions relating to share reorganisations where investors relief is claimed in respect of the increases in tax rates from 6 April 2025 and 6 April 2026 (the provisions relating to the reduction in the lifetime allowance are discussed above).

This follows the general pattern so that where an election is made to disapply the share reorganisation provisions, the disposal of the original shares will be treated as taking place at the time of the election rather than at the time of the reorganisation.

The legislation considers two situations.

1. Reorganisation takes place on or after 6 April 2023 but before 30 October 2024 and the election to disapply the reorganisation provisions is made on or after 30 October 2024.
2. Reorganisation takes place on or after 30 October 2024 but before 6 April 2026 and the election to disapply the reorganisation provisions is made on or after 30 October 2024. If the company ceases to qualify for investors relief, the disposal is deemed to take place at the time they cease to qualify rather than at the time of the reorganisation. The rules do not apply in this scenario if the reorganisation and the election occur in the same tax year.

These do apply where the reorganisation falls within s135 or s136 TCGA 1992.

Clause 12 amends the rate of capital gains tax on carried interest for individuals and personal represents so that it increases to 32% with effect from 6 April 2025. This applies to all gains, even if they were to fall within unused basic rate band. S1I TCGA 1992 which applies the ordering of gains within the rate bands is amended as a result of this and the other changes.

Corporation tax

The main rate of corporation tax for the FY2025 will be 25% (clause 13) and the small profits rate will be 19% (clause 14). The marginal rate fraction is 3/200th (clause 14).

Energy profits levy (Lecture B1472 – 23.45 minutes)

The Energy Profits Levy (EPL) is a temporary levy on profits arising from production of oil and gas, payable in addition to the corporation tax due on those profits (which is 30% for Ring Fenced profits with a 10% supplementary charge). It was introduced in May 2022 as a response to the high price of oil and gas due to the Ukraine war and the extraordinary profits that oil and gas companies were making as a result.

Clause 15 of draft legislation increases the energy profits levy from 35% to 38%. This applies for accounting periods beginning on or after 1 November 2024 although accounting periods straddling that date will be split at that date for these purposes. Each accounting period will be treated as a separate period for the purposes of calculating any instalments due.

This will bring the overall headline tax rate for these profits to 78%.

There have been two investment allowances which have reduced the impact of the EPL: the 29% investment allowance and the 80% decarbonisation investment allowance. Clause 16 removes the investment allowance is removed and reduces the decarbonisation investment allowance to 66%. This applies from 1 November 2024. No changes are made to the types of expenses which will qualify for the decarbonisation investment allowance.

Clause 17 extends the date at which the EPL will expire to 31 March 2030. However, there is a mechanism for the EPL to end earlier if the oil and gas prices fall below a set threshold for a sustained period and this remains in place.

Clause 18 and Schedule 3 introduce a new provision for tax relief in relation to payments made into decommissioning funds. Companies which are established for carbon capture and storage (CCS) are involved in geological storage or transportation of carbon dioxide. Under previous legislation, oil and gas companies would not have been able to obtain relief for transferring assets to such companies as the legislation only allowed deductions for the actual costs of decommissioning, even though such companies would have to make contributions to cover future decommissioning.

The new legislation will enable payments made into a decommissioning fund to be treated as decommissioning expenditure so that tax relief is available.

The conditions are:

- The payment is made in accordance with relevant provisions within the Energy Act 2023;
- The transferred plant and machinery must be an eligible CCS installation or an eligible carbon storage network pipeline which qualifies for change of use relief under the Energy Act 2008; and
- the payment made represents the estimated cost of decommissioning the transferred plant and machinery.

The payment can be made directly into the decommissioning fund or into the CCS company for onward payment. Various definitions are outlined in the draft legislation to underpin the new rules but these are beyond the scope of this note.

This measure will apply from Royal Assent.

International matters

Pillar two (Lecture B1472 – 23.45 minutes)

Clause 19 introduced Schedule 4 which contains provisions for the introduction of the Undertaxed Profits Regime.

These provisions apply alongside the Income Inclusion Rule (IIR – sometimes referred to as the Multinational Top-Up Tax) and the Qualifying Domestic Minimum Top-Up Tax (QDMTT). The aim is to achieve a minimum level of tax in each territory in which multinational enterprises operate. The current effective rate is 15%. It applies to groups which have annual revenues of €750m in at least two of the four fiscal years immediately preceding the current year.

The IIR is levied on the 'responsible member' which is the group holding company unless that company is in a jurisdiction which has not adopted these rules. An intermediate holding company could then be caught but only in relation to companies with which it has a direct relationship. The QDMTT applies to any UK company which has an effective rate of less than 15%.

The new Undertaxed Profits Regime will be charged where the IIR or the QDMTT does not apply. This is likely to be where there is no intermediary parent in a jurisdiction which has implemented IIR. It will apply for accounting periods beginning on or after 31 December 2024.

The details of these provisions (which are very complex) are beyond the scope of these notes.

Offshore Receipts in respect of Intangible Assets

This legislation is repealed by Clause 20 in relation to income arising on or after 31 December 2024.

This was introduced in 2019 to address situations where multinational enterprises held intellectual property in low tax jurisdictions. The charge was an income tax charge on receipts of non-UK resident persons who were not resident in a full treaty territory. The charge is calculated by reference to the extent to which their receipts are referrable to sale of goods or services in the UK.

This is being repealed as it is superseded by the Pillar 2 measures which are now in place in the UK.

PAYE in relation to internationally mobile employees

PAYE for employers with internationally mobile employees can be difficult due to the uncertainties around the amount of employment income which will be subject to UK tax.

It is acknowledged that where duties are performed both in the UK and overseas, some of the income may not be subject to tax and there has been a process whereby HMRC would provide a direction allowing an employer to operate PAYE on only part of the earnings. The employee would then submit a self-assessment return after the year end to determine the correct tax position. However, the employer had to wait until HMRC had issued the direction before operating PAYE on the relevant proportion of income and there were often delays.

Clause 21 amends s690 ITEPA 2003 so that, from 6 April 2025, employers will be able to apply PAYE on the proportion of earnings which they think relates to UK duties without getting prior HMRC approval, although there is still a notification process (explained below). The position will continue to be finalised after the year end by submission of the employee's self-assessment return.

It will apply where an employee is internationally mobile meaning:

- they will work, or are likely to work, both inside and outside the UK during the tax year (called 'the mobile tax year');
- they are likely to be non-UK resident for the mobile tax year or that will be a split year.

If the employer makes 'uncertain payments' which are payments where the employer is unable to ascertain the extent to which this will be subject to PAYE, then the whole amount must be subject to PAYE. It also covers payments made by persons acting on behalf of the employer or persons acting as a host employer.

Nothing within these provisions prejudices HMRC's right to make assessments or collect debts.

Notification process

The employer will still have to give notice to HMRC that they are proposing to treat a proportion of the uncertain income as not being liable to PAYE and specifying the proportion.

Where the individual is a newly resident individual and is claiming relief for income under the new foreign employment income exemption, the employer will have to notify HMRC of the income which falls outside of UK PAYE (new s690D ITEPA 2003). This takes priority so that the provisions of this section will not apply to any payment being made under s690D.

The notice will not have effect if HMRC have given notice under new s690B (see below) but will otherwise have effect when acknowledged by HMRC. It will also cease to have effect if:

- HMRC issue a direction under s690B;
- A subsequent notice is given under this legislation;
- Where a notice is given on the basis that the employee would be non-resident but a notice is then given under s690D that the individual is, in fact, a newly resident individual.

New s690B applies where a notice has been given under s690A relating to the split of income but it appears to HMRC that the proportion is incorrect. An HMRC officer can then give a direction determining the proportion that they believe is correct (or specifying that all income should be subject to PAYE). A direction under these provisions would cease to have effect if it transpires that the individual is, in fact, a newly resident individual for the tax year and a notice is given under s690D.

Where payments are made which relate to years before 2025/26 where the employee meets the requirements of s26A (overseas workday relief) and are claiming remittance basis, the employer can also estimate the amount on which PAYE should be operated.

Advance pricing agreements **(Lecture B1472 – 23.45 minutes)**

Businesses can apply for an advance pricing agreement where they wish to have certainty about the transfer pricing impact of their transactions.

HMRC have recently identified that there is an inability to ask for such an agreement where person fulfilled the participation condition through acting together in relation to financing agreements.

Clause 22 amends the legislation to remove this anomaly, which was never intended when the legislation was introduced. This is treated as always having effect.

Business reliefs (Lecture B1472 – 23.45 minutes)

Capital allowances

Clause 23 extends the period for which 100% first year allowances are available on the purchase of zero emission (electric) cars which are new and unused, to 31 March 2026 (for corporation tax purposes) and 5 April 2026 (for income tax purposes).

Clause 24 also extends the date for 100% first year allowances on electric vehicle charging points to the same date.

These allowances have been in place since 2009.

Furnished holiday lettings

Clause 25 introduces Schedule 5 which contains the provisions relating to the abolition of the furnished holiday letting regime.

These changes will have effect from 6 April 2025 for income tax and capital gains tax purposes and from 1 April 2025 for corporation tax and corporation tax on chargeable gains.

The basic change is that there will no longer be a separate category of properties with special treatment and those furnished holiday lets will be absorbed into (or become if no other property is rented out) the ‘ordinary’ property business.

Since property within the EEA can qualify as furnished holiday lets, the property could become part of an overseas property business if they are not situated within the UK.

UK and overseas property businesses are treated separately.

Going forward, this means that these properties will be subject to the same rules as apply for ordinary property businesses.

The legislation is largely concerned with repealing existing legislation to remove the provisions which gave the beneficial tax treatment for FHL property plus inclusion of various transitional provisions.

The amendments can be summarised as below:

- The finance cost restriction rules will apply so that relief for interest to acquire properties will be restricted as a tax reducer to the basic rate of income tax. This is going to have the same impact as when this measure was introduced for long-term residential letting. It may increase the rate of tax paid unless all income falls within, and remains within, the basic rate band.

- Capital allowances will not be available for qualifying plant and machinery and instead, relief will be available only under the replacement of domestic items relief rules. Those latter rules are less generous as they only allow a replaced item to be claimed and only to the extent that there is no improvement element. There are also restrictions on assets which can be covered by the replacement allowance.

- The income will no longer be treated as relevant UK earnings for the purposes of making pension contributions. This is likely to have less impact than the other changes as it is not something that is commonly seen.

- There may be a change in treatment for husband and wife property owners. Previously, furnished holiday letting businesses did not fall within the normal provisions which allow the 50:50 split of income to be avoided – so profits could be split as appropriate. From next April, jointly owned property profits will be split 50:50 unless the beneficial ownership is different and the Form 17 is submitted to HMRC. Action may need to be taken in cases where income is split other than 50:50 due to the fact that a Form 17 cannot be backdated.

- The definition of a trade for capital gains purposes is amended to remove furnished holiday lettings or EEA furnished holiday letting activities such that business asset disposal relief, substantial shareholdings exemption, relief for loans to traders, rollover relief and holdover relief will no longer be available.

There are some transitional rules which need to be considered.

There is an anti-forestalling rule for all CGT purposes meaning that you cannot use an unconditional contract to obtain any of the CGT reliefs available under current furnished holiday letting rules – this has applied since 6 March 2024. This legislation is very straightforward in that it applies where:

- an asset is disposed of under an unconditional contract during the pre-commencement period (the period beginning with 6 March 2024 and ending with commencement)

- but not conveyed until on or after the commencement date and

- subject to a relevant claim (being rollover relief, gift relief or business asset disposal relief).

However, this will not apply if:

- no purpose of entering into the contract was to avoid the impact of the abolition of the furnished holiday letting rules and

- either the contract was entered into wholly for commercial reasons or the parties to the contract are not connected persons and

- the claim includes a statement that the conditions are met.

This means that sales of property which are undertaken before the date of the change but genuinely do not complete in time will be able to benefit from the relevant reliefs but it will be up to the taxpayer to be happy that there is no argument that could be made by HMRC that the transaction is tax motivated. Someone selling because they want to get business asset disposal relief before the change but simply doesn't get the transaction through in time might be in a difficult position. These measures are designed to attack transactions with connected parties where they are no third-party seller identified at the time of the sale but it is a grey area.

Where, for corporation tax purposes, a company has an accounting period commencing before, and ending on or after 1 April 2025, the period before and after that date will be treated as separate accounting period. Where it is necessary to apportion between those two periods, it will be done on a just and reasonable basis.

Once the furnished holiday letting property has been merged into the ordinary property business, then the profits and losses from all profits will be reported as a single figure. UK and overseas property business will still be treated as separate businesses.

Any losses which have arisen in the furnished holiday letting business before the repeal, those losses will be carried forward and be available to offset against total profits arising after the change. There is no ring-fencing of losses against the furnished holiday letting property income.

There will be no claw-back of capital allowances which have been claimed previously and if there is a pool of unrelieved expenditure at the implementation date, the business will be able to continue claiming writing down allowance until the expenditure has all been relieved, against the wider property business. Given that annual investment allowance is typically available, there may not be many businesses to which this applies.

Specifically in relation to business asset disposal relief, there is a general ability to claim the relief up to 3 years after cessation of the business. Where the furnished holiday letting conditions are satisfied for the qualifying period in relation to a furnished holiday letting business which ceased before commencement of the new rules, the relief will be available for a disposal within the normal 3-year post-cessation period. This will also apply for disposals of shares following cessation of a trading activity where the cessation was before commencement of these new rules and associated disposals where the date of the material disposal with which the disposal is associated is before 6 April 2025. The lapsing of the furnished holiday letting special rules will not be a cessation for these purposes.

For substantial shareholdings exemption, there is a provision which allows the relief to be claimed if the conditions were met in the previous two years (even if it is not met at the time of the disposal) and this will continue to apply for disposals made on or after 1 April 2025. However, in determining whether the conditions were met at that earlier date, the furnished holiday letting business is disregarded.

Audio Visual Expenditure Credit and Video Games Expenditure Credit

Audio Visual Expenditure Credit (AVEC) and Video Games Expenditure Credit (VGEC) give additional relief for the qualifying costs of production for film, high-end TV and video games. The regime which gives enhanced deductions for qualifying costs will end as at 31 March 2027 when the new regime will be the only option to gain any additional tax benefits on qualifying costs.

Clause 26 extends the relief available for visual effects expenditure by increasing the tax credit from the standard rate of 34% to the higher rate of 39% and removing the 80% cap on relevant expenditure so that the credit can apply to the full amount of expenditure.

It cannot be claimed where the production is claiming the higher credit rate of 39% already (being films that are animations or low-budget films or television programmes that are animations or children’s programmes). It may be that some productions will be better to claim the lower rate for mainstream costs and then the higher rate for visual effects rate due to the fact that the higher rate is not subject to 80% capping (which would apply if the 39% rate is claimed on all expenditure). But each will have to consider the figures on a case-by-case basis.

The expenditure must be incurred on relevant visual effects work carried out in the UK which counts as relevant production expenditure within the general provisions. Relevant visual effects work means ‘work consisting of the use of computer technology to create or alter images for inclusion in the film or programme’.

This has effect for expenditure incurred on or after 1 January 2025 for claims made on or after 1 April 2025.

Clause 27 relates to the certification of films, television programmes or video games by the BFI. They are responsible for determining if productions can be certified as British. The clause outlines revised administrative procedures for obtaining of such certificates.

Clause 28 makes amendments to legislation so that expenditure on film and TV programmes will not be eligible for the relevant credit if it is not paid within four months of the end of the accounting period to which is relates. Relief is available when subsequently paid. This applies from Royal Assent.

Research and Development tax reliefs

Clause 29 changes the legislation relating to research and development tax reliefs for companies in Northern Ireland.

R&D intensive companies can claim enhanced relief but companies in Northern Ireland are covered by the Windsor Framework and so are subject to different rules. This means that a Northern Irish company is only entitled to the enhanced relief if the excess amount (i.e. the amount over the equivalent RDEC relief available) does not have to be notified as it falls to be classified as de minimis state aid (taking account of other support received in a rolling three-year period).

It would not apply where the company has no trade in goods or electricity.

The changes also exempt companies within Northern Ireland from the restrictions on overseas expenditure on contractor payments and payments for externally provided workers which apply to companies within the rest of the UK.

This applies for claims made on or after 30 October 2024.

Clause 30 amends an error in the legislation relating to the definition of an 'R&D intensive company'. This is one whose relevant R&D expenditure is at least 40% of their total relevant expenditure. In defining 'relevant R&D expenditure', the legislation did not include expenditure qualifying for RDEC as well as expenditure qualifying under the SME scheme. This is now amended and is treated as having retrospective effect.

Employee ownership trusts (Lecture B1472 – 23.45 minutes)

Clause 31 introduces Schedule 6 which makes changes to the provisions relating to Employee-ownership Trusts (EOTs).

EOTs are a specific kind of Employee Benefit Trust where a controlling interest in a trading company or the holding company of a trading group is owned by the trustees of an EOT on behalf of the employees. Where the conditions for relief are met, the EOTs regime provides valuable tax reliefs, notably no CGT on the disposal for the vendor and a provision which states that the transfer is IHT-exempt. Companies which are controlled by an EOT may pay bonuses of up to £3,600 pa free of income tax (although NIC applies as normal).

Various conditions have to be met in order for the reliefs to be available and the Finance Bill makes amendments to some of those conditions. These have effect for disposals on or after 30 October 2024 (other than the additional information requirement).

Residency of trustees

S236H TCGA 1992 is amended to introduce a requirement that the trustees of an EOT must be resident in the UK at the time the shares are sold to the trust and for the remainder of the tax year to enable the initial claim to be valid.

If the trustees cease to be resident in any of the first four years following the tax year of disposal, the claim for relief from CGT on the disposal will fail and the tax will be due on the disposal. The only exception to this is where the failure occurs as a result of a death in any of the first four years following the year of disposal provided the requirements are met again within six months of death.

Trust issues

A new trustee independence requirement is introduced at the time of the disposal and for the remainder of the tax year. Half of the trusts of the EOT must be persons who are not excluded participators and that excluded participators must not control the trust.

An excluded participator (as defined by s236J TCGA 1992) includes any person who is a participator in the target company (or any group company) as week as persons connected with those participators. It also includes any company where 50% or more of the directors are themselves excluded participators.

If the trustee independence requirement is failed in any of the first four years following the tax year of disposal, the claim for relief from CGT on the disposal will fail and the tax will be due on the disposal. The only exception to this is where the failure occurs as a result of a death in any of the first four years following the year of disposal provided the requirements are met again within six months of death.

If the trustee independence requirement ceases to be met subsequently, the trustees are treated as having immediately disposed of and reacquired the shares at market value. Again, the only exception to this is where the failure occurs as a result of a death provided the requirements are met again within six months of death.

Consideration paid

A new 'consideration requirement' must be met at the time of the disposal which requires the trustees to take all reasonable steps to ensure that the consideration for the acquisition of the shares from the vendor does not exceed market value at the time of the disposal and that if any consideration is deferred, any interest paid on the deferred sums is no more than a reasonable commercial rate.

Run-off period

Amendments are made to existing conditions so that they need to be met up to the end of the fourth tax year following the year of disposal rather than just the end of the tax year following the year of disposal. These conditions are:

- the trading requirement;
- the all-employee benefit requirement;
- the controlling interest requirement;
- the participator fraction not exceeding 2/5; or
- trustees acting outside permitted purposes.

Additional information

A new information requirement is included which means that any claim for relief must be accompanied by the following details:

- the number of employees of the company at the date of disposal (unless this cannot be ascertained despite taking reasonable steps to do so); and
- the consideration for the disposal.

This has to be met for claims made on or after 6 April 2025.

Qualifying bonus payments

S312C ITEPA 2003 determines that bonus payments will only be exempt from tax as employment income if the participation requirement is met, which is that all persons in relevant employment must be eligible to participate and do so on the same terms.

New legislation is inserted so that this is not breached by excluding the directors from participating.

Company contributions

New legislation at s401ZA ITTOIA2005 allows a company to make contributions to the trustees relating to their costs of acquisition of the shares (including disposal proceeds, interest and stamp duty or SDRT liabilities) without this being chargeable to income tax as a distribution. The costs are deducted from the relevant distribution, although cannot reduce the amount below nil. This has to be claimed.

Miscellaneous

Overseas pension transfers

An income tax charge arises where there is a transfer from a UK pension scheme to a Qualifying Recognised Overseas Pension Scheme (QROPS) unless it is within one of the exclusions. One such exclusion was where the QROPS was in an EEA state or Gibraltar and the member was resident in the UK or EEA. That legislation is repealed so that transfer will now be subject to income tax.

This applies for transfer on or after 30 October 2024 unless the transfer was requested before 30 October 2024 and is completed before 30 April 2025.

Overseas pension schemes

Regulations exist (SI 2006/206) which include a definition of 'overseas pension schemes' and 'recognised overseas pension schemes'. The first requires regulation of the scheme (unless no regulator exists in the country) and the second requires the scheme to be established in a country with which the UK has a Double Tax Treaty which allows for exchange of information (or a separate Tax Information Exchange Agreement).

With effect from 6 April 2025, Clause 33 amends these conditions such that they will apply to schemes established in the EEA as they have previously for the rest of the world.

Pension scheme administrators

Clause 34 introduces a new requirement into s270 FA2004 that means that pension scheme administrators for registered pension schemes must be UK resident. This replaces a provision which stated that they had to be resident in an EU member state or non-member EEA state. This will apply with effect from 6 April 2026.

Alternative financing

Alternative financing is a generic term used to describe transactions which are compliant with Sharia law which does not allow lending of money at interest. The tax legislation is written to give equivalent tax treatment for conventional and alternative financing.

One such alternative financing arrangement is 'diminished shared ownership where a purchaser and a financial institution buying an asset jointly. The purchaser has use of the whole property and pays rent to the financier on their share of the property. Over time, the purchaser gradually buys out the financier's share of the property.

Clause 35 introduces Schedule 7 which tweaks the rules in situations where this type of arrangement is used to refinance a property. HMRC had identified that this could cause a CGT charge to arise as there might be a disposal if there is a change in ownership shares as part of the refinancing process. The legislative changes remove the possibility that a tax charge can arise, as would be the case with conventional refinancing. This applies from 30 October 2024.

Statutory neonatal care pay

Clause 36 adds Statutory Neonatal Care Pay to the list of social security benefits which are taxable. This will take effect from 6 April 2025. This is an additional benefit (with associated time off from work for up to 12 weeks) for parents whose babies require neonatal care following birth, often due to premature labour but not exclusively for this reason.

Changes in taxation for non-domiciled individuals

The proposed changes to the taxation of currently non-domiciled individuals are brought into the Finance Bill as Clauses 37 – 46 and Schedules 8 – 13. A substantial proportion of this legislation is repealing (or limiting) the previous rules.

The main current advantage of having non-domiciled status is the ability to claim remittance basis on foreign income and gains and the exclusion from UK inheritance tax of non-UK situs assets.

The first part of the legislation relates to the changes for income tax and capital gains tax purposes. As an introduction, the main purpose of this legislation is to remove remittance basis for non-domiciled individuals so that all individuals are taxed on their income and gains on an arising basis. This will apply from 6 April 2025.

However, a relief is being introduced, generically referred to as the 'Foreign Income and Gains' regime or 'FIG' which allows a newly resident individual to claim relief from taxation in the UK on their foreign income and gain for a period of four years. It is the detail of this new regime which is outlined in the Finance Bill.

Foreign income **(Lecture P1473 – 18.06 minutes)**

Clause 37 inserts various new sections into ITTOIA 2005.

S845A ITTOIA 2005 states that an individual may make a 'foreign income claim' if they are a 'qualifying new resident'. If such a claim is made, the individual gets relief equal to the 'qualifying foreign income' which is identified in the claim. Effectively, they are not taxed on the income included in the claim. There is no obligation to keep that income outside the UK so this can still be claimed even if the money is remitted to the UK, either in the tax year or subsequently.

This claim can be made for the first four years of residence and once this period has elapsed all income will be taxed on an arising basis.

It is an important point to note that the legislation necessitates the foreign income being identified in the claim to be eligible for relief. This is a significant deviation from the remittance basis regime which might have been applicable before, beyond having to identify income or gains where the remittance basis charge was being paid. The guidance notes make it clear that failure to quantify the income on which the relief is claimed will invalidate the claim such that the income will be subject to tax on those amounts.

This does, however, create the opportunity to make the claim on a source-by-source basis so you could claim in relation to some overseas income but not all. It is unclear whether there are any circumstances where this might be advantageous since the impacts outlined below (such as loss of personal allowances etc) will apply if any claim is made.

The relief is given by deducting the qualifying foreign income from calculation of net income in Step 2 of s23 ITA 2007.

The claim must be made in a return or an amendment to a return and must be made before the end of the 12 months beginning with the filing date for the tax return i.e. the 31 January following the end of the tax year.

There are various legislative provisions which allow claims (referred to as a 'consequential claim') to be made outside of the normal time limit, for example where a discovery assessment is raised for a tax year. However, it is made clear that a consequential claim under these provisions cannot be made if the action which theoretically allows such a claim to be made results from a loss of tax brought about carelessly or deliberately by the individual or any person acting on the individual's behalf.

It is clear from the legislation that the claim relates to the tax year so it will be possible to make claims on a year-by-year basis.

The guidance notes on these measures confirm the obvious point that the residency status will be determined according to the statutory residency test. A split year under these provisions will still count as a full year for these purposes. It also confirms that treaty non-residence under a Double Tax Treaty tiebreaker will not be relevant and would not mean that an individual is treated as non-resident under these provisions.

S845B ITTOIA 2005 defines a qualifying resident, being an individual who is resident for a tax year, is not disqualified for that tax year and who was not resident for each of the ten years before that tax year. This is then extended for the three years after that initial tax year. Although this legislation was not in effect during 2022/23, 2023/24 and 2024/25, those years can be considered for the purposes of establishing whether a claim can be made in 2025/26 or later years.

An individual is disqualified for a tax year if they are a member of the House of Commons or House of Lords for any part of the tax year.

The guidance notes make it clear that if an individual leaves the UK temporarily during the four-year period, they can claim any remaining years out of the four once they return.

S845C ITTOIA 2005 specifies that anyone who makes a claim under s845A (or a foreign employment election or foreign gain claim which are covered later on in the notes) and has losses from a business carried on wholly outside the UK will not be able to claim relief for that loss in the year of the claim or any other tax year. Businesses affected by this include trade, professions or vocation as well as property businesses.

S845D ITTOIA 2005 outlines that anyone making a foreign income claim, a foreign employment election or foreign gain claim will not be entitled to claim the personal allowance, blind person's allowance, married couple's allowance, transferrable personal allowances or certain reliefs under s457 or 458 ITA2007.

S845E ITTOIA 2005 states that when calculating the adjusted net income under s58 ITA 2007, the foreign income claim will be ignored. This is relevant in various areas including abatement of the personal allowance where income exceeds £100,000 and the high income child benefit charge.

S845F ITTOIA 2005 states the income which can be treated as qualifying foreign income:

- Profits from a trade carried on wholly outside the UK;
- The share of profits for a UK partner of a partnership whose trade is carried on wholly outside the UK;
- Profits of an overseas property business;
- Adjustment income within Chapter 17 Part 2 ITTOIA 2005;
- Interest arising from a source outside the UK;
- Dividends from non-UK companies;
- Purchased life annuity payments which arise from a source outside the UK;
- Profits from deeply discounted securities arising from a source outside the UK;
- Royalties and other income from intellectual property arising from a source outside the UK;
- Non-trading income from films and sound recordings arising outside the UK;

- Non-trading income from telecommunications rights arising from a source outside the UK;
- Income arising under a settlement which is treated as the income of the settlor under s624 or 629 ITTOIA 2005 which arising from a source outside the UK;
- Income arising to an individual under s643A ITTOIA 2005 (being benefits paid out of protected income);
- Estate income arising from a source outside the UK;
- Annual payments not otherwise chargeable which arise from a source outside the UK;
- Income not other charged (so treated as miscellaneous income) arising from a source outside the UK;
- Profits under the accrued income scheme arising from a transfer of securities where the income from the securities themselves would be qualifying foreign income;
- Offshore income gains;
- Income arising under the transfer of assets abroad regime;
- Pension income arising from a source outside the UK;
- Foreign social security benefits;
- The foreign proportion of income arising as a distribution by a Qualifying Asset Holding Company.

This would also cover any income received under a life interest trust which is treated as the income of the beneficiary.

S845G ITTOIA 2005 disqualifies the following income:

- Income of a settlement arising in 2024/25 or earlier which is treated as arising in 2025/26 due to remittance to the UK by a remittance basis user;
- Income arising from shares treated as situated in the UK because of the anti-avoidance provision relating to share-for-share exchanges (s138ZB TCGA 1992) which deems a foreign company to be treated as situated in the UK;
- Income chargeable to income tax under the transferred income streams provisions (s809AZB ITA 2007);
- ‘Performance income’ (see below);
- Income from a pre-1973 pension paid under the Overseas Pensions Act 1973;

- Payment being treated as a member payment under Schedule 34 FA2004 in relation to a non-UK pension scheme.

S845G ITTOIA 2005 defines performance income as the income chargeable to UK income tax by an entertainer or sportsman which relates to the relevant activity by that individual (whether performed in the UK or not).

There are then various amendments to the legislation to give effect to the above provisions including:

- Amendment to s24 ITA2007 (which specifies reliefs available in calculating net income) to include the relief for qualifying new residents;
- Amendment to s38 ITA 2007 (which gives entitlement to personal allowance and blind person's allowance) to show that there is no entitlement where there is a foreign income claim, a foreign employment election or a foreign gain claim made;
- Amendment to s55A ITA 2007 (which gives entitlement to transfer the tax allowance between married couples and civil partners) to show that no entitlement exists where there is a foreign income claim, a foreign employment election or a foreign gain claim made;
- Amendment to s460 ITA 2007 which gives relief under s457 or 458 to show that no entitlement exists where there is a foreign income claim, a foreign employment election or a foreign gain claim made;
- Amendment to s809EZA ITTOIA 2005 (which charges disguised investment management fees to income tax) is amended to reflect the mechanism for calculating the tax charge where a foreign income claim has been made;
- Amendment to s989 ITTOIA 2005 which contains various definitions to include a definition of 'foreign income claim' and 'qualifying new resident';
- Amendment to Para.46 Sch.2 FA022 (relating to qualifying asset holding companies) to enact these provisions.

Example

Fleur comes to the UK to work for a UK company, having never previously visited the country.

She will earn £51,200 per annum including benefits.

She is renting out her previous main residence in her home country as she is intending to return after a period of working in the UK. The net rent is likely to be around £10,000 per annum.

She also has some interest on a saving account held in the same country of around £3,000 per annum.

No tax is paid on this in her home country.

Without making a foreign income claim, the tax payable in the UK is as follows:

	£
Employment	51,300
Property	10,000
Interest	3,000
Total	64,300
Less PA	(12,570)
	51,730
Tax to pay:	
37,700 @ 20%	7,540
14,030 @ 40%	5,612
Total	13,152

If a foreign income claim were made, the tax payable in the UK is as follows:

	£
Employment	51,300
Property	Exempt
Interest	Exempt
Total	51,300
Less PA	Nil
	51,300
Tax to pay:	
37,700 @ 20%	7,540
13,600 @ 40%	5,440
Total	12,980

There is a small tax saving as the foreign income is around the level of the personal allowance.

Example (cont.)

The situation is the same as in the previous example except that tax is paid in the home country. The rate of tax is 20% on rental income and 10% on interest so that her total tax liability is £2,300.

Without making a foreign income claim, the tax payable in the UK is as follows:

	£
Employment	51,300
Property	10,000
Interest	3,000
Total	64,300
Less PA	(12,570)
	51,730
Tax to pay:	
37,700 @ 20%	7,540
14,030 @ 40%	5,612
Total	13,152
Less DTR	(2,300)
Net UK liability	10,852
Total tax paid	13,152

If a foreign income claim were made, the tax payable in the UK is as follows:

	£
Employment	51,300
Property	Exempt
Interest	Exempt
Total	51,300
Less PA	Nil
	51,300
Tax to pay:	
37,700 @ 20%	7,540
13,600 @ 40%	5,440
Total	12,980

No DTR can be claimed as none of the overseas income is subject to UK tax, but this still remains payable in her home country so her total tax liability is £12,980 + £2,300 = £15,280.

Foreign employment (Lecture B1474 – 12.24 minutes)

These provisions replace the overseas workday relief provisions. The legislation is introduced by Clause 38 of the Finance Bill.

An election can be made, called a foreign employment election, where an individual is a qualifying new resident for the tax year as defined by legislation described above (and has made a foreign income claim). The claim must be made in the return with the time limit being 12 months from the 31 January following the tax year. A consequential claim cannot be made under s43C(5) TMA 1970 if the circumstances giving rise to the ability to make the consequential claim result from a loss of tax brought about carelessly or deliberately by the individual or someone acting on their behalf.

New s41N ITEPA 2003 includes a number of key definitions:

- Qualifying employment income includes:
    - Qualifying general earnings;
    - Qualifying third party income; and
    - Qualifying securities income.
- Qualifying foreign employment income means:
    - Qualifying foreign general earnings;
    - Qualifying foreign third-party income; and
    - qualifying foreign securities income.

These terms are then subsequently defined.

An individual who has made a foreign income election can then make a claim ('the foreign employment relief claim') for relevant years. This gives entitlement to relief for the net taxable employment income that reflects qualifying foreign employment income, to the extent it does not exceed the limit on the relief. As with the other provisions, such income has to be identified in the return for the claim to be valid.

The use of the terminology about the extent to which employment income reflects foreign employment income allows for the calculation to reflect qualifying deductions, which are those which would be deducted from employment income under s327 ITEPA 2003.

New s41R ITEPA 2003 outlines the limit on relief which will be available. The limit is the lesser of 30% of the relevant qualifying employment income (and this is worldwide earnings) and £300,000. This relief is due for each year, although care needs to be taken over the timing of income and which year it relates to.

As with the foreign income election, any amounts which are excluded from UK taxation under these provisions do not reduce adjusted net income.

New s41T specifies that qualifying general earnings that are:

- ‘for’ the qualifying year within the provisions of s16 and s17 ITEPA 2003;
- If it is a split year, relate to the UK part of the year; and
- For an employment the duties of which are performed wholly or partly outside the UK during the qualifying year.

The proportion of those qualifying general earnings which are qualifying foreign earnings are amounts which are neither:

- In respect of duties performed within the UK; nor
- From overseas Crown employment subject to UK tax (as defined in new s41W ITEPA 2003).

Any necessary apportionment is done on a just and reasonable basis.

Equivalent provisions are included for defining qualifying foreign third-party income (new s41U ITEPA 2003) and qualifying foreign securities income (new s41V ITEPA 2003).

New s41X ITEPA 2003 provides guidance on the location of employment duties but there is no change in the general rules which have applied historically.

New s41Y ITEPA 2003 disregards arrangements where the main purpose or one of the main purposes of the arrangements is to enable relief is achieved, or enhanced, under these provisions.

New 41Z ITEPA 2003 limits the amount of relief which can apply where an individual has associated employments where the duties are not performed wholly outside the UK. An associated employment means an employment with the same employer or with associated employers (within the definitions at s24 ITEPA 2003 for the purposes of remittance basis).

If these provisions apply, you have to pro-rata the qualifying employment for all associated employments between duties performed within or outside the UK.

Example

Jacqueline becomes UK resident in 2025/26. She does not make a foreign employment income election for that year.

She is also resident in 2026/27 and makes the foreign income and foreign employment income elections as required. She spends 40% of her time working outside of the UK. Her earnings are £500,000 per annum but she also receives a bonus of £150,000 relating to 2025/26 tax year.

Her taxable earnings for 2026/27 are £650,000.

The maximum relief which can be claimed is the lower of £300,000 and 30% of the qualifying employment income. £150,000 of the income relates to the previous year when no foreign employment income election was in place.

The limit is therefore £500,000 x 30% = £150,000.

The income which relates to the overseas duties is £500,000 x 40% = £200,000.

This means that only £150,000 of relief can be claimed and so the taxable earnings for 2026/27 are £500,000.

Schedule 8 of the Finance Bill brings in the consequential amendments and transitional provisions relating to the introduction of foreign employment income elections. Most of the consequential amendments relate to the replacement of the word 'non-domiciled' with 'qualifying new resident' in various pieces of legislation including:

- S290E ITEPA 2003 (calculation of earnings rate for a tax year);
- S333 ITEPA 2003 (expenses paid by the employee);
- S341 ITEPA 2003 (travel at the start or finish of overseas employment);
- S342 ITEPA 2003 (travel between employment where duties performed abroad);
- S355 ITEPA 2003 (deductions for corresponding payments by non-domiciled individuals);
- S360 ITEPA 2003 (disallowance of certain accommodation expenses of MPs).

More substantial amendments are made to s373 ITEPA 2003 (employee's travel costs and expenses where duties performed in UK), s374 ITEPA 2003 (spouse's, civil partner's or child's travel costs and expenses where duties performed in the UK), s376 ITEPA 2003 (foreign accommodation and subsistence costs and expenses (overseas employments)), and s395C ITEPA 2003 (meaning of foreign service). S375 ITEPA 2003 is omitted and s413 ITEPA 2003 is substituted.

There are consequential amendments relating to PAYE.

New s690D ITEPA 2003 is inserted into the legislation which will apply where an employee is likely to be a qualifying new resident who will work outside the UK during the tax year. A notice may be given to HMRC that the employer is proposing to treat the foreign proportion of the income as being outside the scope of PAYE and indicating what that proportion is going to be. This cannot have effect if HMRC have already given a notice (see below) but will otherwise take effect when it is acknowledged by HMRC.

This ceases to have effect if HMRC make a counter-notice (see below), a further notice is given by the employer to vary the proportion or a notice is given by the employer that the employee will be non-resident (and this is acknowledged by HMRC).

HMRC will specify the format of this notice using secondary legislation. These provisions do not prejudice HMRC's ability to issue determinations or collect tax.

New s690E ITEPA 2003 allows HMRC to amend a notice given under s690D where it appears that the proportion offered is insufficient.

As noted above, the provisions replace overseas workday relief which was available for three years, rather than the four years available to a qualifying new resident. OWR applied if the conditions in s26A applied which was that the employee was:

- Non-resident for the previous 3 tax years; or
- UK resident in the previous tax year but non-UK resident for the 3 tax years before that; or
- UK resident for the previous two tax years but non-UK resident for the 3 tax years before that; or
- Non-UK resident for the previous tax year, UK resident for the tax year before that and non-UK resident for the 3 years before that.

There are two amendments to the general provisions for making a foreign employment income claim:

(1) If an individual met the conditions for overseas workday relief to apply for 2022/23 and remittance basis applied for that year or for 2023/24 or 2024/25, they cannot be treated a qualifying new residents for 2025/26.

(2) Conversely if they would have met the conditions to qualify for overseas workday relief in 2025/26 or 2026/27 but are not a qualifying new resident for a year under the general provisions then they will be treated as a qualifying new resident. This would only apply if the fell within the overseas

workday relief provisions for 2023/24 or 2024/25 and remittance basis applied to them in the relevant year.

The limit on relief will not apply in certain cases linked to the provisions outlined in (2) above:

- if the year is 2025/26 or 2026/27 and the employee falls within (2) above on the basis they would have qualified for overseas workday relief in one or both of those years but is not a newly resident individual; or
- if the year is 2025/26, 2026/27 or 2027/28 and (2) does not apply generally (presumably because the individual is a newly resident individual) but the individual meets the second set of conditions (i.e. they fell within the OWR provisions for 2023/24 or 2024/25 and remittance basis applied), as long as the OWR condition would have been met in 2025/26.

Foreign gains **(Lecture P1473 – 18.06 minutes)**

New Sch.D1 is inserted into TCGA 1992 by Clause 39 of the Finance Bill.

This largely mirrors the provisions outlined above for foreign income. As such:

- An individual may make a foreign gain claim for a tax year if they are a qualifying new resident for that year;
- The claim must be included within the return and the time limit is the same as for a foreign income claim;
- A consequential claim under s43C(5) TMA 1970 cannot be made if there is a loss of tax brought about carelessly or deliberately by the individual or someone acting on their behalf;
- Where the claim is made, relief is given by deducting the relevant gains from the total chargeable gains accruing to the individual;
- Relevant gains are qualifying foreign gains;
- The gain must be identified in the return, so again opening up the possibility of claiming for only some gains to fall within these provisions.

Gains which are attributable to a settlor of an offshore settlement under s86 TCGA 1992 can be identified by that individual in their return and be treated as a foreign gain. The gain would then be disregarded, as would any qualifying foreign loss that had accrued to the trustees in that tax year.

Gains which are attributable to a beneficiary of an offshore settlement under s87 TCGA 1992 or where there are transfers of value relating to a Sch.4C pool where the beneficiary receives a capital payment during a tax year, can also be included in a foreign gain claim if identified by the beneficiary in their return. However, the amount received will not be matched to any 'unmatched' gains within the settlement (whether accrued from UK or non-UK assets). If no trust gains have yet arisen, any benefits will not be taxed or matched to future trust gains.

For the purposes of these provisions, a qualifying foreign gain means:

- A chargeable gain accruing on the disposal of a qualifying foreign asset being an asset situated outside the UK which is does not derive at least 75% of its value from UK land;
- A chargeable gain attributed under s3 TCGA 1992 being a gain of a non-UK close company on the disposal of a qualifying foreign asset;
- A qualifying QAHC gain (being the foreign proportion of chargeable gain accruing on the disposal of shares in a QAHC).

This does not include pre-2025/26 gains which are subject to tax having been remitted to the UK.

Qualifying foreign loss is also defined as being a loss accruing on disposal of an asset that is a qualifying foreign asset. S16 TCGA 1992 is amended to show that a qualifying foreign loss is not an allowable loss if it accrues in a tax year where a foreign gain claim, a foreign income claim or a foreign employment election is in place.

An individual who has made a foreign gain claim, a foreign income claim or a foreign employment claim will not be entitled to the annual exemption for capital gains tax purposes.

Remittance basis **(Lecture P1473 – 18.06 minutes)**

Clause 40 confirms that remittance basis is no longer available for 2025/26 onwards. However, provisions relating to remittance of income and gains will continue to apply where remittance basis has applied in earlier years. Schedule 9 includes provisions relating to this transition.

Most of these amendments simply insert provisions to show that remittance basis is only relevant for 2024/25 or earlier or changing the tense of provisions to show that they no longer apply. This legislation will need to remain on the statute books for an uncertain period due to the fact that it is still going to be relevant for individuals remitting income arising in earlier years where remittance basis was claimed.

In the employment legislation, the use of the phrase 'internationally mobile employee' replaces 'remittance basis' in headings to legislation.

S16ZA TCGA 1992 (relating to losses for non-UK domiciled individuals) is repealed.

Some amendments are made to the remittance basis provisions themselves which are not necessarily consequential on the other changes.

S809L ITA2007 defines the meaning of remitted to the UK. S809L(2) defines condition A (which has to be met along with Condition B for a remittance to have occurred). It currently states that:

(a) Money or other property is brought to, or received or used in, the UK by or for the benefit of a relevant person or
(b) A service is provided in the UK to or for the benefit of a relevant person.

A third alternative is being introduced being:

(c) Money or other property is used outside the UK (directly or indirectly) for the benefit in the UK of a relevant person.

S809L(4) currently states that condition C (which if met would mean a remittance is treated as made) is that qualifying property of a gift recipient is:

(a) brought to, or received or used in, the UK, and is enjoyed by a relevant person;
(b) consideration for a service that is enjoyed in the UK by a relevant person; or
(c) used outside the UK (directly or indirectly) in respect of a relevant debt.

The first is amended so rather that 'is enjoyed by a relevant person' the legislation will say 'either (i) the property is enjoyed by a relevant person or (ii) as a result, a benefit is enjoyed by a relevant person'.

A further possibility is also introduced as (ba) being 'is used outside the UK (directly or indirectly) and as a result a benefit is enjoyed in the UK by a relevant person.

S809L(5) outlines condition D (which, again, if met would mean a remittance is treated as made). This uses the same conditions as in C above except the property is that of someone who is not the relevant person or a gift recipient where there are connected operations. The same amendments are made to the wording as outlined above.

S809L(9) states currently that reference to property being used in respect of a debt would include cases where property is used to pay interest on a debt. This is to be expanded to cover also cases where the property is used to secure the debt.

A new subsection (9A) is introduced which clarifies when property is treated as brought to the UK.

Amendments are made to s809N and s809O to facilitate the changes above. Both now excludes enjoyment by relevant persons which is no more than negligible.

The whole of Chapter 1A, Part 14 ITA 2007 which gave exemption for persons not domiciled in the UK is repealed.

S834 defines the residence of the personal representatives of a deceased person where there are one or more persons who are UK resident and one or more persons who are not. In this case, residence is currently determined by whether the deceased was UK resident or domiciled in the UK at the date of death. If they were not, then the personal representatives are treated as not resident. This will be replaced by 'UK resident or a long-term UK resident within the meaning of IHTA 1984'. For CGT purposes, s62 TCGA 1992 states that the personal representatives are treated as having the deceased's residence and domicile at the time of death. This is replaced with the personal representatives being UK resident if the deceased was UK resident or a long-term resident within the meaning of IHTA1984 at the date of death.

S475 ITA2007 defines the residency status of trustees. If there are trustees who are resident in the UK and trustees who are not resident in the UK, then the residency considers whether the settlor was UK resident or domiciled at the date the settlement arose. The reference to domicile is removed unless the settlement arose or was created before 6 April 2025 in which case domicile will continue to be relevant. Equivalent changes are made for the purposes of capital gains tax, by amendment to s69 TCGA 1992.

There are further amendments to primary legislation in relation to:

- Deemed employment income
- Pension schemes
- Domicile of overseas electors
- Situs of debt

- Trust reporting requirements
- Trusts with vulnerable beneficiaries
- Disposals of deeply discounted securities
- The accrued income scheme

There are also amendments to secondary legislation relating to MTD. MTD was not going to apply to a person's foreign business if they were not domiciled in the UK. This is repealed. This would seem to imply that a foreign business for someone who is not a newly resident individual will have to comply with MTD.

Temporary repatriation facility (Lecture P1473 – 18.06 minutes)

Clause 41 and Schedule 10 provide for a temporary repatriation facility for those who have previously claimed remittance basis.

This is designed to minimise the ongoing impact of the remittance basis by allowing a beneficial tax rate to apply to amounts which are, or can be treated as, qualifying overseas capital.

This will be known as the temporary repatriation facility (TRF) charge. The provisions are described in brief below, before the specific detail is considered.

An individual can designate income as qualifying overseas capital by making an election in their return for 2025/26, 2026/27 and 2027/28. This election can only be made if the individual is UK resident in the relevant tax year. These amounts do not have to be actually remitted to the UK. If income is designated under the TRF, no tax charge will arise when they are actually remitted.

An individual must have been subject to the remittance basis for at least one tax year before 2025/26 to be able to elect. This can be where remittance basis applied by making of a claim, or where unremitted income and gains were less than £2,000 or the other cases where remittance basis applied without a claim.

The rate of tax is 12% in 2025/26 and 2026/27 and 15% in 2027/28.

The TRF is available where an individual has 'qualifying overseas capital'.

Capital falls within this section if any of the following three situations apply:

1. The amount is income or capital which arose in 2024/25 or earlier, has not been remitted to the UK and would have been chargeable to income tax or capital gains tax if it had been remitted.

2. The amount is income or capital which arose in 2024/25 or earlier, is remitted to the UK in 2025/26, 2026/27 or 2027/28 and would be chargeable to income tax or capital gains tax when remitted. If this applies, the latest year in which the income can be designated is the year in which it is remitted. Provisions which would exempt an amount from being treated as a remittance are ignored.
3. The capital does not fall within either of the above provisions but is held by the individual immediately before 6 April 2025 and situated outside the UK immediately before it was acquired by the individual and throughout the period from acquisition to 6 April 2025.

An individual who is beneficiary of a settlement who receives a capital payment from the trustees in the tax year 2025/26, 2026/27 and 2027/28 where s87 TCGA 1992 would apply by matching previous gains arising for 2024/25 or earlier to those capital payments can treat those capital payments as qualifying overseas capital. This is also the case for chargeable gains treated as accruing by reference to capital payments as a result of the application of Sch.4C TCGA 1992 where gains arose in 2024/25 or earlier.

There are provisions relating to protected foreign source income. This was introduced to mitigate changes to the taxation of non-domiciled individuals with effect from 6 April 2017. Foreign source income arising from a non-resident settlement which was settlor-interested where the settlor was non-domiciled or not deemed domiciled in the tax year was not taxable where the money was not extracted from the settlement. This was extended so that the exemption was not available where benefits were provided to the settlor or close family members out of protected income and to prevent benefits being funnelled through persons who then made onward payment to the settlor or family member. Where charges would arise under these provisions and relate to income which arose in 2024/25 or earlier, these can be qualifying overseas capital. The income can only be designated in a return for the tax year in which the income is treated as arising to the individual.

The election must be made by 12 months from the filing date for the tax return (so 31 January following the end of the tax year). It must set out the total amount designated and identify the amounts which have been remitted in the tax year to which the return relates.

Where foreign tax has been paid (or is payable) in respect of any amounts, only the amount after deduction of the relevant foreign tax paid may be designated.

It is possible to designate an amount where it has not been determined if it is qualifying overseas capital or where it is not known what the relevant foreign tax is.

If the amount is determined to not be qualifying overseas capital or should not have been designated due to the amount of foreign tax paid will still be treated as designated qualifying overseas capital, other than for the purpose of exemptions.

Anyone who makes an election must keep a record of each amount designated.

The TRF charge is treated as if it is an amount of income tax for the relevant tax year. It is included as an amount of tax added at Step 7 of s23 ITA 2007. All enactments relating to the collection of income tax will apply to the TRF charge. However, payments on account will not have to be made by anything which arises under the TRF charge.

No tax charge arises (either as income tax or capital gains tax) on the subsequent remittance of anything designated under the TRF.

Where a beneficiary of an offshore trust receives a capital payment, this may be matched against gains of the trust and there is an additional tax charge where there is a delay in receiving that money (being a supplement of 10% of the CGT for each year there is a delay after the first, up to a maximum of 6 years). This supplement does not apply to amounts which are designated under the TRF.

There are complex rules to determine the income or gains which are treated as being remitted under the remittance basis provisions. This is particularly true of the mixed fund rules which determine the order of remittances from sources which contain income or gains from mixed sources or multiple years but also in relation to nominated income for the purposes of the remittance basis charge.

These are partially overridden by the TRF provisions, in that they do not apply for any year where a designation election applies. For mixed funds, the amount which has been designated under the TRF will be treated as remitted in priority to other amounts up to the total of the designated income.

Where there is an offshore transfer out of a mixed fund, there is deemed to be a transfer of an appropriate proportion of each kind of income or capital within that fund. This legislation is amended so that TRF capital is treated as its own kind of income or gains for these purposes and not included as any other kind of income or gains. It will also be possible to create a 'TRF capital account' by transfer from a mixed fund in a fund which is deemed to only contain TRF capital and which will effectively be treated as a UK bank account. This then overrides the pro-rating of amounts taken from the mixed fund. It will also be possible to nominate an existing account as a TRF capital account.

The rules relating to the TRF capital accounts are complex and the level of detail is beyond the scope of these notes. However, if prohibited sums are paid into his account the situation can be remedied if they are withdrawn within 30 days.

Finally, for the purposes of the TRF, the mixed fund rules will be done on an annualised basis, rather than having to look at each transaction individually. This will apply for 2025/26, 2026/27 and 2027/28.

Example

Clarence has been claiming remittance basis for many years and has significant amounts of unremitted income and gains.

He is thinking that he might like to bring some of these funds into the UK over the next few years and identifies the following amounts:

1. Gain of £200,000 on which no tax was paid in the source country
2. Income of £250,000 which suffered 10% tax in the source country
3. Income of £550,000 which suffered 30% tax in the source country.

He is an additional rate taxpayer. What is the tax charge under the TRF or if it was taxed on remittance?

Source	**Tax under TRF**	**Tax under remittance**
1	£200,000 x 12% = £24,000	£200,000 x 45% = £90,000
2	(£250,000 - £25,000) x 12% = £27,000	£250,000 x 45% = £112,500 less DTR (£25,000) = £87,500
3	(£550,000 - £165,000) x 12% = £46,200	£550,000 x 45% = £247,500 less DTR (£165,000) = £82,500

Net income under each option:

Source	**Net after TRF**	**Net after remittance**
1	£176,000	£110,000
2	£198,000	£137,500
3	£338,800	£302,500

Business investment relief (Lecture B1474 – 12.24 minutes)

Business investment relief (BIR) is available where income or gains are remitted to the UK but are used to make a qualifying investment in a trading or property company (either as equity or debt).

This will continue to be available for pre-6 April 2025 income or gains but the investment must be made before 6 April 2028 and will not be available where the income or gains is TRF capital (although a partial claim can be made where the amount invested is more than the amount designated as TRF capital). There are amendments to the provisions relating to mixed funds for these purposes.

BIR will continue to apply to amounts invested which have qualified, or will qualify, for the relief. It will also be possible to designate amounts which are currently covered by BIR under the TRF without withdrawing those amounts and no further charge would then arise if there is a potentially chargeable event.

Where such an event occurs, and no designation has been made under the TRF, the amounts will be treated as remitted and the only mitigation event which will remove that charge on or after 6 April 2025 will be to take the income or gains offshore within 45 days. The ability to mitigation through reinvestment into another qualifying company will not be available.

Rebasing of assets **(Lecture P1473 – 18.06 minutes)**

Clause 42 and Schedule 11 introduces rebasing of assets for individuals who have previously claimed remittance basis.

Rebasing is available where:

- An asset is disposed of on or after 6 April 2025;
- The asset was held by the individual on 5 April 2017;
- The asset was not situated in the UK at any time in the period beginning with 6 March 2024 and ending with 5 April 2025;
- The individual was not domiciled nor deemed domiciled in the UK at any time in a tax year before 2025/26; and
- The individual has made a claim for remittance basis in at least one year from 2017/18 to 2024/25 and remittance basis did not apply automatically.

If those conditions are met, the gain or loss will be calculated as if the asset had been purchased at market value on 5 April 2017.

Assets are not treated as being in the UK (for the purposes of the third condition) when they meet various remittance basis exemptions such as public access, repairs, to sell or put up for sale, for the person use of the individual or their family or the temporary importation rule applies.

The individual may elect for this not to apply; such an election would be irrevocable. Rebasing under the deemed domicile provisions is replaced with these provisions for 2025/26 onwards.

Trusts

Clause 43 and Schedule 12 introduce provisions governing the tax treatment of income arising within trusts and settlements as a result of the changes made to remittance basis.

General settlement charges

S619 ITTOIA 2005 outlines the income on which tax may arise. This includes income which arises from a trust where the settlor retains an interest (s624), income paid to minor children of settlors (s629) and capital sums treated as income of the settlor (s633 or s641).

As noted above, such income can be covered by a foreign income election if the settlor is a newly resident individual.

Amendments are made so that the s643A charge extends to amounts paid out of ‘transitional trust income’ as well as protected foreign source income.

Legislation is introduced which amends the general provisions relating to protected foreign source income and transitional trust income.

These measures were introduced from 6 April 2017 so that a non-domiciled individual who became deemed domiciled on 6 April 2017 (when those provisions were introduced) would not have to pay UK tax on income and gains in offshore structures set up before he became deemed domiciled on the basis of being settlor of such a trust. So foreign income of a settlor-interested trust established before the settlor became deemed domiciled is ‘protected foreign source income’ as long as no further property has been added to the settlement.

Transitional trust income is income arising in an offshore trust between 2008/09 and 2016/17 which has not been remitted to the UK but would have been protected foreign income has those rules been in place.

Both definitions are amended. Protected foreign source income only now means income which arose between 2017/18 and 2024/25, and transitional trust income only applies to income which would have fallen within these provisions up to 2024/15. Effectively there is removal of protection from income arising in trusts which were set up before 6 April 2017 when the settlor was non-domiciled. Any income arising on or after 6 April 2025 will be subject to tax in the UK on an arising basis.

To summarise those changes, as they are important, income arising from foreign sources in a settlor-interested trust where the settlor was not domiciled or deemed domiciled in the UK when the trust was established was not taxed in the UK. This protection is being withdrawn so that income arising from such trusts on or after 6 April 2025 will be taxed on the settlor unless they have a foreign income election in place.

Similar amendments are made to the transfer of assets abroad regime which also had a protected foreign source income regime.

'Available protected income' is the total amount of protected foreign source income and transitional trust income less income matched under the transfer of assets abroad regime or other income which has been taxed in the UK. An amendment is made such that any income which is qualifying foreign income under a foreign income claim (and therefore not taxed in the UK) will not reduce available protected income.

There is wider overhaul of the onward gift provisions. Current provisions (s643I to s643M) are repealed although they remain relevant in relation to income arising before 6 April 2025. These are anti-avoidance provisions which attack situations where a benefit is paid to someone who is not subject to UK tax, but they then pass that on to the settlor or close family member.

The new legislation covers benefits provided to non-UK residents or qualifying new residents who then pass on the benefit within three years of the original benefit being received. The benefits charge will apply in the tax year when the onward gift is provided.

Transfer of assets abroad regime

This is anti-avoidance legislation aimed at situations where assets are transferred offshore such that income is paid to a non-resident, but the transferor continues to benefit from the income and has secured a tax advantage.

As noted above, such income can be excluded under a foreign income claim for a newly resident individual.

Various amendments are made to these provisions, some of which are more straightforward than others:

- There is a change to the definition of 'person abroad' to mean any person who is not resident in the UK;
- Any transferor who is assessable on the income of a person abroad will have the right to recover the tax paid from that person without a benefit arising from this.

The trust protections within TOAA are also removed. This is very similar to the provisions outlined above in relation to protected foreign source income and transitional trust income. Income arising in a trust or underlying company can be taxed on the UK resident settlor even where the trust was established before 6 April 2017 when the settlor was not domiciled. However, benefit charge will only apply to the extent the benefits are matched with protected foreign source income or transitional trust income that arose before 6 April 2025 (since they will be taxed on the underlying income arising after that date).

Capital gains

Various amendments are made to the provisions for CGT purposes.

Personal capital losses will be able to be set off against gains attributed to beneficiaries of non-UK settlements where they are matched with capital payments to the beneficiary under s87 TCGA 1992.

Gains arising to a settlor under s86 TCGA 1992 will no longer be treated as the highest part of the individual's chargeable gains such that they can be allocated to available basic rate band if desired.

New provisions are introduced where a non-UK settlement makes a capital payment via a non-UK resident or newly qualified individual to a UK beneficiary. This will be treated as a capital payment for the purposes of s87 and associated legislation.

Inheritance tax **(Lecture P1474/ P1475 – 8.28/ 15.50 minutes)**

Clause 44 outlines the basic changes to the inheritance tax provisions as a result of the removal of special treatment for non-domiciled individuals. As with the other measures outlined above, these come in from 6 April 2025.

'Excluded property' is a category of assets which are not within the scope of UK inheritance tax being property situated outside the UK.

S6 IHTA 1984 is amended to change the definition of excluded property from property situated outside the UK held by an individual domiciled in the UK to an individual who is not a 'long-term resident' of the UK.

For all purposes of these definitions, residency is determined according to the statutory residency test.

A 'long-term resident' is then defined as an individual who had been UK resident for at least 10 out of the previous 20 years. Members of the Houses of Parliament or House of Lords are always to be treated as long-term residents.

For a non-resident individual who has left the UK, the number of years their non-UK assets will remain within scope to UK inheritance tax will depend on the number of years they were resident prior to departure:

- If they were resident for 13 years or less, the number of years is 3;
- For every additional year, one year is added to the number of years so for someone who was resident for 17 years would remain within scope for 7 years.

An individual will also not be a long-term resident if they were non-UK resident for any 10 consecutive tax years during the 19 years before the current tax year and are currently not UK resident.

This is tax years, so care will need to be taken when considering these provisions in terms of when an individual leaves the UK and when their non-UK assets will fall outside the UK IHT regime.

For a 'young person', being someone who is under the age of 20 before the current tax year, the test is replaced with one which considers if they have been resident for more than half of their life. This does not apply to someone who is under the age of 1 immediately before the tax year.

A body corporate will be a long-term UK resident, where relevant, if it is incorporated in the UK or is subject to corporation tax in the UK due to central management and control being within the UK.

There is a transitional provision which applies for non-domiciled or deemed domiciled individual who are non-resident in 2025/26. Those individuals will only be long-term resident if they satisfy the current deemed domicile test i.e. that they have been resident for at least 15 out of the last 20 tax years and at least one of the four tax years ending with the relevant year. If they were to return to the UK, the new rules would apply to them. This would not be available for someone who are actually UK domiciled under common law on 30 October 2024.

Example

Aneka is not domiciled in the UK and was UK resident for 17 years. She becomes non-resident in 2025/26.

She would have been deemed domiciled in the UK under the 15/20 rules in 2025/26 and is also has been resident in at least one of the four tax years ending with 2025/26. She will remain long-term resident until 6 April 2028.

Whilst it is normally the case that transfers between spouses and civil partners are exempt from IHT, there is a restriction where the transferor is domiciled and the transferee is not domiciles. This caps the amount which can be transferred as exempt to the nil rate band.

This is replicated in the new legislation where the transferor is a long-term resident but the transferee is not. It will be possible to elect for the transferee to be treated as long-term resident in order to obtain exemption for the full value of the transfer, in a process similar to the one which applies currently. Any election under the domicile provisions will be treated as an election for the transferee to be treated as a long-term resident.

Inheritance tax: trusts

Unsurprisingly, the provisions relating to trusts for IHT purposes are complex. These are contained in Clause 45 and Schedule 13 of the Finance Bill.

Note that none of these provisions affect the rules relating to overseas property with value attributable to UK residential property found in Schedule A1 IHTA 1984.

The provisions will have an impact in various situations:

- Where this is a settlor-interested trust, whether the assets are included within the estate of the settlor on death (as there is a gift with reservation for such a trust);
- Periodic and exit charges for relevant property trusts;
- Whether assets within qualifying interest in possession trusts will be within the estate of the beneficiary on death.

These are subject to transitional provisions which are discussed below.

The current rules for excluded property so far as they relate to settlements, found at s48 IHTA 1984, are amended so that the only categories of property which is excluded is reversionary interests and Treasury securities. For the avoidance of doubt, these rules do not apply to reversionary interests in property held in trust.

A new s48ZA is inserted relating to property in a settlement which is situated outside the UK or is a holding in a unit trust or a share in an open-ended investment company. The normal rules on excluded property do not apply.

The tax impact depends on whether the settlor is alive and if they have died, when they died.

If the settlor is alive, the property is excluded property only if the settlor is not a long-term resident. This means the liability to any tax charge is considered at the point when that charge potentially arises rather than at the point the settlement was made.

If the settlor died on or after 6 April 2025, the property is excluded property if the settlor was not a long-term resident immediately before they died.

If the settlor died before 6 April 2025, the property is excluded property is the settlor was not domiciled when the property entered the settlement. Where the property is income which becomes comprised in the settlement due to not being distributed, the relevant time is when it became comprised in the capital of the settlement, and not when it was first received.

However, these rules are modified if there is an interest in possession in the trust (which is a qualifying interest in possession such that the assets are included within the estate of the beneficiary). If that is the case, the assets are not excluded property if the beneficiary is a long-term UK resident and the settlor is alive or died on or after 6 April 2025.

If the settlor died before 6 April 2025, and the settlor was not domiciled when the property entered the settlement, it will be excluded property where there is a qualifying interest in possession unless the beneficiary is a long-term resident at any point on or after 6 April 2025 or was domiciled in the UK at any time before that date and they are a beneficiary due to a transaction for money or money's worth on or after 5 December 2005 (given by the beneficiary or anyone else).

There is an anti-avoidance provision at s74A IHTA 1984 which covers a situation where an individual who is domiciled in the UK acquires an interest in settled property and consideration is given in money or money's worth for that interest in circumstances where there is a reduction in the value of that individual's estate.

If the settlor was not domiciled in the UK and the assets in the settlement were outside the UK or the settlor was not an individual or close company at the time of the settlement, then there is a deemed transfer of value at the time of the interest being acquired. It was targeted at some specific planning. If this section applies, the ability for trust property to remain as excluded property (as discussed above) is removed.

Transitional provisions

As noted above, if the gift with reservation rules apply, the worldwide trust assets will be part of the settlor's estate. However, these will not apply to trusts settled before 30 October 2024 by those who are not domiciled at the time, other than where the trust has UK assets.

For qualifying interest in possession trusts, if there were non-UK assets in the settlement which were excluded property before 30 October 2024, they would not be subject to IHT when the IIP comes to an end (or on the death of the beneficiary). This would not apply in relation to any UK assets in the settlement which are sold and become non-UK assets. If a new QIIP comes into place on or after 30 October 2024, that will fall within the new regime.

Additionally, if there is a termination of an IIP which was in a settlement immediately before 30 October 2024 and was excluded property, there will be no IHT charge on the termination as long as it remains excluded property (under the pre-6 April 2025 rules).

There are no transitional provisions for relevant property trusts which fall within the new regime other than where the settlor died before 6 April 2025 when their domicile status at the date of death determines the IHT position, as discussed above.

Example: settlor-interested trust

Johannes transfers assets into a settlor-interested trust on 1 October 2025 at a time when he had no intention of ever living in the UK and had never been resident in the UK.

However, he met his partner and became resident in the UK on 10 May 2027.

Once he becomes a long-term resident, on 6 April 2037, any assets within the trust will form part of his estate for UK IHT purposes, along with any offshore assets held personally.

Example: settlor-interested trust transitional provisions

Felicity is not domiciled in the UK but become resident in 2013/14. She establishes a trust on 1 October 2016, transferring in property she had recently inherited from her mother.

This is a settlor-interested trust as she receives income from this trust. She is a long-term resident as at 6 April 2025 but the assets within the trust will not be part of her estate if she remains within the UK as the trust was created before 30 October 2024 at a time when Felicity was not domiciled in the UK.

Assuming this is a discretionary trust, the trust will have to pay periodic and exit charges as soon as she becomes a long-term resident.

Example: discretionary trust

Michel is not domiciled in the UK but becomes resident in 2019/20. In 2021, he settles offshore property into a discretionary trust for the benefit of his children and grandchildren. He remains within the UK until his death in 2045. In 2047, the trust is wound up and the assets distributed to the beneficiaries.

No IHT arises on the creation of this trust as he is not domiciled or deemed domiciled when the trust is created.

Michel became a long-term resident on 6 April 2029.

The first 10-year charge on the trust arises in 2031, and since Michel is a long-term resident at this point, there is a charge of a maximum of 6% of the trust assets. However, as the trust has not been within scope of UK IHT for the entire 10 years, this will be pro-rated. As the trust has been in scope for 2 years, the maximum charge would be 6% x 20% = 1.2%.

A second 10-year charge arises in 2041, this time at a maximum of 6%.

No charge arises on Michel's death in 2045 as this is not a settlor-interested trust.

When the assets leave the trust in 2047, there will be an exit charge as Michel had been a long-term resident at the date of his death. This will be calculated in the same way as if this had been a UK trust.

Example: ceasing to be long term resident

Sofia creates a settlement, which she cannot personally benefit from, in 2020, when she is neither resident in the UK nor domiciled in the UK. She becomes UK resident in 2026/27 but leaves and establishes non-residence in 2047/48.

No IHT arises on the creation of this trust as she is not domiciled or deemed domiciled when the trust is created.

Sofia became a long-term resident on 6 April 2036.

The first 10-year charge on the trust potentially arises in 2030 but no charge arises as Sofia is not a long-term resident at this point. However, the charge in 2040 would arise as she is a long-term resident by 2040. However, as the trust has not been within scope of UK IHT for the entire 10 years, this will be pro-rated. As the trust has been in scope for 4 years, the maximum charge would be 6% x 40% = 2.4%.

A second 10-year charge will arise in 2050 because, although Sofia is no longer resident in the UK, she is still a long-term resident.

Sofia will cease to be long-term resident on 6 April 2057 and at that stage there will be an exit charge as the trust leaves the UK IHT regime. The calculation will be on the same basis as if the assets themselves had been withdrawn from the trust, so will be pro-rated since the last 10-year charge.

Example: UK domiciled individual

Frank is a UK domiciled individual who forms a trust in Jersey in 2021 into which he puts his non-UK assets. He cannot benefit from this trust. He becomes non-resident in 2024/25.

A 10-year charge would arise in 2031 as Frank is still a long-term resident at that stage.

Frank will cease to be a long-term resident on 6 April 2034 and at this stage an exit charge will arise as the assets within the trust have ceased to be within the UK IHT regime.

Example: QIIP transitional provisions

Eric is not domiciled in the UK but came to the UK to study in the 1990s and has remained. In 2000, whilst still not domiciled, he created an interest in possession trust for his partner, Francis, who has always been UK resident and domiciled in the UK. The settlement includes non-UK assets. Their daughter, Grace, will then acquire the interest in possession on Francis' death. She has always been UK resident and domiciled.

Francis dies in 2029 and Eric dies in 2032.

The non-UK property in the settlement will not form part of Francis' estate as this would fall within the transitional protection at 30 October 2024 as Eric was not domiciled when the trust was formed.

However, the protection does not apply to the new interest in possession which arises on transfer to Grace. Eric was a long-term resident by the time he died in 2032 and Grace will be too (assuming she does not leave the UK). The non-UK assets will therefore fall within her estate when she dies.

Example: QIIP transitional provisions

Georgina has a life interest in a trust set up by her grandfather's death in 1960, when he was domiciled in Jersey. She did not acquire her interest for consideration in money or money's worth. The trust fund consists of investments held and managed in Jersey.

Although she has a life interest in the assets, the settlor died before 6 April 2025 and therefore it was his domicile status at the date the assets entered the settlement which are relevant. As Georgina's grandfather was not domiciled when the trust was established (on his death), the assets within the trust are not included within her estate when she dies.

Pre-owned assets charge

The pre-owned assets rules currently apply to UK residents but where they are not domiciled, it only applies to UK situs property.

From 6 April 2025, the same basic provisions will apply but with long term residence as the test rather than domicile. So, for long term residents, the charge can apply to both UK and non-UK property. For those who are not long-term residents, it will apply to UK property only.

Other taxes

VAT

Schedule 9 VATA1994 contains the exemptions from VAT and the legislation is amended to include new exceptions within that legislation so that private school fees for education and vocational training, long with ancillary services will be subject to VAT at standard rate.

Excluded from this change are:

- The provision of teaching of English as a foreign language;
- Education in nursery classes; or
- Provision of higher education course.

A private school is defined as an institution which is either:

- A school providing full time education to pupils of school age, where fees are payable for that provision and which is not a nursery school; or
- An institution providing full-time education for those over school age but under 19 for which fees are paid which is not an independent training or learning provider (which is an organisation which is providing such education under a contract with a relevant contracting authority).

There are anti-avoidance provisions so that provision by an eligible body connected with the school under arrangements designed to avoid VAT will be caught.

A nursery class is one where all or almost all of the children are under school age.

Clause 48 introduces an anti-forestalling provision where payments were made on or after 29 July 2024 but before 30 October 2024 in relation to education to be provided from the later of 1 January 2025 or the first day of that term, will be subject to these provisions.

Clause 49 states that these provisions will apply from 30 October 2024 in relation to education etc provided on or after 1 January 2025.

Stamp Duty Land Tax

Clause 50 increases the supplement which applies for the purchase of additional dwellings is increased from 3% to 5%.

The rates up to 31 March 2025 are as follows:

Part of relevant consideration	Percentage
So much as does not exceed £250,000	5%
So much as exceeds £250,000 but does not exceed £925,000	10%
So much as exceeds £925,000 but does not exceed £1,500,000	15%
The remainder (if any)	17%

These apply to a land transaction whose effective date is on or after 31 October 2024 but before 1 April 2025. It does not apply if the contract was entered into before 31 October 2024 unless the contract is excluded.

A contract will be excluded if:

- There is a variation or assignment of rights under the contract on or after 31 October 2024;
- The transaction is effected in consequence of the exercise of an option, right of pre-emption or similar right on or after 31 October 2024 or
- There is an assignment, subsale or other transaction relating to the whole or part of the land on or after 31 October 2024 as a result of which a person other than the purchaser can call for a conveyance of the property.

Clause 51 then outlines the rates which will apply from 1 April 2025, when the temporary increase in the nil rate band lapses.

The rates from 1 April 2025 are as follows:

Part of relevant consideration	Percentage
So much as does not exceed £125,000	5%
So much as exceeds £125,000 but does not exceed £250,000	7%
So much as exceeds £250,000 but does not exceed £925,000	10%
So much as exceeds £925,000 but does not exceed £1,500,000	15%
The remainder (if any)	17%

These apply to a land transaction whose effective date is on or after 1 April 2025. It does not apply if the contract was entered into before 31 October 2024 unless the contract is excluded.

A contract will be excluded if:

- There is a variation or assignment of rights under the contract on or after 31 October 2024;
- The transaction is effected in consequence of the exercise of an option, right of pre-emption or similar right on or after 31 October 2024; or
- There is an assignment, subsale or other transaction relating to the whole or part of the land on or after 31 October 2024 as a result of which a person other than the purchaser can call for a conveyance of the property.

Clause 52 contains provisions relating to contracts where the SDLT liability is triggered by substantial performance of the contract, rather than completion. Substantial performance occurs when the property is occupied by the purchaser or there is payment of 90% or more of the consideration. If SDLT is payable on substantial performance, there is also a potential taxing point on completion. This provision ensures that where tax has been paid where substantial performance has occurred before the amendments in Clauses 50 and 51 come into effect, there will be no additional tax payable on completion where that liability only arises because of the change in rates of tax between substantial performance and completion.

Clause 53 changes the higher rate of SDLT which is payable by companies acquiring residential property costing more than £500,000 where a relevant relief is not available. The rate apply to all consideration increases from 15% to 17%.

This change to transactions where the effective date is on or after 31 October 2024 unless the contract was entered into before that date and is not an excluded contract. The definition of excluded contract is the same as outlined above. If SDLT is triggered by substantial performance before 31 October 2024, no additional liability will arise where completion occurs after that date, as outlined in Clause 52 in relation to the previous measures.

Annual tax on enveloped dwellings

Clause 54 amends the provisions relating to the Annual Tax on Enveloped Dwelling (ATED) payable by companies who own residential property worth more than £500,000 where a relief is not available.

Special rules are incorporated into these provisions to ensure that a charge does not arise where alternative finance is used to purchase a property. These measures ignore the financial institution's interest in the property and considers the client of the financial institution so that the charge only arises when the client would have chargeable to ATED if they had purchased the property directly. These rules are amended so that they apply to all clients of these arrangements, not just companies, so that the financial institution continues to be exempted from any potential charges.

The general ATED provisions apply only to land in England and Northern Ireland. The equivalent provisions in Wales (and in particular the relief for alternative finance arrangements) rely on definitions which were repealed in 2017. Clause 55 amends the legislation to ensure that the ATED rules as they apply to purchases of land in Wales continue to mirror the regulations relating to property in England and Northern Ireland.

Stamp duty and Stamp Duty Reserve Tax

Clause 56 includes a provision which will allow the Government to temporarily modify the normal provisions for charging stamp duty and stamp duty reserve tax where new financial market infrastructure models are being tested.

The Government are introducing a new trading platform (PISCES) which will allow private companies to have a temporary trading platform to enable them to grow without attempting a full listing. The intention is to use the Clause 56 provisions to ensure that secondary legislation is introduced so that there will be an exemption from stamp duty and stamp duty reserve tax for trading on PISCES.

Inheritance tax

Clause 57 confirms that there will no indexation of the IHT nil rate band or residential nil rate band before the end of 2029/30.

Clauses 58 – 60 contain provisions relating to the IHT impact of making payments to an Employee Benefit Trust (EBT). S13 IHTA1984 contains an exemption where a close company makes a payment to a 's86' type trust (referred to here as an EBT) assuming that various conditions are met. The general provisions allow for this not to be a transfer of value where the property is to be applied for the benefit of employees but there are restrictions.

This new legislation tightens up those rules.

Firstly, the legislation does not permit a participator, or various other connected parties, to benefit from the trust. The amendment makes it clear that this is judged at the time of the disposition but covers persons who become connected to the participator at a later time. In effect, it means that no-one connected with the participator can benefit from the trust for the whole of the life of the trust. This comes into force from Royal Assent.

Secondly, a new clause is inserted into the conditions so that the exemption will only apply where no more than 25% of employees who can receive income payments from the EBT are participators or connected to a participator. This is judged at the point at which the property is transferred. This comes into force from 30 October 2024.

Finally, where shares are transferred into a trust, they must have been held for at least two years by the transferor before being transferred to the EBT. This applies from 30 October 2024. Where there has been a share reorganisation, you can look back through the reorganisation to take account of the holding period for the earlier shares.

Clause 61 removed agricultural property relief for habitat schemes and introduces the relief for environmental management schemes.

The land must have been agricultural property in the two years ending with the day on which it becomes subject to an environmental management agreement and must then have continued to be used in accordance with the agreement. This relief also covers buildings which are of an appropriate character and are used in connection with the environmental management agreement (either built for the purpose of that agreement or occupied with the land before the agreement commenced). The character appropriate test is considered in relation to the land under environmental management and any associated land which qualifies for APR due to being occupied for the purposes of agriculture.

The value for these purposes which is covered by the APR is the value assuming its continued use under the environmental management agreement.

An environmental management agreement is one which is a legally enforceable agreement between a person with rights over the land a public authority (including those who have been delegated functions from a public authority) in relation to maintenance of the natural environment or natural resources.

This change applies for transfers of value made on or after 6 April 2025 or occasions of charge after that date (such as where there is a failed PET relating to a transfer before that date).

National Savings Bank

Clause 62 removes a requirement for the National Savings Bank to obtain confirmation from HMRC that IHT has been paid in certain circumstances as this is now no longer deemed necessary due to changes in other practices.

Duties and other levies

Alcohol duty

Clause 63 provides for alcohol duty to rise in line with RPI other than in relation to products which qualify for small producer duty discount. Here, there is an increase in the cash discount provided for non-draught alcoholic products and maintenance of the cash discount provided for qualifying draught products. These changes come into effect from 1 February 2025.

Clause 64 abolishes the mandatory stamping of retail containers of high strength alcoholic spirits, wine and other fermented produces. This will take effect from 1 May 2025.

Tobacco duty

Clause 65 sees tobacco duty increased with effect from 6pm on 30 October 2024 with a corresponding increase in the Minimum Excise Tax for these products. The rate of increase for most is RPI + 2% although hand-rolling tobacco duty increases by RPI + 12%.

Vehicle excise duty

Clauses 66 - 72 outline the increases in Vehicle Excise Duty for various different types of vehicles, with increases generally in line with RPI. These changes will apply from 1 April 2025. From that date, electric cars, vans and motorcycles will begin to pay VED which they have previously been exempt from. These vehicles will also be liable to the expensive car supplement where the list price is more than £40,000. This will see a significant increase in the cost of road tax for drivers of expensive electric cars.

Air passenger duty

Clause 72 gives the new rates of air passenger duty for the period from 1 April 2025 to 31 March 2026, with clause 73 giving the same rates for the following year. There are significant increases in the second year for aircraft equipped to carry fewer than 19 passengers.

Climate change levy

Clause 74 amends the rates of climate change levy with effect from 1 April 2026. The rate for LPG has not been increased but all other rates increase with RPI.

Landfill tax

Clause 75 increases the rates of landfill tax in line with RPI, adjusted to take account of high inflation. These new rates take effect from 1 April 2025.

Aggregates levy

Clause 76 increases the rates of aggregates levy in line with RPI. These new rates take effect on aggregate to be used for commercial exploitation from 1 April 2025.

Plastic packaging tax

Clause 77 increases the rates of plastic packaging tax in line with CPI. These new rates take effect for packaging produced in or imported into the UK from 1 April 2025.

Soft drinks levy

Clause 78 increases the rates of soft drinks levy using a composite adjusted figure linked to CPI. These new rates take effect from 1 April 2025. The rates are going to be applied per 10 litres going forward so that rate changes can be made in smaller increments.

Other issues

Limited liability partnerships

Clause 79 introduces s59AA TCGA 1992 which contains a new anti-avoidance provision which will apply where an LLP is liquidated from 30 October 2024. This is targeted at specific schemes which HMRC have seen.

An LLP is transparent, such that the assets are treated as held by the partners, assuming it is trading or in business with a view to profit. As such, no chargeable gain will accrue when a member contributes an asset to the LLP, as there is deemed to be no change in ownership and so no disposal. The transparency is lost when a liquidator is appointed with any subsequent capital gains accruing as if the LLP has never been transparent. This means that capital gains tax is only due on the uplift since the asset is contributed to the LLP.

This new provision introduces a tax charge where the LLP is liquidated and the assets which have been contributed are disposed of to the member, or to a company or other person connected with the member. A gain will arise is the amount which would have arisen at the time the asset was originally contributed to the LLP.

Any gains which arise on the actual disposal of the asset on liquidation will arise as normal, with the gain taxed under the preceding provisions being removed from charge on a just and reasonable basis. In reality, many schemes rely on this liquidation happening soon after the assets have been contributed so that no gain arises at that point.

Whilst this type of planning has been seen in the past in relation to the incorporation of property businesses, a similar scheme was seen in the case of GCH Corporation Ltd & Ors [2024] TC09318 which has recently been lost by HMRC in the First Tier Tribunal. The argument made by HMRC was that no business was being carried on by the LLP so that it should never have been treated as transparent in the first instance.

Loans to participators **(Lecture B1472 – 23.45 minutes)**

HMRC are concerned about the avoidance of a charge under s455 CTA 2010 (the loans to participators provisions) and have introduced a Targeted Anti-Avoidance Rule (TAAR) aimed at tackling tax avoidance in this area.

Firstly, s464B CTA 2010 is repealed. S464A CTA 2010 confers a charge where a company is party to arrangements with the purposes of avoiding the loans to participators provisions and s464B gives relief from the charge where the company receives a payment in respect of the benefit that would otherwise arise. This is repealed for payments made on or after 30 October 2024.

The 'bed-and-breakfasting' provisions at s464C and s464D CTA 2010 are relabelled and amended. The loans to participators provisions apply where a loan is made to a participator which still remains outstanding nine months after the end of the accounting period. The bed-and-breakfasting provisions limit the ability to repay the loan for a short period only so that there is no real repayment of the liability.

The new provisions, s464ZA and s464ZB CTA 2010, consider arrangements where the loan is repaid but then withdrawn again by the participator from an associate of the original company. Effectively the loan is moved around between group or associated companies to avoid a liability arising under s455 but where no genuine repayment is being made. As with the previous legislation, the anti-avoidance provision will not apply where the repayment gives rise to an income tax charge on the participator or an associate (such as payment of a dividend or salary).

This will apply from 30 October 2024.

OECD Crypto-asset reporting framework

Legislation is in place to allow the Treasury to make regulations which will enable them to engage with international tax compliance arrangements. This legislation, at s349 F(no2)A 2023 is amended to enable regulations to be made pursuant to the OECD Crypto-asset Reporting Framework.

The guidance notes tell us that these regulations will be made in 2025 and be implements on 1 January 2026. The OECD framework is detailed but the main impact will be the exchange of information between jurisdictions who are signed up to the initiative. HMRC will hope that they will receive more information about Crypto-asset transactions.

Vaping products

Clause 82 gives HMRC authority to prepare for the introduction of the new duty on vaping products. This will take effect from October 2026.

Carbon border adjustment mechanism

Clause 83 gives HMRC authority to prepare for the introduction of a new tax on the emissions intrinsic in imported goods and to prepare for developing, implementing and operationalising the new tax. This will apply from 1 January 2027 with imports within the following sectors: aluminium, cement, fertiliser, hydrogen and iron and steel.