

Tolley® CPD

Finance (No.2) Bill 2024

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Income tax

Income tax rates (clauses 1 – 4)

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%.

The savings rate starting rate band remains at £5,000 as the legislation specifically removes the indexation of that figure.

High Income Child Benefit Charge (Lecture P1433 – 14.35 minutes)

Clause 5 provides for amendments to the high income child benefit charge. This gives a claw-back mechanism for child benefit paid to households which have at least one member of a marriage, civil partnership or unmarried partnership earning over the designated threshold.

The previous rules had an income threshold of £50,000 and a clawback of 1% of child benefit for each £100 of income above the threshold.

From 6 April 2024, the income threshold rises to £60,000 and the clawback of 1% applies for each £200 of income above the threshold.

The income ('adjusted net income – s.58 ITA 2007) is calculated as total taxable income from all sources, minus grossed up gift aid and personal pension payments (as well as retirement annuity premiums for those still paying these).

As such, an individual who is at risk of having a child benefit clawback, could make a gift aid donation in the following year and elect to carry it back to the year in question, thus avoiding a charge.

Example

The following table shows how much this change is worth to a range of earning points for a family who are eligible to receive child benefit for two children – worth £2,074.80 over a 52-week period.

<u>Income of highest earner</u>	<u>Clawback 2023/24 (£)</u>	<u>Clawback 2024/25 (£)</u>
£50,000	Nil	Nil
£55,000	1,037.40	Nil
£60,000	2,074.80	Nil
£65,000	2,074.80	518.70
£70,000	2,074.80	1,037.40
£75,000	2,074.80	1,556.10
£80,000	2,074.80	2,074.80

Where child benefit is received in 2024/25 but in respect of 2023/24, where a backdated claim has been made, it will be treated as if those amounts arise in 2024/25 where the claim was made on or after 6 April 2024 but before 8 July 2024. In reality, a claim cannot be backdated for more than three months other than in exceptional circumstances.

That provision will not apply if there would have been no liability for the high income child benefit charge in 2023/24 or the individual who would be subject to the charge elects that it will not apply. An election can only be made if the individual reasonably considers that, in the absence of the election, their liability to the charge for 2024/25 would exceed the charge in 2023/24.

Example

Martha and James have a baby on 6th January 2024 but do not make a claim for child benefit until May as the baby has been ill (but is now OK). They are allowed to backdate the claim by more than 3 months and on 1 July 2024, they receive £307.20 in child benefit which relates to the 2023/24 tax year.

James has got a new job which means that he is now earning £70,000 per year whereas before he was earning only £48,000. If the child benefit is treated as being received in 2024/25, there would be clawback of £153.60 of the benefit whereas there would be no clawback if it was treated as income of 2023/24. So, it would be better to make the election.

It is going to be quite a rare situation where this will apply.

Measures relating to property

Reduction in CGT rate for residential property gains (Clause 6)

From 6 April 2024, the rate of capital gains tax on residential property gains will be 18% for basic rate taxpayers or 24% otherwise. The rate applying for gains which fall outside of the basic rate band reduces to the 24% figure from the previous rate of 28%.

Any residential property gains which accrue to a personal representative of a deceased individual or the trustees of a settlement will also be taxed on or after 6 April 2024 at 24%.

All other rates of CGT remain the same.

Residential property gains are defined within Schedule 1B TCGA 1992.

Multiple dwellings relief (Clause 7) (Lecture P1434 – 13.44 minutes)

The relevant legislation in FA2003 is repealed to remove the ability to claim multiple dwellings relief (MDR) for the purposes of Stamp Duty Land Tax.

MDR allows the duty to be calculated on an average value where more than one dwelling is purchased in a single transaction, with that figure then being multiplied by the number of dwellings. It has been subject to some perceived abuse although in reality this is probably just that it has been claimed in situations where it was not intended to apply.

The change will apply for land transactions where the effective date falls on or after 1 June 2024. The exception to this is where the contract was substantially performed before 1 June 2024 or the contract was entered into on or before 6 March 2024 and is not excluded.

Contracts are excluded where:

- there is a variation or assignment of rights under a pre-6 March 2024 contract that is made after 6 March 2024; or
- the transaction is effected pursuant to an option, pre-emption right or other similar right after 6 March 2024; or
- assignment, subsale or other transaction which results in the whole or part of the land being conveyed to someone other than the original purchaser.

These provisions are similar to the transitional provisions which are typically put in place when changes are made to Stamp Taxes provisions.

Since MDR can be claimed on linked transactions, there is a provision where some of those linked transactions qualify for the relief and some do not (on the basis that some complete before the cut-off date and some afterwards). If that is the case, MDR can only be claimed on those which complete before the 1 June 2024. Any subsequent transactions will not be considered as linked to the earlier transactions for any purposes of the SDLT provisions.

This may actually lead to some interesting outcomes from an SDLT perspective.

Example

An individual is buying a single property which will be the replacement for their main residence (so the 3% supplement does not apply) and from the same vendor is buying four rental properties which are co-located with the home. The latter purchase will be undertaken by the individual's limited company so will be a linked transaction.

The total value of the transaction is £2.4m with £975,000 being allocated to the residence.

As these are linked transactions, they are considered together for the purposes of any claim to MDR. However, they are dealt with separately when considering the 3% supplement so that the calculation of liability is not straightforward.

If we take a total purchase price of £2,400,000 and divide that by 5, that gives us an average cost of £480,000.

The SDLT on £480,000 including the 3% supplement is £25,900. If we multiply that by 5 it gives us a total to pay of £129,500.

The SDLT on £480,000 without the 3% supplement is £11,500. If we multiply that by 5, it gives us £57,500.

If we allocate £975,000 to the main house and £1,475,000 to the rentals the calculation would be:

$$975/2,400 \times £57,500 \text{ plus } 1,475/2,400 \times £129,500 = £102,947$$

If the whole transaction was delayed until, say, January 2025, when no MDR is available, the baseline figure for consideration of £2.4m is £199,250 without the 3% supplement and £271,250 with the supplement.

This would mean the amount to be paid on completion (assuming the same split as shown above) would be:

$$975/2,400 \times £199,250 \text{ plus } 1,475/2,400 \times £271,250 = £247,651.$$

What if the four dwellings were bought in the company now (or at least before 1 June 2024) and the farmhouse purchased in January 2025 when it is available for occupation? The contract could be exchanged now with delayed completion.

The transitional legislation states that if you have linked transactions with one completing before 1 June 2024 and one after, then MDR can only be claimed in relation to the pre-1 June transaction and they are not to be treated as linked for any purposes. We would then be treating them as separate transactions.

In that case, the average price for the four dwellings (based on £1,475,000) would be £368,750. The SDLT on this would be £17,000 so the total would be £68,000. The SDLT on the main house would then be £33,750 (based on price on £925,000).

This gives a total SDLT of £101,750. Not a huge saving over the amount payable before the 1 June 2024 but at least the cost is not hugely increased.

First time buyers relief (Clause 8) (Lecture P1434 – 13.44 minutes)

First-time buyers relief from SDLT is available on the acquisition of a residential property where the purchaser is a first time buyer who intends to occupy the property as their main residence. If there is more than one purchaser, all of them must meet the condition. The consideration for the transaction cannot exceed the relevant threshold, which is currently £625,000. A first-time buyer is an individual who has not previously been a purchaser in relation to a residential property including property outside the UK.

The legislation is amended in relation to an anomaly with the provisions relating to grant of a lease under a bare trust as in that situation the purchaser is not the beneficiary but is the trustee. This would preclude a claim for first-time buyers relief and so the legislation is amended so that the grant of a lease under a bare trust or nominee arrangement is treated as if it were a purchase by the beneficial owner for the purposes of first time buyers relief assuming the other conditions are met. A consequential amendment is made so that an individual who has used such an arrangement is not then a first-time buyer for a purchase in their own name.

The main change applies for transactions where the effective date falls on or after 6 March 2024. For the consequential amendment, the change also applies for transactions where the effective date is on or after 6 March unless the contract was entered into before that date and the transaction is not excluded.

Contracts are excluded where :

- there is a variation or assignment of rights under a pre-6 March 2024 contract that is made after 6 March 2024; or
- the transaction is effected pursuant to an option, pre-emption right or other similar right after 6 March 2024; or
- assignment, subsale or other transaction which results in the whole or part of the land being conveyed to someone other than the original purchaser.

Exemption for social housing providers (clause 9) (Lecture P1434 – 13.44 minutes)

There is an exemption from SDLT where the purchaser is a registered social landlord who is purchasing property with the assistance of a public subsidy.

The provisions are being updated to clarify them and remove out of date terminology.

Those changes do not change the scope of the legislation.

Specifically the changes to s71 FA 2003 are:

- the general term of 'registered social landlord' is changed to 'registered providers of social housing etc';

- the condition for exemption that the purchaser is ‘a relevant housing provider controlled by its tenants’ is replaced with ‘the purchaser is a non-profit registered provider of social housing controlled by its tenants’;
- part of the definition of a relevant housing provider is changed from a registered social landlord to:
 - a housing association registered in the registered maintained under Article 14 of the Housing (Northern Ireland) Order 1992 or
 - an English local authority that is a registered provider of social housing.
- The term ‘relevant housing provider’ is replaced throughout with the term ‘non-profit registered provider of social housing’;
- The definition of qualifying body within s71(3) FA2003 is amended to exclude housing action trusts and Scottish bodies and to update the Northern Ireland qualifying institutions;
- The definition of public subsidy is amended to exclude social housing grants and Scottish grants and to update the general types of grants which qualify;
- The definition of social housing and English local authority is moved into this section from the definitions sections in s121 and s122 FA2003.

There are consequential amendments to the ATED provisions where providers of social housing are not liable to the 15% SDLT rate.

The changes come into force on 6 March 2024.

Purchases by public bodies (Clause 10) (Lecture P1434 – 13.44 minutes)

The 15% rate of SDLT applies on purchases by non-natural persons of residential property costing £500,000 or more. The legislation in Sch.4A FA2003 is amended to make it clear that it does not apply to any company that is a public body.

This has effect for transactions with an effective date on or after 6 March 2024.

APR and woodlands relief (Clause 11)

This provision removes land within the Channel Islands, the Isle of Man or the European Economic Area from qualifying for agricultural property relief and woodlands relief.

This applies to transfers of value made on or after 6 April 2024 and any charges under the relevant property regime which where the occasion of charge arises on or after 6 April 2024.

If an individual gave away French farmland 5 years ago, but then dies on 30 June 2024, this potentially exempt transfer fails. As a result, tax is payable by the recipient but there is no APR available against the value transferred.

Similarly, if French farmland is held in a relevant property trust and the last 10-year anniversary was in (say) 2021, APR would have reduced the value of the trust property when calculating the charge (and the effective rate). APR will not be available at the next 10-year anniversary, so the trustees might consider disposing of the land, perhaps by appointment to the beneficiaries (with the consequent, but hopefully low, exit charge) – this appointment may, however, trigger a CGT liability as gift relief is only available for agricultural land if 100% APR is available, unless the land is being actively used for a farming trade by the trust (Para 1(2), Schedule 7, TCGA 1992).

Corporation tax rates

Corporation tax rates

Clause 12 confirms that the main rate of corporation tax for the FY2025 (1 April 2025 to 31 March 2026) will be 25% and clause 13 confirms that the small profits rate is 19% with the marginal relief fraction being $\frac{3}{200}$ ^{ths}.

Film tax relief (clauses 14 and 15) (Lecture B1433 – 13.16 minutes)

The tax reliefs available for creative industries are being overhauled. Currently separate reliefs are available for film, television and video games. These will be merged to give two a new audio-visual expenditure credit (AVEC) and video game expenditure credit (VGEC). These will have a similar structure to RDEC in terms of the way relief is given. We are currently in an overlap period where previous reliefs remain in place but the new credits are also available.

For AVEC, the taxable credit is calculated at a basic rate of 34% or extended to 39% for qualifying animated films and qualifying TV programmes. The top rate of 39% will also be extended to visual effects costs in films and high-end TV programmes.

In addition, the 80% cap on qualifying expenditure will be removed for visual effect costs.

Both of these areas are not included in the legislation but will take effect from 1 April 2025. A consultation has been published to establish the types of visual effect costs that are included.

However, in addition to these changes, the Finance Bill contains provision for a new credit for 'low-budget' UK films.

Such films will have to be certified as such by the Secretary of State. An appeal can be made to the High Court if the applicant disagrees with a decision made in relation to low-budget certification. A film cannot hold both a low-budget certificate and any other film or television certificate at the same time, other than as part of a transition to the new regime.

A film will be a low budget film if its specified expenditure (incurred or anticipated to be incurred) does not exceed a threshold which is to be set in regulations. However, the maximum expenditure on which credit will be due is £15m. The legislation does envisage that a film with budget in excess of this would qualify for credit but it would be capped at £15m. When applying the cap, UK expenditure is included before non-UK expenditure so that the maximum credit can be claimed.

Any film also has to meet the condition that it is a British film, as is the case for all films which are claiming tax credits.

A low-budget certificate can be surrendered by the production company. This certificate would then cease to have effect for all accounting periods. If the film is re-certified under a different certificate, then a claim for credit at the lower normal rate would potentially apply.

There must also be a creative connection with the UK and this condition is met if the director or scriptwriter or any other person working on the film in a specified role is a British citizen or ordinary resident in the UK. Alternatively, the film can be a qualifying co-production.

Regulations may be put in place to change the budget condition, modify the creative connection test where there is more than one director etc and determine the evidence that needs to be provided for certification.

The relevant percentage for the tax credit is set at 53%.

The higher rate of credit is only available where principal photography starts on or after 1 April 2024. The claim will not be able to be made until 1 April 2025 and can only relate to expenditure incurred on or after 1 April 2024.

The date on which applications for low budget status will be accepted will be set by regulation (called the appointed day). If a low budget certificate is applied for within six months of this date, it can be treated as having effect at the end of the first accounting period ended on or after 1 April 2024 regardless of when it is issued.

Where a film holds another film or television certificate granted prior to the appointed day, then it is possible to apply for a low budget certificate as long as this is done within six months. The original certificate will then cease to have effect for future periods.

Theatre tax credit (Clause 16) (Lecture B1433 – 13.16 minutes)

Theatrical production tax reliefs give an additional deduction equal to 100% of qualifying core expenditure and a repayable tax credit equal to a set percentage of the surrendered loss. Qualifying core expenditure is a maximum of 80% of total core expenditure and at least 10% of core expenditure must be on goods or services in the UK (with effect from 1 April 2024 and replacing a rule which determined that European expenditure must be a minimum of 25% of core expenditure).

In order to qualify the company must intend that all, or a high proportion of, the live performances that it proposes to run will be for paying members of the general public or provided for educational purposes. The production must be a dramatic production (being a play, opera, music, other dramatic piece) or a ballet. It cannot include anything which is a competition or contest, where wild animals are used, any production of a sexual nature, where the purpose is to produce a recording or where the main purpose is to advertise or promote goods or services. Core expenditure means expenditure on producing the production (including closing it) but excludes indirect expenditure and ordinary running costs.

Legislation is amended to permanently set the rate of repayable tax credit to 45% for touring theatrical productions and 40% for non-touring theatrical productions. The higher rates were introduced as part of the Covid response and were due to reduce to a lower rate in April 2025 (35% and 30% respectively) before returning to their pre-Covid levels in April 2026 (25% and 20% respectively). New rates will apply for accounting periods which begin on or after 1 April 2025. Any production unable to claim at the temporary uplifted rates will be able to claim after that date at the new permanent rates.

Orchestra tax credit (Clause 17) (Lecture B1433 – 13.16 minutes)

Orchestra tax relief gives an additional deduction of 100% of qualifying core expenditure and a repayable tax credit equal to a set percentage of the surrendered loss. Qualifying core expenditure is a maximum of 80% of total core expenditure and at least 10% of core expenditure must be on goods or services in the UK (with effect from 1 April 2024 and replacing a rule which determined that European expenditure must be a minimum of 25% of core expenditure).

The relief is available where there is a concert or series of concerts. To be a qualifying concert, the number of instrumentalists must be at least 12 and either none or the minority of the instruments can be electronically or directly amplified. The use of microphones to pick up sound is not generally prohibited.

Legislation is amended to permanently set the rate of credit to 45% for orchestra tax relief. The higher rates were introduced as part of the Covid response and were due to reduce to a lower rate in April 2025 (35%) before returning to their pre-Covid levels in April 2026 (25%). New rates will apply for accounting periods which begin on or after 1 April 2025. Any production unable to claim at the temporary uplifted rates will be able to claim after that date at the new permanent rates.

Museums + galleries exhibition tax credit (Clause 18) (Lecture B1433 – 13.16 minutes)

Museums and gallery exhibition relief gives an additional deduction of 100% of qualifying core expenditure and a repayable tax credit equal to a set percentage of the surrendered loss. Qualifying core expenditure is a maximum of 80% of total core expenditure and at least 10% of core expenditure must be on goods or services in the UK (with effect from 1 April 2024 and replacing a rule which determined that European expenditure must be a minimum of 25% of core expenditure).

An exhibition means a curated public display of an organised collection of objects or works considered to be of scientific, historic, artistic or cultural interest. It excludes anything organised in connection with a competition, where the main purpose is to advertise or promote any goods or services, where it includes any live performance, where items are for sale, or where anything displayed is live. A touring exhibition is one that is to be held at two or more venues where at least 25% of works displayed at the first venue will be displayed at every subsequent venue. The period between exhibitions at different venues cannot be more than 6 months.

Legislation is amended to permanently set the rate of credit to 45% for touring exhibitions and 40% for non-touring exhibitions. The higher rates were introduced as part of the Covid response and were due to reduce to a lower rate in April 2025 (35% and 30% respectively) before returning to their pre-Covid levels in April 2026 (25% and 20% respectively). New rates will apply for accounting periods which begin on or after 1 April 2025. Any exhibition unable to claim at the temporary uplifted rates will be able to claim after that date at the new permanent rates.

The sunset clause which would have seen this relief disappear for expenditure incurred from 1 April 2026 is also repealed so that the relief becomes permanent.

Energy profits levy (clause 19)

The Energy Profits Levy (EPL) is a temporary levy on the profits arising on production of oil and gas, introduced at a time of exceptionally high oil and gas prices and in response to concerns about the level of profits being made by production companies. In order to give the oil and gas sector assurances, it was agreed that the EPL would cease to exist if prices returned to 'normal' levels for a sustained period. This is to be determined by introduction of the Energy Security Investment Mechanism (ESIM).

In basic terms the EPL will cease to apply if the average prices of oil and gas are at or below an average price. The legislation is largely concerned with determining that average price and the threshold will be adjusted annually for each new financial year. The threshold prices for reference periods ending on 31 March 2024 are \$71.40 per barrel for oil and £0.54 per therm for gas. For reference periods ending in the Financial Year 2024, the threshold prices are \$74.21 per barrel for oil and £0.57 per therm for gas.

Regulations will be put in place to provide detail of how the reference price will be calculated going forward. The levy itself will apply until 31 March 2029 unless the average prices of oil and gas fall below the threshold before this. Previously, the levy was to apply until 31 March 2028.

Collective investment schemes (clause 20)

The Government are to introduce a new co-ownership scheme to be called Reserved Investor Funds (RIFs) as part of a process of making the UK an attractive location to set up and administer funds. A RIF will be an unauthorised contractual scheme with low costs and flexibility. There are no further details within the legislation as the details are to be introduced through regulations to be published at a later date.

Economic Crime Levy (Clause 21)

The ECL has to be paid by any regulated business (being one which is a relevant person for Money Laundering purposes). The levy depends on the size of the business and this legislation increases the levy for very large businesses (those with UK revenue in excess of £1bn per year) to £500,000 from its previous level of £250,000. This will apply for accounting periods ending on or after 1 April 2024.

Transfer of assets abroad (Clause 22)

The Transfer of Assets Abroad (TOAA) legislation is an anti-avoidance provision designed to stop transfer of ownership of assets to offshore structures in situations where the transferor can still benefit from the income generated. The most common way would be for transfer of assets to an offshore company or trust where the individual retains an interest as shareholder or beneficiary.

This is legislation that has been in place for many years although it has been amended, most importantly to include a motive test. You are only caught if it can be shown that the tax avoidance reasons for undertaking a transaction are the primary motivation. Whilst the legislation is targeted at income tax avoidance, it is triggered if the avoidance any tax administered by HMRC is a main purpose of the transfer.

The basic provisions apply to UK resident individuals although some litigation in the past has suggested that there can be 'quasi-transferors' where an individual is effectively allowing a transfer through control of another entity. However, there has been recent litigation on the quasi-transferor point where HMRC were trying to argue that a transfer by a company could be treated as a transfer by the shareholders. This case was lost at the Supreme Court.

Having lost the argument in Court, the Government have now amended the TOAA provisions so it can apply to transfers by UK resident close companies or non-resident companies which would be close if they were UK resident. These are referred to as 'closely-held companies'. The provisions will apply for income arising on or after 6 April 2024. It should be noted that it will not apply where the transferring company is held in trust as the basic rules still only apply to individuals.

Amendments are made so that transfers by closely held companies are caught by s720 ITA 2007 and s727 ITA 2007. S720 applies where an individual has a power to enjoy income from assets transferred abroad and s727 applies where an individual receives capital sums from assets transferred abroad.

The basic provisions will apply where a transfer is made by a closely held company in which an individual (or a nominee of the individual) has a qualifying interest. It only applies if the individual is involved in the company and the avoidance condition is met.

A qualifying interest is held if the individual is a participator in the closely-held company or the parent of a chain of companies including the one which carried out the relevant transfer. There is no minimum shareholding for this requirement to be met. The term participator also covers loan creditors as well as more normal shareholders.

The individual is treated as being involved in the company unless they can satisfy HMRC that they or their nominee (if the shares are held by a nominee) do not have any direct or indirect involvement in the decision making of the company. It is not restricted to the decision which results in the transfer being made; it is a wider general rule.

This gives rise to a number of questions when considering the practical application of these rules. For example, what if an individual was actively involved but has subsequently retired before specific decisions were made? Additionally, what level of involvement is needed as a minimum?

The avoidance condition is met if the relevant participator (the individual or their nominee) did not object to the making of the relevant transfer and it is reasonable to conclude that they were aware of the transfer and that one of the direct or indirect consequences of the transfer is the avoidance of a liability to tax.

Any arrangements designed to secure that a person has no direct or indirect involvement in the decision making of the company or that the avoidance condition is not met will be ignored.

It should be noted that the legislation contains no provision for the apportionment of the income between the various relevant participators. This would appear to be left to HMRC's discretion.

VAT provisions (clause 23)

An amendment is made to the provisions relating to refund of VAT under the DIY Housebuilders Scheme. This means that, before any refund is made, HMC may require the claimant to produce further documents or evidence in connection with the claim. This will apply after Royal Assent of the Finance Bill has been obtained. HMRC may refuse the refund claim if the information is not provided.

An amendment has been made to the provisions relating to the VAT treatment of commodity traders and minor changes are made to the provisions relating to late payment and repayment interest for VAT purposes.

Collective money purchase arrangements (clause 24)

A new type of collective money purchase pension scheme was introduced in 2021. This clause enables regulations to be issued which will provide for the tax treatment of funds transferred from such a scheme which is being wound up. No further details of proposed arrangements are known at this stage.

Other items not legislated but announced

Abolition of the remittance basis of taxation

These changes will be significant for many individuals who are not domiciled (or deemed domiciled) but tax resident in the UK. It is likely that these provisions will see significant changes during consultation or if the Labour party are successful in winning the next general election.

From 6 April 2025, the remittance basis of taxation is to be abolished for future income and gains. The existing rules will remain for those who have claimed remittance basis up until then and have still got unremitted funds overseas.

This is to be replaced by a new system called the 'foreign income and gains' regime (also known as FIG).

Individuals will not be taxed in the UK on their foreign income and gains for the first four tax years of UK residency if they elect into the new regime.

They will:

- be free to bring the foreign income and gains arising in those tax years to the UK without suffering a UK tax liability;
- not pay tax on non-resident trust distributions;
- not be entitled to a UK personal allowance or annual exempt amount.

From the fifth year, the individual will be fully taxable on their worldwide income and gains.

This will only apply where the individual has been non-resident before coming to the UK for a period of at least 10 years. These persons will be described as 'new residents'.

In counting tax years for these purposes, the technical note states that the Statutory Residency Test will be used to determine tax residency for each year. Treaty residence or non-residence and split years will be ignored. Most commentators are assuming that this means that you are treated as resident in such years but it is not entirely clear. This will necessitate greater planning on when to come to the UK for some individuals, particularly those who are returning in the course of a tax year.

Example

An individual was left the UK in 2018/19, but that was a split year. They would not be able to return and take advantage of the FIG regime until 2029/30 as 2018/19 is still a year of residence.

This will be subject to a claim so will not be automatic and the current (minor) disincentives of claiming remittance basis (so loss of personal allowance and CGT annual exemption) will continue. The claim for the 4-year FIG is to be made for each year to which it is to apply; it will not automatically apply for all four years if a claim is made in one year.

The CGT annual exemption is probably largely irrelevant now due to its level but individuals with lower income (particularly where foreign tax credit is available) will need to do the calculations to determine if it is worthwhile making the claim.

If an individual leaves the UK temporarily during the four-year period, they can make a claim for any qualifying years which remain on their return to the UK.

Example

An individual comes to the UK in 2029/30 having never been here before. They are then not resident in 2030/31 and 2031/32 but return and are resident in 2032/33. Both 2029/30 and 2032/33 can be covered within the FIG regime.

An individual who has been tax resident in the UK for less than four years as at 6 April 2025 (after a period of non-residence of at least 10 years) will be able to claim exemption for FIG for any year remaining within the first four years.

Example

An individual becomes resident in 2023/24 so will have been resident for two years by 5 April 2025. A claim to be within the FIG regime can be made for 2025/26 and 2026/27.

There are to be various transitional provisions:

- individuals who move from remittance basis to arising basis on 6 April 2025 who are not eligible for the new FIG regime because they have been resident in the UK for more than 4 years will pay tax on 50% of their foreign income in 2025/26. This applies only to foreign income and not foreign chargeable gains. For 2026/27 onwards, UK tax will be due on all worldwide income in the normal way.
- A temporary repatriation facility (TRF) will apply in 2025/26 and 2026/27 where remittances of FIG arising before 6 April 2025 can be remitted and a flat rate charge of 12% will apply. It does not appear that this will apply where income is deemed to arise to an individual (such as where the transfer of assets abroad rules apply). There is to be a relaxation of the mixed fund ordering rules to make it easier for individuals to take advantage of the TRF. This will not apply to pre-6 April 2025 FIG generated within trusts and trust structures.
- Capital gains tax rebasing to 5 April 2019 will apply where an individual meets all of the following conditions:
 - Has claimed remittance basis (which would seem to imply it is not available to those who qualify for remittance basis automatically);
 - Was neither UK domiciled nor UK deemed domiciled by 5 April 2025;
 - Disposes of personally held foreign assets after 5 April 2025;
 - They owned this asset at 5 April 2019;
 - An election is made to claim the relief.

It is unclear whether this will operate on an asset-by-asset basis but similar provisions in the past have tended to be on an 'all or nothing' basis. The technical note on these changes also states that this rebasing will be subject to conditions to be set out later.

Losses on disposal of foreign assets during the exempt period will not be allowable. No details are provided about the position of capital losses beyond this, either in relation to subsequent losses or in the situation where the individual has made a capital losses election in the past. This is one of the transitional areas which will need to be addressed.

It appears that Business Investment Relief will be available for qualifying investments of FIG that qualified for remittance basis under the old regime where the investment is made on or after 6 April 2025. Relief will continue to apply to existing investments.

Income and gains arising from settlor-interest offshore trust structures will be taxed on individuals who do not qualify for the FIG regime. Currently such amounts can be eligible for remittance basis for non-domiciled individuals. Any benefits received will be taxed unless they are within the FIG regime which differs from the remittance basis since any benefits received are only taxed to the extent they are brought into the UK. This may encourage distributions being made before 6 April 2025 but not remitted so that they can be enjoyed overseas without a tax charge arising. However, this may have an IHT impact.

There will be a modified onward gift rule.

Overseas workday relief (also known as OWR) is to be retained although for those arriving from 2025/26 onwards, it will only apply to those who are eligible for FIG relief. It will be available for the first 3 tax years of UK residence and the rules will be simplified.

Making a very broad comparison between this regime and remittance basis:

- Remittance basis was only available for non-domiciled individuals whereas the FIG regime can apply to anyone who is a 'new resident'
- The cost of the claim in both cases is lost allowances but with remittance basis the remittance basis charge had to be paid after 7 years of residence
- FIG is only for 4 years but is a full exemption which means money can be brought into the UK with no tax cost.

There may be some scope for individuals to choose the remittance basis for 2024/25 in order to access some of the transitional provisions such as rebasing of assets for CGT purposes, but this will need to be considered when the details are finalised.

Inheritance tax and non-domiciled individuals (Lecture P1432 – 15.48 minutes)

The Government intends to move to a residence-based regime from the current domicile-based regime.

The technical rules will be consulted on before the new regime takes effect, which will not be before 6 April 2025.

The main proposal is a 10-year exemption period for new arrivals and a 10-year tail for those leaving the UK.

It is envisaged that the new rules will charge IHT on worldwide assets once resident in the UK for 10 years and will remain in scope until the taxpayer has been non-UK resident for 10 years.

The treatment of UK situs assets will remain unchanged.

The terminology will be an 'IHT chargeable person' which would be someone who has been resident in the UK for 10 years or has left the UK and not yet achieved 10 years' non-residence.

There is some suggestion that there may other connection factors which would make someone an IHT chargeable person so there is clearly some thought that this regime is not going to be based entirely on residence.

It is thought likely that anyone who has left the UK before the implementation of this regime will not be subject to the 10-year tail but that has not yet been confirmed.

It is likely that the IHT spouse exemption will operate differently with gifts from an IHT chargeable person to a non-chargeable person to be a PET rather than exempt, subject to an election similar to the current domicile election.

The Government have confirmed that the treatment of non-UK assets settled by a non-domiciled individual into a trust before 6 April 2025 will not change. Therefore, excluded property trusts settled before the change will remain excluded property and outside the scope of UK IHT and the gift with reservation provisions will not apply. Non-UK property which is comprised in a settlement that currently comes back into the UK IHT net where the settlor is a formerly domiciled resident will be consulted on and so this may change.

New trusts and additions to trusts settled on or after 6 April 2025 will be subject to the new rules. This means the chargeability of assets comprised within a settlement will depend on whether the settlor met the residency criteria at the time the assets are settled or when the charge arises. Again, there is reference to other connecting factors being relevant.

A number of other areas will need to be brought into the regime including gifts with reservation, domicile elections, formerly domiciled residents and the periodic charges arising to trusts.

Furnished holiday letting (Lecture B1432 – 13.52 minutes)

The announcement was made that preferential treatment for furnished holiday lettings would be abolished from 6 April 2025. The following are assumptions about how this is going to be enacted as we have no further details currently.

FHL qualification essentials

Currently, to qualify for FHL treatment in any tax year a property must:

- be available for letting for at least 210 days;

- be let for at least 105 days; and
- lettings for over 31 days must not total more than 155 days.

Owners of multiple FHLs may elect for the 105 day letting provisions to be averaged across multiple properties. The properties still have to be available for letting for at least 210 days; this cannot be averaged.

There is also the possibility that you can 'skip' a year where you did not qualify for FHL treatment but where it is treated as if continues although this is an alternative to the averaging situation, so it is not always straightforward.

Advantages of having FHL status

The advantages of falling within the FHL regime can be summarised as follows:

- interest relief is available by deduction of the interest paid from business profits;
- income is net relevant earnings for pension contributions purposes;
- capital allowances can be claimed on plant and machinery for use in the property (normally you cannot get capital allowances on assets for use in a dwelling house);
- business asset disposal relief is available on sale of a property, assuming the conditions are met;
- holdover relief and rollover relief are available, again subject to the meeting of the relevant conditions.

On the basis that we are only speculating, it can be assumed that with effect from 6 April 2025 the following will apply:

- interest relief will be given by way of a tax reducer as applies for other residential property businesses with the same potential increase in tax payable on the profits earned unless all of those fall within the basic rate band;
- income will not qualify as net relevant earnings (although in reality this is possibility not a huge issue for most property owners);
- no capital allowances on plant and machinery acquired with only renewals allowance being available on the qualifying assets;
- no BADR, rollover relief or holdover relief.

From the perspective of transitional provisions, the most likely to be punitive is in relation to capital allowances where it is assumed that assets on which capital allowances have been claimed historically will have to be 'sold' at 5 April 2025 at the then market value. Given that many landlords will have claimed 100% AIA on such assets, any value allocated to those

items will attract an immediate balancing charge. Whilst the second-hand value of assets held for many years might justifiably be assessed as nil, where recent additions have been made then it is unlikely that HMRC will accept that there is no value to them now.

Losses for FHL property have been ring-fenced against the same FHL property income – effectively only being available to carry forward. No information has been provided about whether those losses will become available to set against wider property income after 6 April 2025 or whether they will have to continue to be ring-fenced against the same property.

It is likely that there will be an absolute cut-off for BADR, rollover relief and holdover relief so anyone undertaking transactions to take advantage of this will need to make sure they are undertaken before 6 April 2025. It has been announced that there will be an anti-forestalling rule to stop people entering into unconditional contracts for sale before 6 April 2025 (which would then trigger a disposal for CGT purposes) with a long completion date (presumably on or after 6 April 2025) which could then be assigned when the vendor wants to sell the property to a third party. This is quite common when a known change to CGT rules is coming in.

There has been significant publicity already about the fact that many owners are going to pull out of the FHL business and so we may see a significant number of properties being put up for sale or maybe simply being retained for use as second homes (with the latter being much more detrimental to the overall economic situation as there will be loss of tourist revenue).

In terms of planning, it is difficult at this stage to know what to advise clients. If there is an intention to sell then the availability of BADR is likely to be attractive and so the sales will need to be completed before the date of change. If anyone wants to look at any IHT planning and look to gift property and claiming holdover relief, again this will need to be done before any changes are implemented. It will be possible to model the tax position in relation to the restrictions on interest relief.