

FB2025 - Changes to IHT relating to abolition of domicile status

(Lecture P1474 – 8.28 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.