

INHERITANCE TAX – EXCLUDED PROPERTY

An Isle of Man resident and domiciled individual will be liable to UK Inheritance Tax on death only on UK situated assets. Foreign property owned by a non-domiciliary will always be considered to be “excluded property”, and outside the scope of UK Inheritance Tax. A UK domiciled individual will be liable to UK Inheritance Tax on his worldwide estate, subject to the usual exemptions and reliefs.

However, a non-UK domiciled individual is currently **deemed** to be UK domiciled if UK resident for 17 out of the previous 20 years, in which case his worldwide estate will be in charge. Proposals contained in the Summer Budget 2015, if implemented as planned, will amend the rules of deemed domicile, so that with effect from 6 April 2017 a person will be deemed to be UK domiciled:

- if he has been UK resident for **15** out of the previous 20 years, or
- if his domicile of origin is in the UK, he subsequently acquired a domicile of choice elsewhere, but then returns to the UK. In these circumstances he will be deemed UK domiciled from the date of his return to the UK.

Certain UK situated investments are also excluded property, as set out in Section 6 of the Inheritance Tax Act of 1992, viz:

- All UK Government gilt-edged securities - designated Free of Tax for Residents Abroad (FOTRA Gilts)
- Holdings in UK authorised unit trusts and shares in UK open-ended investment companies
- UK National savings certificates, premium savings bonds and deposits with the National Savings Bank where the beneficial owner is domiciled in the Isle of Man.

Changes proposed in the UK Summer Budget 2015, to be introduced with effect from 6 April 2017, will mean that UK located residential property, held indirectly by a non-UK domiciled person either via an offshore company or in an offshore trust, will also be subject to Inheritance Tax. These changes are the subject of consultation.

Clearly it is important for Inheritance Tax purposes to be able to identify where an asset is situated. Common Law rules are as follows:

- Land is situated where it is physically located.
- Registered shares and securities are situated where they are registered. If they are transferable on more than one share register, they are situated where they would normally be dealt with in the ordinary course of business.

- Government securities are situated at the place of registration or inscription – but see above for UK FOTRA gilts.
- Chattels are situated where they happen to be at the relevant time.
- Debtors are generally situated where the debtor resides. See also our Inheritance Tax note on Specialty Debts.
- Bank accounts are situated at the branch which maintains the account. But a foreign currency account in the UK will be excluded property on death (but will be considered to be UK situated if the subject of a gift during life).
- Stockbrokers' nominee accounts do not change the location of the investments – the investments will continue to be located where they are registered.

In addition to the above, where property in a trust is situated outside the UK, the property is excluded property provided that the settlor was not domiciled in the UK at the time when the settlement was made and/or when the property was gifted to the trust. Not only is it important for the property to be situated abroad at the time when trust is created, it is also vital that the property is situated abroad at the time when a potential charge to Inheritance Tax arises (e.g. on 10 year anniversary dates of the commencement of the trust) in order for the property to be excluded property. An exception to this will be effective from 6 April 2017, regarding UK residential property held in an offshore company owned by the trust.

But, see also our note headed “Inheritance Tax – UK Domicile Reviving” for further changes from April 2017 to Inheritance Tax on trusts created by individuals when they were not domiciled in the UK, but had been born in the UK and had a domicile of origin in the UK, and who subsequently return to reside in the UK.

If you would like to know more then please contact

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