
43 Inheritance tax: domicile

- (1) In section 267 of IHTA 1984 (persons treated as domiciled in the United Kingdom), in subsection (1) –
 - (a) in paragraph (a), omit the final “or”;
 - (b) after that paragraph insert –
 - “(aa) he is a formerly domiciled resident for the tax year in which the relevant time falls, or”;
 - (c) in paragraph (b), for the words from “in not less than” to “the year of assessment” substitute “for at least fifteen of the twenty tax years immediately preceding the tax year”.
- (2) In that section, in subsection (4), for “in any year of assessment” substitute “for any tax year”.
- (3) In that section, at the end insert –
 - “(6) For the purposes of this Act, a person is a “formerly domiciled resident” for a tax year if –
 - (a) he was born in the United Kingdom,
 - (b) his domicile of origin at the time of his birth was in the United Kingdom,
 - (c) he was resident in the United Kingdom for that tax year, and
 - (d) he was resident in the United Kingdom for at least one of the two tax years immediately preceding that tax year.”
- (4) In section 48 of that Act (settlements: excluded property) –
 - (a) in subsection (3)(b), for “and (3D)” substitute “to (3E)”;
 - (b) in subsection (3A)(b), for “subsection (3B)” substitute “subsections (3B) and (3E)”;
 - (c) after subsection (3D) insert –
 - “(3E) In a case where the settlor of property comprised in a settlement is not domiciled in the United Kingdom at the time the settlement is made, the property is not excluded property by virtue of subsection (3) or (3A) above at any time in a tax year if the settlor was a formerly domiciled resident for that tax year.”
- (5) In section 64 of that Act (charge at ten-year anniversary), in subsection (1B), after “was made” insert “and is not a formerly domiciled resident for the tax year in which the ten-year anniversary falls”.
- (6) In section 65 of that Act (charge at other times), after subsection (7A) insert –
 - “(7B) Tax shall not be charged under this section by reason only that property comprised in a settlement becomes excluded property by virtue of section 48(3E) ceasing to apply in relation to it.”
- (7) In section 82 of that Act (excluded property) –
 - (a) for subsection (1) substitute –
 - “(1) In a case where, apart from this section, property to which section 80 or 81 applies would be excluded property by virtue of section 48(3)(a) above, that property shall not be taken to be excluded property at any time (“the relevant time”) for the purposes of this Chapter (except sections 78 and 79) unless Conditions A and B are satisfied.”;

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- (b) in subsection (2), for “the condition in subsection (3) below” substitute “Condition A”;
- (c) in subsection (3), for “The condition” substitute “Condition A”;
- (d) after subsection (3) insert –
- “(4) Condition B referred to in subsection (1) above is –
- (a) in the case of property to which section 80 above applies, that the person who is the settlor in relation to the settlement first mentioned in that section, and
- (b) in the case of property to which subsection (1) or (2) of section 81 above applies, that the person who is the settlor in relation to the first or second of the settlements mentioned in the subsection concerned,
- was not a formerly domiciled resident for the tax year in which the relevant time falls.”
- (8) In section 267ZB of that Act (section 267ZA: further provision about election), in subsection (10), for “four” substitute “six”.
- (9) In section 272 of that Act (interpretation) –
- (a) for the definition of “foreign-owned” substitute –
- ““foreign-owned”, in relation to property at any time, means property –
- (a) in the case of which the person beneficially entitled to it is at that time domiciled outside the United Kingdom, or
- (b) if the property is comprised in a settlement, in the case of which the settlor –
- (i) is not a formerly domiciled resident for the tax year in which that time falls, and
- (ii) was domiciled outside the United Kingdom when the property became comprised in the settlement;”;
- (b) at the appropriate place insert –
- ““formerly domiciled resident”, in relation to a tax year, has the meaning given by section 267(6);”.
- (10) In Schedule 45 to FA 2013 (statutory residence test), in paragraph 154 (transitional and saving provision), after sub-paragraph (4) insert –
- “(4A) A notice under sub-paragraph (4) does not have effect for the purposes of determining whether an individual was resident in the United Kingdom for a tax year for the purposes of section 267(1)(b) of IHTA 1984.”
- (11) The amendments made by this section have effect in relation to times after 5 April 2017.
