

1 Inheritance tax: excluded property etc

- (1) IHTA 1984 is amended as follows.
- (2) In section 48 (excluded property) –
 - (a) in subsection (3)(a) for “settlement was made” substitute “property became comprised in the settlement”;
 - (b) in subsection (3A)(a) for “settlement was made” substitute “property became comprised in the settlement”;
 - (c) in subsection (3E) for “settlement is made” substitute “property became comprised in the settlement”.
- (3) After section 48 insert –

“48A Commencement of settlement

In this Act any reference to the commencement of a settlement is to the time when property first becomes comprised in it.”
- (4) Omit section 60 (meaning of commencement of settlement for purposes of Chapter).
- (5) In section 64(1B) –
 - (a) after “settlor of” insert “property comprised in”;
 - (b) for “settlement was made” substitute “property became comprised in the settlement”;
 - (c) after “income of the settlement” insert “that arose (directly or indirectly) from the property”.
- (6) In section 65 –
 - (a) in subsection (7A) for “settlement made” substitute “property became comprised in settlement”;
 - (b) in subsection (8) –
 - (i) after “settlor of” insert “property comprised in”;
 - (ii) for “settlement was made” substitute “property became comprised in the settlement”;
 - (iii) for “property comprised in the settlement” substitute “the property”.
- (7) In section 74A –
 - (a) in subsection (2)(a) for “settlement was made” substitute “relevant settled property became comprised in the settlement”;
 - (b) in subsection (3)(a) for “settlement was made” substitute “relevant settled property became comprised in the settlement”.
- (8) In section 157(3) for “he made” substitute “the settled property became comprised in”.

- (9) In section 237(1)(b) for “the chargeable transfer is made by the making of a settlement or” substitute “property becomes comprised in a settlement by virtue of the chargeable transfer or the chargeable transfer”.
- (10) After section 271A insert –
- “271B References to the time property became comprised in a settlement**
- (1) This section applies if –
- (a) property becomes comprised in a settlement, and
 - (b) at any later time, other property in the settlement directly or indirectly represents the property mentioned in paragraph (a).
- (2) Any reference in this Act to the time property became comprised in a settlement is to be read, in relation to the property mentioned in subsection (1)(b), as the time the property mentioned in subsection (1)(a) became comprised in the settlement.”
- (11) In section 272 before the definition of “conditionally exempt transfer” insert –
- ““commencement” of a settlement has the meaning given by section 48A;”.
- (12) In relation to any chargeable transfer made on or after the day this Act is passed, the amendments made by this section are treated as always having been in force.
- Section 2(3) of IHTA 1984 applies for the purposes of this subsection.

2 Inheritance tax: transfers between settlements etc

- (1) IHTA 1984 is amended as follows.
- (2) After section 81A insert –
- “81B Excluded property: property to which section 80 applies**
- (1) This section applies to property to which section 80 (initial interest of settlor etc) applies.
- (2) If the property would apart from this section be excluded property by virtue of section 48(3)(a) or (3A)(a), the property is at any time in a tax year to be regarded as excluded property for the purposes of this Chapter, except sections 78 and 79, only if Conditions A and B are met.
- (3) Section 65(8) has effect in relation to the property only if Condition A is met (in addition to any condition mentioned in that provision).
- (4) Condition A is that the actual settlor was not domiciled in the United Kingdom at the time of the occasion first referred to in section 80(1).
- (5) Condition B is that the actual settlor is not a formerly domiciled resident for the tax year.
- (6) In this section “the actual settlor” means the person who is the settlor of the property in relation to the settlement first mentioned in section 80(1).
- (7) Where the occasion first referred to in section 80(1) occurred before the day on which the Finance Act 2020 was passed, this section has effect as if in subsection (2) “or (3A)(a)” were omitted.”

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- (3) In section 82 (excluded property) –
- (a) in subsection (1) omit “80 or”;
 - (b) in subsection (2) –
 - (i) omit “80 or”;
 - (ii) for “settlement was made” substitute “property became comprised in the settlement”;
 - (c) in subsection (3) omit paragraph (a);
 - (d) in subsection (4) omit paragraph (a);
 - (e) after that subsection insert –
 - “(5) This section does not apply in relation to a case to which section 82A applies.”
 - (f) in the heading at the end insert “: property to which section 81 applies (old cases)”.

- (4) After section 82 insert –

“82A Excluded property: property to which section 81 applies (new cases)

- (1) This section –
 - (a) applies where, at any time on or after the day on which the Finance Act 2020 is passed, property ceases to be comprised in a settlement (“the first settlement”) but is treated as a result of section 81 as remaining comprised in that settlement for the purposes of this Chapter, and
 - (b) applies whether or not at any subsequent time the property is comprised in the first settlement without regard to that section.
- (2) If the property would apart from this section be excluded property by virtue of section 48(3)(a) or (3A)(a), the property is at any time in a tax year to be regarded as excluded property for the purposes of this Chapter, except sections 78 and 79, only if the non-domicile condition is met in relation to each qualifying transfer occurring on or before the time in question.
- (3) Section 65(8) has effect in relation to the property at any time only if (in addition to the condition mentioned there) the non-domicile condition is met in relation to each qualifying transfer occurring on or before that time; but, for the purposes of this subsection, the non-domicile condition has effect with the omission of subsection (6)(a)(ii).
- (4) For the purposes of this section each of the following is a “qualifying transfer” –
 - (a) the occasion on which section 81 applies to the property; and
 - (b) any subsequent occasion on which the property would, if the effect of section 81 were ignored, become comprised in a settlement to which this Chapter applies (including the first settlement).
- (5) But a qualifying transfer does not occur to any extent as a result of –
 - (a) an assignment by a beneficiary of an interest in a settlement, or
 - (b) an exercise of a general power of appointment,
 unless the time of the assignment or exercise of the power falls on or after the day on which the Finance Act 2020 is passed.
- (6) For the purposes of this section “the non-domicile condition” is –

- (a) in a case where a qualifying transfer occurs to any extent as a result of an assignment by a beneficiary of an interest in a settlement or an exercise of a general power of appointment, that the beneficiary or the person exercising the power –
 - (i) was not domiciled in the United Kingdom at the time of the assignment or exercise of the power, and
 - (ii) is not a formerly domiciled resident for the tax year in which that time falls;
 - (b) in a case in which section 81 applies which is not within paragraph (a), that the person who was the settlor of the property in relation to the first settlement was not domiciled in the United Kingdom immediately before the time when the property ceased to be comprised in the first settlement;
 - (c) in any other case, that the person who was the settlor of the property in relation to the first settlement was not domiciled in the United Kingdom immediately before the time of the subsequent occasion.
- (7) If –
- (a) the settlor mentioned in subsection (6)(b) or (c) has died before the time mentioned there, and
 - (b) the death does not give rise to a qualifying transfer, the non-domicile condition is treated as met.
- (8) In this section any reference to an assignment includes an assignation.”
- (5) In relation to any chargeable transfer made on or after the day this Act is passed, the amendments made by subsections (2) and (3) are treated as always having been in force.
Section 2(3) of IHTA 1984 applies for the purposes of this subsection.