Technical Note: Reforming the taxation of non-UK domiciled individuals

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Introduction

1. From 6 April 2025, the current rules for the taxation of non-UK domiciled individuals will end. The concept of domicile as a relevant connecting factor in the UK tax system will be replaced by a system based on tax residence.

2. The government is committed to addressing unfairness in the tax system, so that everyone who is long-term resident in the UK pays their taxes here. The government will therefore remove the outdated concept of domicile status from the tax system and implement a new residence-based regime which is internationally competitive and focused on attracting the best talent and investment to the UK.

3. The government will:

   - implement a 4-year foreign income and gains (FIG) regime
   - replace the domicile-based system for Inheritance Tax (IHT) with a residence-based system
   - introduce a new Temporary Repatriation Facility (TRF). This will allow individuals previously taxed on the remittance basis to designate amounts derived from pre-6 April 2025 FIG, and pay a reduced tax rate for a period of three tax years, starting from 2025 to 2026. This facility will be extended to distributions from qualifying overseas trust structures.
   - Reform Overseas Workday Relief by removing the need to keep the income offshore, extend the period that employees can benefit from the relief from three to four years and introduce an annual financial limit on the amount claimed.

4. The government seeks to better understand where there is ambiguity, undue complexity and inconsistency in the application of the personal tax offshore anti-avoidance rules across: Settlements, Transfer of Assets Abroad and Capital Gains Tax (CGT). A Call for Evidence has been published at Autumn Budget 2024.

Who should read this

5. This Technical Note provides details on the main changes that will apply from 6 April 2025 to the taxation of non-domiciles already resident in the UK, and other individuals who have been non-UK resident and move to the UK. Draft legislation has been published alongside this Technical Note.

6. This Technical Note is based on draft legislation which is subject to change by Parliament so does not constitute final guidance. It is produced to assist affected individuals to understand the detail of government policy. HM Revenue and Customs (HMRC) guidance will be made available in the lead up to 6 April 2025 to assist individuals and agents in applying the legislation.

Summary of changes

7. Under the current rules, UK resident non-domiciles who haven't become deemed-domiciled can choose to be taxed on the remittance basis. This means that whilst they pay tax on their UK income and gains in the same way as other UK residents, they only pay tax on their FIG when these are remitted to the UK.

8. This preferential tax treatment based on domicile status will be removed for all new FIG that arises from 6 April 2025. It will be replaced by an internationally competitive residence-based regime, providing 100% relief on eligible FIG for new arrivals to the UK in their first four years of tax residence, provided they have not been UK tax resident in the 10 tax years immediately prior to their arrival (4-year FIG regime).

9. From 6 April 2025, all former remittance basis users who are not eligible for the 4-year FIG regime will pay tax at the same rate as other UK resident individuals on any newly arising FIG like any other taxpayer. Former remittance basis users will continue to pay tax on FIG that arose before 6 April 2025 that they remit to the UK.

10. The protection from tax on FIG arising within settlor-interested trust structures will also no longer be available for non-domiciled and deemed domiciled settlors who do not qualify for the 4-year FIG regime from 6 April 2025. FIG that arose in protected non-resident trusts before this date will not be taxed unless distributions or benefits are paid or deemed to be paid to UK residents who do not or are unable to make a claim for the 4-year FIG regime. FIG which arose within the trust structure before this date will be taxed on UK resident settlors or beneficiaries not within the 4-year FIG regime if these are matched to worldwide trust distributions received.

11. Overseas Workday Relief (OWR) will be retained and will still be based on income which relates to overseas duties determined on a just and reasonable basis. From 6 April 2025, eligibility for OWR will be primarily based on whether employees are eligible for the 4-year FIG regime. This will provide relief from income tax for a 4-year period, regardless of whether these earnings are brought to the UK or whether they are paid into an overseas account.

12. For Capital Gains Tax (CGT) purposes, current and past remittance basis users can rebase their personally held foreign assets to 5 April 2017 on a disposal where certain conditions are met.

13. A new Temporary Repatriation Facility (TRF) will be available for individuals who have been taxed on the remittance basis. Individuals who have previously claimed the remittance basis and have untaxed FIG will be able to make an election to designate amounts derived from previously untaxed and unremitted FIG that arose prior to 6 April 2025 for a period of 3 tax years, from 6 April 2025. Designated amounts will be charged to tax at a rate of 12% in tax years 2025 to 2026 and 2026 to 2027, with the rate rising to 15% in tax year 2027 to 2028. Any remitted 'designated amounts' will not otherwise by charged to UK tax. The TRF will be available provided the individual is UK resident in the relevant tax years.

14. The TRF will also be available for qualifying UK resident settlors or individuals who receive a benefit from an offshore trust structure during the 3 tax years, from 6 April 2025. To qualify the relevant individual must be a former remittance basis user, the benefit must be received

during the TRF period and must be capable of being matched to FIG that arose within the settlement before 6 April 2025.

15. Individuals who make a designation under the TRF and have paid the TRF tax charge will have the freedom to choose in which year to remit the designated amounts to the UK. This does not need to be in the TRF window and could be in a later tax year.

16. IHT is currently a domicile-based system. A new residence-based system for IHT will be introduced from 6 April 2025. This will affect the scope of property brought into UK IHT for individuals and settlements.

17. The test for whether non-UK assets are in scope for IHT will be whether an individual has been resident in the UK for at least 10 out of the last 20 tax years immediately preceding the tax year in which the chargeable event (including death) arises. The time the individual remains in scope after leaving the UK will be shortened where they have only been resident in the UK for between 10 and 19 years.

18. Subject to transitional points, the excluded property status of non-UK settled assets will not be fixed at the time the assets are added to a settlement. Instead, they will only be excluded property (and so not subject to IHT charges) at times when the settlor is not long-term resident. When a settlor is long-term resident, any assets they have settled (even when not long-term resident) will be subject to IHT.

Engagement Plans

Guidance and education

19. The government recognises that many individuals, agents and other organisations impacted will need additional guidance as part of the reforms. Further details will be published on gov.uk, in due course.

What to do if you have questions or concerns

20. The government values external views as part of its policy making process. During the implementation of this policy, we will not be able to respond to emails directly. Instead, we will use those comments when considering future updates to HMRC guidance and other releases. This will help ensure that the same information is made available to all interested parties at the same time.

21. If you have any queries about any of the points raised in this Technical Note, or wish to provide detailed technical comments on the draft Finance Bill legislation for this measure, then please email the Central Mailbox personaltaxinternational@hmrc.gov.uk.

22. Individuals with questions about their own tax affairs should contact HMRC in the usual way.

The new regime for foreign income and capital gains

4-year FIG regime

23. From 6 April 2025, all UK residents will be taxed on the arising basis of assessment. A new regime for FIG will be available to individuals for their first four years of UK tax residence

after a period of 10 years non-residence. Individuals who make a claim to use the new 4-year FIG regime will not pay tax on FIG arising in those four years.

Overview

24. A claim for the 4-year FIG regime will be treated as a claim to relief for tax purposes and will need to be made in a Self-Assessment tax return. A claim will need to be made before 31 January in the second tax year after the relevant year to which the claim relates. For example, a claim for the 4-year FIG regime for the 2025 to 2026 tax year will need to be made on or before 31 January 2028.

25. To claim the 4-year FIG regime, individuals will need to quantify the amount of income and gains for which relief is being claimed under the regime. If amounts of FIG are not quantified and included in the return, then individuals will remain chargeable and subject to tax at their usual rates.

26. Individuals will not need to make a claim for every year of the 4-year period. For example, an individual who makes a claim in year 1 but chooses not to make a claim for year 2, can still make a claim for years 3 and 4. Where an individual does not make a claim for a tax year, they will not be able to roll that year over to a later year. The 4-year FIG regime is only available for a maximum period of 4 consecutive tax years, in the first 4 years of UK tax residence.

Eligibility

27. The 4-year FIG regime will only be available for individuals that are both UK resident and are within their first four years of UK tax residence, following a period of at least ten consecutive years of non-UK residence. This includes UK nationals and UK domiciled individuals who may not have previously had access to, or used, the remittance basis.

28. An individual's ability to qualify for the 4-year FIG regime will be determined by whether they are UK resident under the Statutory Residence Test (SRT). An individual cannot qualify if they have been UK resident under the SRT in any of the 10 years prior to arrival (for tax years 2013 to 2014 onwards). Treaty residence elsewhere under a Double Taxation Agreement (DTA) tie-breaker will not be relevant for the purpose of determining eligibility. The DTA would not enable an individual to be treated as non-UK resident for the purposes of qualifying for the 4-year FIG regime.

29. For example, if an individual was non-UK resident under the SRT in 2015 to 2016 and remained non-UK resident under the SRT for ten tax years before arriving in the UK, they will be eligible to use the 4-year FIG regime from 2025 to 2026 onwards, regardless of their nationality or domicile status.

30. If a tax year within the 4-year period is a split year under the SRT, this will still count as a full year of UK residence for the purposes of the 4-year FIG regime.

31. If an individual had a period of ten consecutive years of non-UK residence prior to their arrival in the UK and is still within their first four years of UK tax residence under the SRT on 6 April 2025, they can access the 4-year FIG regime until they have exceeded the four-year period. For example, if an individual was UK resident in the 2022 to 2023 tax year after a period of non-UK residence in the ten tax years between 2012 to 2013 and 2021 to 2022, then they could still claim the 4 year-FIG regime in the 2025 to 2026 tax year for one final year. This is because 2025 to 2026 would be within four tax years after a period of ten years

consecutive non-residence. For the 2012 to 2013 tax year, the pre-SRT rules will apply. See HMRC6 for further details.

32. If an individual leaves the UK temporarily during the four-year period, they can claim the 4-year FIG regime for any of the qualifying tax years remaining on their return to the UK. For example, if someone is not UK tax resident in years 2 and 3 but becomes UK tax resident again for year 4, they can claim the 4-year FIG regime for year 4. They would not be able to claim the 4-year FIG in year 5 as it would not be with a period of 4 years following a period of 10 years non-resident.

33. Remittance basis users who leave the UK and return after a period of ten tax years can only claim the 4-year FIG regime for any new FIG that arises within their 4-year FIG regime period. They cannot claim for any FIG they remit during the 4-year FIG regime period that relates to a year in which they were taxed on the remittance basis. They may, however, be able to use the TRF if their year of return is during the period the TRF is available.

Remittances

34. A claim under the 4-year FIG regime will apply regardless of whether any of the amounts subject to the claim (i.e. arising from 6 April 2025 onwards) are remitted to the UK then or later. A claimant can opt to remit any or all their amounts relieved under the 4-year FIG regime, either in the year of the claim or any future year, without any additional UK tax charge and the level of the remittance has no impact on the value that can be claimed.

Foreign income and gains that the 4-year FIG regime applies to

35. The types of foreign income that will be relieved from tax as part of the 4-year FIG regime are similar to those currently taxed on the remittance basis, and will be:
    - Accrued income profits
    - Adjusted income
    - Annual payments not otherwise charged
    - Certain telecommunication rights: non-trading income
    - Certain types of pension income
    - Dividends
    - Estate income
    - Films and sounds recordings: non-trading business
    - Foreign deemed income under the Transfer of Assets Abroad provisions
    - Foreign income arising under a settlement charged under the Settlements Legislation
    - Income-based carried interest (IBCI) that arises by virtue of pre-arrival services
    - Income not otherwise charged
    - Interest
    - Offshore income gains
    - Partnership income
    - Profits from deeply discounted securities
    - Property business profits
    - Purchased life annuity payments
    - Royalties and other income from intellectual property

- Trade profits
- The foreign proportion of certain income received from a Qualifying Asset Holding Company by an individual performing investment management services

36. Changes will be made to the rules on foreign partnership income to align with the rules on foreign trading profit. For the purposes of the 4-year FIG regime, profits of a foreign partnership will only be considered foreign if the individual carries out all partnership duties outside the UK.

37. The foreign income that will not be relievable under the 4-year FIG regime will be:

    - Foreign employment income paid through third parties
    - Income from pensions paid under the Overseas Pensions Act 1973
    - Income paid in connection with foreign securities received in exchange for UK securities
    - Payments from UK-tax relieved funds within relevant non-UK pension schemes
    - Profits from sale of foreign dividend coupons
    - Profits of certain disposals concerned with land in the UK treated as trading profits
    - Unremittable income: charged on withdrawal of relief after source ceases, section 844 Income Tax (Trading and Other Income) Act 2005.
    - Offshore life insurance policies and investment bonds subject to chargeable event gains whether the policy is a personal portfolio bond or not.

38. In addition:

    - relevant foreign earnings and foreign specific employment income will also not be relievable under the 4-year FIG regime. Relief for these may be available under OWR.
    - income from performance of a related activity will also not be relievable under the 4-year FIG regime. This will include income related to sportspersons and entertainers and will include payments to or distributions by personal service companies.

39. The foreign gains that will be relieved from tax under the 4-year FIG regime will be:

    - Gains accruing on the disposal of assets situated outside the UK
    - Gains attributed to participators in non-UK companies to the extent that they accrue on the disposal of assets situated outside the UK
    - Gains attributed to settlors of non-resident settlements under section 86 of the Taxation of Chargeable Gains Act (TCGA) 1992 to the extent that they accrue on the disposal of assets situated outside the UK
    - All gains attributed to beneficiaries of non-resident settlements in respect of capital distributions or benefits under section 87 of, or Schedule 4C to, TCGA 1992
    - Carried interest gains to the extent that the gain element relates to investment management services performed outside the UK

- The foreign proportion of certain gains received from a Qualifying Asset Holding Company by an individual performing investment management services

40. The normal CGT situs rules will apply in determining whether an asset is situated outside the UK. Additionally, for the purposes of the 4-year FIG regime only, an asset that derives at least 75% of its value from UK land where the person has a substantial interest in that land will be treated as a UK-situated asset.

Making a claim and the impact on losses, the Personal Allowance and the Annual Exempt Amount

41. An individual can make a claim with respect to the 4-year FIG regime for either income or gains, or both. The claims are separate; if an individual makes a claim for one they do not need to make a claim for the other. An election can also be made independently for OWR purposes.

42. If an individual makes a claim for the 4-year FIG regime, or an OWR election, they will not be able to claim any foreign income losses or foreign capital losses arising in the year of the claim.

43. The claim for the 4-year FIG regime applies on a source-by-source basis. It is not necessary to claim relief on all sources of foreign income and foreign gains. As such the taxpayer can choose what foreign income and which foreign gains on which to claim relief. Relief for each source must be identified and claimed on the return.

44. An individual will also lose their entitlement to a Personal Allowance (PA) for Income Tax and the Annual Exempt Amount (AEA) for CGT for the tax year in which they make the claim or election. The loss of entitlement to both PA and AEA will apply regardless of whether a claim is made for only income or only gains, or only an election for OWR is made.

4-year FIG and distributions from an overseas settlement constituting or matched to income

45. Where a UK resident individual, who is eligible to claim the 4-year FIG regime, receives a foreign income distribution from a settlement, the distribution may qualify for relief under the 4-year FIG regime.

46. Where a beneficiary receives a discretionary income distribution from a non-resident settlement it is treated as untaxed income of the beneficiary, even if the trustees have paid tax on this income. As the trust distribution is entirely made up of foreign income, full relief will be available on the income distribution received if an individual makes a claim for the 4-year FIG regime.

47. Where a beneficiary who meets the criteria for the 4-year FIG regime has a life interest in a settlement, whether or not the settlement is UK resident, and is chargeable on their share of trust income as it arises, it will be possible to make a claim for the 4-year FIG regime in respect of any foreign income in which they have an interest. Similarly, if income tax would be chargeable on income treated as arising to a transferor as a result of the Transfer of Assets Abroad (ToAA) rules, this too will not result in a tax charge if the individual makes a claim for the 4-year FIG regime (where this income is non-UK source income).

48. From 6 April 2025 the ToAA rules will be amended (see paragraph 56 onwards). When an individual that claims the 4-year FIG regime receives a benefit that is matched to foreign income of an overseas entity for which the ToAA rules apply, this will not result in a tax liability. Equally, the amount of the benefit will not be treated as reducing the pool of available relevant income within the overseas entity for future matching purposes. Where the benefit is not matched to foreign income of an overseas entity for which the ToAA rules apply, it may be subject to tax when the 4-year FIG period ends and in future tax years.

4-year FIG regime and section 87 and Schedule 4C TCGA 1992 Gains

49. Beneficiaries of non-resident trusts may be chargeable to CGT in respect of gains realised by the trustees. Capital payments or benefits received by beneficiaries can be matched with gains within the settlement and a charge to tax will arise when capital gains and capital payments are matched on a 'last in, first out' (LIFO) basis under section 87 or Schedule 4C. If capital payments exceed trust gains, these 'unmatched payments' are carried forward and matched with trust gains made in future years.

50. From 6 April 2025, if a beneficiary receives a benefit from an overseas settlement which would ordinarily be matched to gains within the settlement under section 87 or Schedule 4C, but the recipient of the benefit is eligible for the 4-year FIG regime and claims it, the benefit will not be taken into account in the matching process and so will not be taxed. This means that the benefit will not be matched to any 'unmatched' gains within the settlement, whether accrued from UK or non-UK situated assets; and will also not be treated as reducing any pool of unmatched gains. Some modifications are also being made to the onwards gift and close family member rules. If no such trust gains have yet arisen, any benefits they receive will not be taxed or matched to future trust gains.

Summary of distributions from an overseas settlement and the 4-year FIG

51. Where a beneficiary makes a claim for the 4-year FIG regime, any income or gains arising within an overseas structure will continue to be added to the relevant pools. The income and gains will not be matched to any benefit that they might receive.

52. Where a settlor-beneficiary of a settlor interested settlement, makes a claim for the 4-year FIG regime then they will not be taxed on the FIG arising in the settlement in the 4-year FIG regime period as they arise. They will, however, need to report any benefits they receive on their Self-Assessment tax return and claim the 4-year FIG regime. The benefits will also not be matched to any FIG arising within the settlement and will not reduce the relevant income or gains pools.

53. Where a non-settlor beneficiary claims the 4-year FIG regime and in a later year subsequently receives a benefit outside of the period in which they make a claim for the 4-year FIG regime, such benefits can be taxed by reference to any FIG within the trust. This includes income or gains arising in the period during which they claimed the 4-year FIG regime.

54. Where a settlor beneficiary claims the 4-year FIG regime and in a later year subsequently receives a benefit outside of a period in which they make a claim for the 4-year FIG regime, such benefits can be taxed by reference to the pre-2025 protection foreign source income (PFSI) or transitionally protected income (TPI) and/or by reference to the foreign trust gains realised in the 4-year FIG regime period, which will be taxable under section 87 of TCGA 1992.

55. As the claim for the 4-year FIG regime applies on a source-by-source basis, settlors or beneficiaries can opt to exclude any benefits they may receive from an overseas settlement or structure from their 4-year FIG regime claim. If a claim is not made in respect of these benefits for the 4-year FIG regime, then it may be possible to include the chargeable matched FIG within the TRF (see paragraphs 136 to 139).

Trust protections and offshore anti-avoidance legislation

56. From 6 April 2025, the protection from tax on FIG arising within settlor-interested trust structures will no longer be available for non-domiciled and deemed domiciled individuals who do not qualify for and claim the 4-year FIG regime. FIG arising in the trust (whenever established) from 6 April 2025 will be taxed on the settlor on the same basis as UK domiciled settlors, unless the settlor is eligible for and claims the 4-year FIG regime.

57. From 6 April 2025, the matching of pre-6 April 2025 FIG to trust distributions will continue to apply for individuals who are not eligible for the 4-year FIG regime, or who are eligible for the 4-year FIG regime but do not claim it.

58. From 6 April 2025, beneficiaries and settlors who are within the 4-year FIG regime will also be able to receive benefits free from any UK tax charges whether or not the benefits are received in the UK (as set out in paragraphs 45 to 55 above). However, such benefits will not reduce the pools of unmatched FIG within the overseas entity for matching purposes and will be subject to a modified onwards gift rule and close family member rule.

Settlements legislation

59. The settlements legislation is anti-avoidance legislation aimed at preventing UK resident individuals (settlors) from avoiding or minimising a liability to tax by giving away their income or income producing assets whilst still being able to benefit (TSEM4000).

60. From 6 April 2025, the trust protections will no longer apply to the settlements legislation. This means that from this date all income arising under a ‘settlement’ will be taxed on the settlor as it arises if:

    - the settlor or their spouse/civil partner has retained an interest in settlement property,
    - income is provided to, or applied for, the benefit of the settlor’s ‘relevant’ children, or
    - the capital sum conditions are met.

    This will apply to all UK resident settlors unless they come within the 4-year FIG regime and make a claim for the relevant tax year.

61. From 6 April 2025, changes will be made to the settlements legislation that will:

    - Remove the concept of tainting, as all income will be taxable on UK resident settlors as it arises unless they are eligible for and claim the 4-year FIG regime for the relevant tax year.

    - Ensure that the benefits charge will only apply to UK resident settlors who do not claim the 4-year FIG regime to the extent that any benefits they receive after 5 April 2025 are matched with PFSI or TTI that arose before 6 April 2025.

- Modify the close family member rules to remove the reference to the remittance basis. The rule will also be amended to include a charge on UK resident settlors who do not claim the 4-year FIG regime where a close family member receives a benefit but is not taxable, because they are eligible for, and have claimed, the 4-year FIG regime.

- Modify the onward gift rules to remove reference to the original recipient being a remittance basis user for benefits received after 5 April 2025. The rules will also be amended to apply where the original recipient of the benefit is eligible for, and has claimed, the 4-year FIG regime during the year in which they received the benefit. Where this is the case, and the original recipient makes an onward gift for which the onward gift conditions apply, the onward recipient if UK resident will be taxable on the benefit unless they are eligible for, and have claimed, the 4-year FIG regime for the relevant tax year.

62. From 6 April 2025, where there are multiple settlors potentially liable for tax on the income arising under the settlement, HMRC will have the ability to apply and apportion the tax charge on a just and reasonable basis to prevent any potential double taxation. There will be a right of appeal against such a decision and any such appeal must be made in writing in the usual way.

Transfer of Assets Abroad (ToAA)

63. The ToAA legislation is a wide-ranging anti-avoidance provision aimed at preventing individuals who are UK resident from avoiding a tax liability by transferring assets to a person abroad (INTM600000).

64. From 6 April 2025, the trust protections will not apply to the ToAA legislation. This will mean that all income arising in a settlor interested trust or underlying company can be taxed on a UK resident settlor as it arises if the transferor has the power to enjoy the income or the capital sum conditions are met. This will apply to all transferors unless they come within the 4-year FIG regime and make a claim for the relevant tax year. If the transferor subsequently receives the income of the person abroad or anything deriving from that income, there will be no further charge to UK tax.

65. From 6 April 2025, changes will be made to the ToAA legislation that will:

    - Update the definition of a person abroad so that a person abroad is any person who is not resident in the UK.

    - Give a transferor who is assessable on the income of a person abroad the right to recover the tax paid from that person. Any tax recovered from the person abroad will not be treated as a benefit for the purposes of the benefits charge.

    - Modify the benefits charge provisions such that they will only refer to non-transferors, with the below exception.

    - Ensure that the benefits charge will only apply to UK resident transferors to the extent that any benefits they received after 5 April 2025 are matched with PFSI or TPI of the trust that arose before 6 April 2025.

- Remove the concept of tainting, as all income of the trust and any underlying companies will be attributable to the transferor as it arises unless they are eligible for and claim the 4-year FIG regime for the relevant tax year.
- Modify the close family member rule to remove the reference to the remittance basis. The rule will also be amended to include a charge on UK resident settlors who do not claim the 4-year FIG regime where a close family member receives a benefit but is not taxable because they are eligible for, and have claimed, the 4-year FIG regime.
- Modify the onward gift rules to remove reference to the original recipient being a remittance basis user for benefits received after 5 April 2025. The rules will also be amended to apply where an original recipient of a benefit is eligible for and claims the 4-year FIG regime during the year in which they receive the benefit. Where this is the case, and the original recipient makes an onward gift for which the onward gift conditions apply, the onward recipient if UK resident will be taxable on the benefit unless they are eligible for and have claimed the 4-year FIG regime for the relevant tax year.

66. With effect from 6 April 2025, individuals will no longer be able to claim an exemption from charge under ToAA on the basis that their EU treaty freedoms have been infringed.

Capital Gains Tax

67. From 6 April 2025, gains attributed to a settlor of a non-resident trust will no longer be treated as forming the highest part of the amount on which a settlor is chargeable to CGT for a year. The settlor can allocate any basic rate band available as they choose in relation to these gains.

68. The restriction on the ability to set personal allowable losses against gains attributed to a beneficiary of a non-resident trust will be removed.

69. Where a foreign loss election was in place for years to 2024 to 2025, foreign allowable losses not utilised by 5 April 2025 can be carried forward as allowable losses.

Overseas Workday Relief (OWR)

70. In its current form, OWR is an income tax relief available to UK resident non-UK domiciled employees on earnings paid and kept offshore and related to days spent working abroad as part of their UK employment. Current OWR is available for up to three years.

71. From 6 April 2025 eligibility for OWR will be based on an employee's residence and not their domicile. Where an employee is eligible for the 4-year FIG regime in a tax year ("the qualifying year") they can make an OWR election which will allow them to make a claim for relief. From 6 April 2025 OWR will be available for up to four years.

72. OWR will continue to apply to the following types of employment income:

- earnings, and amounts treated as earnings
- amounts which count as employment income under Part 7 of Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003) ('Employment Related Securities')
- amounts which count as employment income under Part 7A of ITEPA 2003 ('Employment Income Provided Through Third Parties')

73. From 6 April 2025 amounts of employment income can benefit from the relief if:

- they relate to duties performed outside the UK during a qualifying year for which an employee has made an OWR election, and
- arise out of an employment which is wholly or partly performed outside the UK.

74. The extent to which income relates to duties performed outside the UK during a qualifying year will continue to be determined on a just and reasonable basis. In most cases this would be a workday basis. This means that an employee's annual earnings would be apportioned based on the number of workdays they've done in the UK and the number of workdays done overseas.

75. If an employee makes an OWR election, which must be made in their Self-Assessment tax return for the qualifying year, they can then make a claim for relief on their qualifying foreign employment income. As part of making an OWR claim the employee will need to quantify the amount of relief being claimed in the tax return.

76. The extent to which employment income qualifies for relief continues to broadly depend on the year in which this employment income was earned (EIM40008). This means that more than one claim for relief may be made as a result of an election in a qualifying year.

77. OWR will be subject to an annual financial limit for each qualifying year: the lower of 30% of the qualifying employment income or £300,000 per tax year.

78. Employees claiming relief under OWR will be able to benefit from it whether their income is received in a UK or overseas bank account. Individuals will also be able to remit it into the UK if it was received offshore without a charge.

79. When an employee makes an OWR election they will lose PA, AEA and ability to claim foreign income or foreign capital losses in that tax year. If they subsequently make a claim for relief in a later tax year, the employee's PA or AEA in the later tax year will be unaffected.

80. A claim for relief under OWR can only be made if an employee makes an OWR election for a qualifying year. If an employee chooses not to make an OWR election for a qualifying year, they will then be unable to make an OWR claim for relief in any subsequent tax years in which employment income for that year is charged to tax. This does not affect an employee's ability to subsequently make an OWR election for a later qualifying year.

81. From 6 April 2025, all of an employee's foreign employment income will be taxable in the same manner, and at the same time, as their UK employment income. This means that the OWR claimed in a tax year will be deducted from the total income charged to income tax, as part of the calculation of the employee's income tax liability for that year.

General earnings

82. Before 6 April 2025, where an employee elected to be taxed on the remittance basis for a year in which they qualified for OWR, any of their general earnings for that tax year which qualified for OWR would only be taxable when remitted, while their other chargeable general earnings would be taxable on receipt.

83. From 6 April 2025, all of an employee's chargeable general earnings for a year in which they are UK resident will be taxable on receipt, even if they have made an OWR election for that tax year.

84. Before 6 April 2025 no deduction was allowed for expenses relating to overseas duties, until the earnings relating to those duties became taxable. From 6 April 2025 the amount of qualifying foreign employment income for which OWR can be claimed is determined after any deduction is given. The changes to OWR will not preclude any claims to foreign tax reliefs on income which is taxed both in the UK and another jurisdiction.

Employment-Related Securities

85. From 6 April 2025, for all Employment-Related Securities (ERS) and ERS options the calculation of "Foreign Securities Income" will be modified for any part of the relevant period that falls after this date, regardless of the date the ERS was granted.

86. Where the income is apportioned to a tax year in which the employee is eligible for OWR, this income will no longer be treated as "Foreign Securities Income" and instead will be treated as "Securities Income". The employee may then be able to obtain relief on this income separately through OWR. The calculation of Foreign Securities Income for any part of the relevant period before 6 April 2025 is unchanged, with the remittance basis rules continuing to apply.

Part 7A income

87. Part 7A applies to employment income provided through third parties (EIM45000+).

88. From 6 April 2025, OWR will continue to provide relief (subject to the financial limit) on any part of the value of a relevant step which is for a tax year in which the employee has made an OWR election, and which relates to duties performed outside the UK. The full value of the relevant step will count as employment income in the tax year the relevant step is taken, but the employee will then be able to claim relief on qualifying third party income in the tax year it is charged to tax.

Financial limit

89. From 6 April 2025, the financial limit for each qualifying year may restrict the amount of relief an employee can claim under OWR in a tax year.

Example

Armand becomes UK resident in the year ended 5 April 2026 (2025 to 2026) and is eligible to make an election for OWR in that year but chooses not to do so.

He remains UK resident in the year ended 5 April 2027 (2026 to 2027) and makes an OWR election in his return for 2026 to 2027. Armand had received earnings of £1.2m in 2026 to 2027, which are for the duties he performed in that tax year. He also received a bonus of £200,000 in 2026 to 2027 which related to his duties performed in the 2025 to 2026 tax year. His taxable earnings in 2026 to 2027 are therefore £1.4m.

£480,000 of Armand's £1.2m earnings for 2026 to 2027 relate to duties performed outside the UK, so that this is the maximum amount of relief he could claim, subject to the financial

limit. No relief can be claimed in respect of the £200,000 for the 2025 to 2026 tax year as no OWR election was made for that tax year.

To determine how much relief can be claimed, it is then necessary to consider the financial limit. While Armand has taxable earnings of £1.4m in 2026 to 2027, the financial limit only considers the relevant employment income in that tax year, which is the earnings of £1.2m. This means the financial limit is the lower of £300,000 or £400,000 (30% of £1.2m). As a result, Armand can claim £300,000 relief under OWR in his return for 2026 to 2027.

90. A claim for relief can be made in more than one tax year. A financial limit will apply for each tax year in which an election is made. Where income (an example being a bonus for an earlier year) is paid within a later year, the financial limit continues to apply on a cumulative basis across tax years when further OWR claims are made which relate to that qualifying year.

91. The financial limit only considers qualifying employment income, so does not take into account any employment income from an employment performed wholly in the UK. The financial limit also only considers qualifying employment income charged to tax.

Transitional arrangements

92. Where employees arrived in the UK and claimed OWR in a tax year prior to 6 April 2025 and are ineligible for the new 4-year FIG regime, they will still be eligible for OWR for their first **three years** of UK tax residence. Employees that are part way through their three-year claim at 6 April 2025 and are eligible for the 4-year FIG regime, can benefit from OWR for a total of **four years** of UK residence. These employees will have to make an election for OWR for tax years commencing on or after 6 April 2025 and will only be able to do so for tax years which are within their first four years of residence.

93. OWR for these employees for any tax years commencing on or after 6 April 2025 will be available under the new regime, rather than the remittance basis. However, employees partway through their OWR period at 6 April 2025 will not be subject to the financial limits set out above.

94. Some individuals may receive ‘trailing income’, which is income relating to employment duties performed in a previous tax year (an example being a performance bonus). Where trailing income relates to the period before 6 April 2025 but is received afterwards, it will be treated under the pre-6 April 2025 OWR rules and, to the extent it relates to duties performed outside the UK, will continue to be taxable upon remittance. This means any income relating to pre-6 April 2025 period will still need to be paid into a qualifying overseas bank account and to be kept offshore to benefit from OWR.

Pay As You Earn (PAYE)

95. The process for operating PAYE where residence may affect the amount of PAYE income paid, including OWR, is being simplified. Before 6 April 2025 where an employer made an application to treat only a proportion of income they paid to an employee as PAYE income, employers needed to wait for HMRC to approve an application.

96. From 6 April 2025 an employer can notify HMRC of their intention to exclude a proportion of a qualifying employee’s relevant pay from PAYE and only operate PAYE on earnings relating to work in the UK once they have received an auto-acknowledgement of their notification from HMRC. A change to a ‘process now, check later approach’ will mean that

HMRC could direct employers to amend the proportion of income on which PAYE is operated.

Special mixed fund rules for certain employment cases

97. It will be possible to designate any unremitted income which qualified for OWR prior to 6 April 2025 under the TRF. Where an individual has made a designation for a 'special mixed fund' on the annualised basis, the income in this account will also be available to be designated under the TRF.

Capital Gains Tax (CGT) rebasing

New 2017 rebasing for remittance basis users

98. UK resident individuals who are unable to use or choose not to make a claim under the 4-year FIG regime will be subject to CGT on foreign gains in the normal way.

99. Transitionally, current and past remittance basis users will, for disposals on or after 6 April 2025, be entitled to rebase a personally held foreign asset for CGT purposes to its market value at 5 April 2017. The main conditions are as follows:

- The individual must not have been UK domiciled or deemed UK domiciled at any time before tax year 2025 to 2026.
- They must have made a remittance basis claim for any one of the tax years 2017 to 2018 to 2024 to 2025. This does not include years where the person has automatic use of the remittance basis without a claim being required because the amount of their unremitted FIG for the tax year is under £2,000 or their UK income and gains is limited.
- They must hold the relevant asset on 5 April 2017 and dispose of it on or after 6 April 2025.
- The asset must have been situated outside the UK from 6 March 2024 to 5 April 2025. This is subject to exemptions for temporary importations and low value assets etc.

Existing 2017 rebasing for deemed domiciles

100. The availability of rebasing to 5 April 2017 for individuals who became deemed domiciled from 6 April 2017 will continue provided that the relevant domicile tests are met for the tax years 2017 to 2018 to 2024 to 2025 (rather than up to and including the tax year of disposal).

2008 rebasing for non-resident trusts

101. Gains accruing to non-resident trusts with UK resident non-domiciled settlors are currently attributed to the settlor when they receive a benefit matched against the trustees' pool of gains. Under reforms in 2008, transitional rules allowed the trustees of these trusts to make a rebasing election in relation to their assets.

102. With the ending of non-domicile status in the tax system, from 6 April 2025 the trustees' net gains for a tax year will become treated as accruing to the UK resident settlor in the same year. To avoid complications that may otherwise arise, the effect of any rebasing election

validly made by trustees under the 2008 transitional rules will continue through to the computation of gains from 6 April 2025.

Temporary Repatriation Facility (TRF)

Overview

103. From 6 April 2025 a new TRF will be introduced to encourage individuals to remit to the UK their FIG which arose in earlier periods and were not taxed in the UK in previous years following a claim for the remittance basis.

104. The TRF will be available for 3 tax years, from 6 April 2025. Designated amounts will be charged to tax at a rate of 12% in tax years 2025 to 2026 and 2026 to 2027 with the rate rising to 15% in tax year 2027 to 2028 (the TRF charge).

105. The TRF charge will be payable on the designation, but once a designation has been made, no further UK tax will be payable, regardless of the tax year of remittance. There is no requirement for amounts to be remitted during the tax year in which it is designated, or in any later tax year. A "remittance" takes its ordinary meaning in line with section 809L Income Tax Act (ITA) 2007.

106. To use the TRF taxpayers will make a designation on an amount, which can include amounts derived from FIG on which the remittance basis has been claimed. It will not be possible to set any foreign tax paid against the TRF charge because designated amounts are treated as being net of tax.

107. Individuals will be able to make a designation on FIG that they remit in the year of the claim and also on amounts that they may wish to remit in the future.

108. Where a TRF charge is paid with designated amounts no further tax charge will arise. Unlike remittance basis charge payments, where a TRF charge is paid out of undesignated FIG, this will constitute a taxable remittance, even where the payment is made direct to HMRC by cheque or electronic transfer.

Remittance Basis Charge and the TRF charge

109. Where an individual has paid the remittance basis charge (RBC) this cannot be offset against the TRF charge.

110. Where an individual has paid the RBC from an offshore source, the payment of the tax itself does not constitute a remittance provided the payment is made direct to HMRC by cheque or electronic transfer. This will continue to be the case during the TRF period and any payment of the RBC made during the 2025 to 2026 tax year (for an earlier year) will not constitute a taxable remittance and will not need to be included as a designation under the TRF.

What can be designated

111. An individual can make a designation for any amount, including FIG received or earned in a year in which the remittance basis was claimed. It will also be possible to designate amounts of an uncertain origin or where the individual no longer has records to confirm the original source of the funds. This could include clean capital amounts.

112. The individual will be required to pay the TRF charge in the year of the designation. Once designated no further tax charge will arise on the amounts when they are remitted to the UK.

113. Where foreign tax has been paid on overseas income or gains that were not previously taxed in the UK due to a claim for the remittance basis, the amounts designated will be treated as being net of foreign tax.

Designation Process

114. To make a designation under the TRF, an election must be made in a Self Assessment return for the relevant tax year. As the TRF will operate for 3 tax years, the relevant deadlines will be 31 January 2027, 2028 and 2029 respectively. An election under the TRF must be made no later than 31 January in the second tax year after the relevant tax year to which the election relates.

115. After a designation has been made, individuals will not be required to declare remittances of the amount designated in subsequent years.

116. Individuals will be required to keep their own records of the designations on which the TRF charge has been paid, whether made from a mixed fund or a fund containing just one source. Individuals will not be required to submit these records to HMRC, unless they are needed as part of a compliance check.

117. Where an individual is unable to identify the content of a mixed fund, it will still be possible to make use of the TRF without having to identify each source of FIG contained within the fund.

118. Individuals can choose the amount they would like to designate and there is no obligation for an individual to designate the total of their unremitted FIG, meaning that partial designations can be made. The designation can be of more than the individual's total unremitted FIG but the amount designated will be the amount charged at the TRF rate.

119. Once a designation has been made, the amounts will be available for remittance in priority to all other income and gains held overseas. A designation will also impact the order in which remittances from a mixed fund are made, this is covered further below.

120. A designation under the TRF must be made by the individual that would be chargeable were the amounts to be remitted. It will not be possible to make a designation on behalf of a third party.

Changes to the mixed fund ordering rules

121. Where a TRF election is made, the mixed fund ordering rules (section 809Q ITA 2007) will be modified in two ways.

(1) Designated amounts will automatically rise to the top of the mixed fund ordering and will always be treated as remitted to the UK in priority to any other amounts, regardless as to which year these amounts relate.

(2) Rather than a transaction-by-transaction approach, when analysing accounts containing designated amounts, it will be possible to use an annualised approach for the TRF period. Individuals will be able to review their overseas accounts at the end of the year and accumulate their total remittances and overseas transfers which are deemed to take place on 5 April (including for accounts which closed before the end of the tax year).

Foreign Tax Credits

122. An election to make a designation under the TRF is on an amount net of any foreign tax that may have been paid on the FIG from which the funds arose. It will not be possible to claim credit in the UK for that foreign tax.

123. If an individual does not make an election to designate an amount under the TRF, they will still be able to claim a credit for any foreign tax paid against the tax due on remittance of that amount.

Offshore Transfer Rules & Designated Accounts

124. The offshore transfer rules (section 809R ITA 2007) will remain unaffected by a designation for TRF purposes, with an exception for new "designate accounts".

125. Where a transfer is made into a "designated account" the payment will be treated as if it were a remittance to a UK bank account. Amounts paid into this account can be considered on an annualised basis and the designated amounts will be treated as transferred in priority to non-designated FIG (see paragraph 121). Any remittance from the designated account will be free of any additional tax.

Designation of non-liquid accounts

126. Designations will not be limited to cash held overseas. Individuals that have reinvested income or the proceeds received from capital gains, received whilst they claimed the remittance basis in previous years, could be in a position where their funds are not readily available. As such it will be possible to make designations on the amounts used to purchase non-liquid assets. Designations will not be impacted by a fall in this asset's value below the original amount of any income or gain invested. A claim to rebase an asset to its 2017 value for CGT (see paragraphs 98 to 102) will also not impact the amount of the original investment that can be designated. As with any other designation, the designated amounts will rise to the top of the ordering rules and will be remitted in priority to any other funds contained within a purchased asset when disposal proceeds are remitted.

Nominated Income Rules

127. Nominated Income ordering rules (section 809J ITA 2007) will be switched off where an individual has made a designation under the TRF. They will, however, be brought back into force from 6 April 2028, when the TRF period ends.

128. As a consequence, individuals will be able to remit any nominated income to the UK both free of any tax charge and also without engaging the nominated income ordering rules (RDRM35110).

Joint Accounts

129. The TRF will apply to amounts in joint accounts, or jointly held property (for example, artwork acquired using FIG).In cases where assets or accounts are held jointly by one or more individuals that have claimed the remittance basis, it will be necessary to analyse the account in order to determine which transfers from the mixed fund are taxable remittances, and to determine which account holder is liable to pay any tax due using the most pragmatic approach that best reflects the reality of the situation (RDRM33510).

Business Investment Relief (BIR)

Existing BIR investments

130. FIG that has been used to make qualifying BIR investments will be eligible to be designated under the TRF without the need to make a withdrawal from the company. No further charges will arise on the designated amounts if there is a disposal of the investment or a breach of the BIR conditions, known as potentially chargeable events (PCE).

131. Where a PCE occurs, the designated amounts will be treated as remitted. A mitigation step cannot be taken in respect of designated amounts and if reinvested the funds will no longer qualify for BIR.

132. A disposal of an investment will be treated as comprising designated amounts ahead of any non-designated FIG in any qualifying investments.

BIR investments from 6 April 2025

133. During the TRF period, investments made with non-designated FIG which arose on or before 5 April 2025 will remain eligible for BIR claims. Any investments made with already designated amounts will be non-qualifying investments for the purposes of the BIR rules.

134. From 6 April 2028, when the TRF period ends, it will not be possible to claim BIR on any new investments, or reinvestments.

135. Existing qualifying investments will continue to benefit from BIR until a PCE arises. Where a PCE arises, the only mitigation step available to prevent a taxable remittance will be to take the FIG offshore.

TRF and offshore structures

TRF designations on distributions from Trusts and 'Unattributed' FIG held within overseas structures

136. For individuals to whom the remittance basis applied for any tax year prior to 6 April 2025, the TRF will be available. These individuals can designate unremitted FIG they have received, benefitted from or that is attributed to them, from an overseas trust or other offshore entity before 6 April 2025. For these individuals, the scope of the TRF will also include pre-6 April 2025 'unattributed' FIG held within overseas structures such as non-resident companies and trusts to the extent that they are matched with benefits that they receive during the 3 year TRF period. The TRF will not be available for income distributions from offshore trusts or other offshore entities after 5 April 2025. This is because the TRF has only been expanded to bring in amounts of deemed income or attributed gains that arise by matching benefits or capital payments such as capital distributions with pre-6 April 2025 FIG of that offshore trust or other offshore entity.

137. From 6 April 2025, it will be possible to treat a benefit or capital payment received by a qualifying individual from an overseas settlement, an underlying company, or other person abroad as 'qualifying overseas capital'. As such it will be possible to designate this benefit or payment under the TRF. The benefit or payment must be matched with foreign income or any trustee gains (sections 87, 87A and Schedule 4C TCGA 1992) from the overseas settlement, non-resident company or other person abroad that arose prior to 6 April 2025. Where UK source income is paid up from UK resident entities to a series of offshore

companies or one or more trusts or other entities, the person abroad for the purposes of the ToAA provisions in the context of the TRF will be the ultimate holding company or other ultimate owner such as offshore trustees. This means that the income will be considered foreign source and available for matching with benefits received by individuals to generate deemed income for designation under the TRF.

138. FIG will be available for matching with those benefits or capital payments if the transferor, settlor or any other beneficiary has not already been subject to tax in respect of those FIG (INTM602200). The benefits or capital payments received by the settlor or transferor can only come within the TRF if they are matched with unmatched FIG of the trust or its underlying overseas companies which arose before 6 April 2025, regardless as to whether the income had been remitted to the UK. This will include circumstances in which 'unattributed' FIG which has been brought to the UK by the trustees of the overseas trust, or by an underlying company, where no tax charge arose at the time of remittance because of the trust protections having applied.

139. A designation can be made under the TRF where FIG has been treated as arising to an individual in the TRF period who is a subsequent recipient under the onward gift rules. The onward gift rules will not apply where individuals have paid tax at the TRF rate in respect of benefits treated as arising to them under the benefits charge and where they subsequently pay the amount of the benefit to an individual.

TRF and other interactions

Temporary Non-Residence

140. Any FIG which become chargeable to an individual on their return to the UK from 6 April 2025 onwards as a result of the Temporary Non-Residence rules cannot be designated under the TRF. Returning individuals will, however, be able to designate unremitted amounts which arose prior to their departure from the UK.

Interaction between the TRF and the 4-year FIG regime

141. Individuals may qualify for both the TRF and the 4-year FIG regime if, sometime prior to their ten years of consecutive non-UK residence, they were UK resident and using the remittance basis. As set out above, it will not be possible to claim relief under the 4-year FIG regime on any amounts of untaxed FIG that arose prior to 6 April 2025 that is remitted on their return to the UK. They will need to designate the remitted FIG under the TRF or pay tax at the standard UK tax rates.

Ending the remittance basis of taxation

142. The remittance basis of taxation will be abolished for UK resident non-domiciled individuals from 6 April 2025. The last year for which the remittance basis can be claimed will be the 2024 to 2025 tax year.

143. FIG that has arisen to a remittance basis user prior to 6 April 2025 will continue to be taxed at the prevailing tax rates if it is remitted to the UK on or after 6 April 2025, subject to the TRF set out above.

144. The recent Upper Tribunal decision in *HMRC v Sehgal and Mehan* (February 2024) highlighted the need to make clearer how widely certain terms in the existing remittance basis provisions, which are undefined, can be interpreted. Amendments to these will clarify how the provisions operate where a relevant person benefits from their FIG in the UK.

145. Legislation will be updated to reflect the end of domicile used as a tax concept. Further details of this can be found in the Autumn Finance Bill 2024 and accompanying explanatory notes. These changes include:

    - Residence of a trust: For settlements created on or after 6 April 2025, the domicile of the settlor will no longer be a factor in determining the trust's residence however, the residence of the settlor may still be considered in certain circumstances. There are no changes to the rules that apply to trusts created on or before 5 April 2025.

    - Residence of personal representatives (PRs): Currently domicile can be a factor in determining the residence of PRs for income and capital gains purposes. Where the deceased died on or after 6 April 2025, the concept of domicile will be replaced with the same "long term residence" test that will be applied for IHT, see below.

Inheritance Tax (IHT)

Change to residence based system - introduction

146. For the purposes of this note, UK assets includes property within Schedule A1 (indirectly owned UK residential property) and non-UK assets includes some UK assets given excluded property status (such as holdings in authorised unit trusts (AUTs) and open-ended investment companies (OEICs)).

147. UK assets will remain in scope for IHT on the same basis as at present, regardless of residence.

148. From 6 April 2025, the test for whether non-UK assets are in scope for IHT will be whether an individual has been resident in the UK for at least 10 out of the last 20 tax years immediately preceding the tax year in which the chargeable event (including death) arises. The time an individual remains in scope after leaving the UK will be shortened where they have only been resident in the UK for between 10 and 19 years (see paragraph 164). The test will reset where a person is non-resident for 10 consecutive years, to align with the 4-year FIG regime (see paragraph 165). For the purposes of this technical note, someone who satisfies the residence criteria will be referred to as "long-term resident".

149. IHT will be charged on non-UK assets owned outright when a person is long-term resident.

150. IHT will be charged on non-UK assets comprised in a settlement at times when the settlor is long-term resident. This means that settled assets come in and out of charge alongside assets owned outright by the settlor and based on long-term residence at the time of the charge, rather than the status being fixed at the time the property became comprised in the settlement. **Annex A** contains more information about settlements.

151. The treatment of Free of Tax to Residents Abroad (FOTRA) gilts is already based on residence and will remain unchanged.

Commencement and transitional provisions

152. These changes will come into force on 6 April 2025.

153. There will be transitional rules for non-domiciled or deemed domiciled individuals who are non-resident in 2025 to 2026. For those individuals, they will be long-term resident if they satisfy the existing deemed domicile test, namely whether they have been resident for at least 15 out of the 20 tax years immediately preceding the year of charge, and for at least one of the four tax years ending with the relevant tax year. If they return to the UK, the new rules will apply.

154. This transitional provision will not apply to individuals who are UK domiciled under common law on 30 October 2024 and the new long-term residence test will apply to them from 6 April 2025.

155. Where excluded property was comprised in a settlement immediately before 30 October 2024, this will not be subject to charges under the gift with reservation provisions or certain charges under the qualifying interest in possession regime as is currently the case (see paragraphs 187 and 199). However, excluded property which was comprised in a settlement immediately before 30 October 2024 will be subject to charges under the relevant property regime (where applicable) from 6 April 2025.

156. Where the settlor of a trust has died before 6 April 2025, whether non-UK assets are excluded property will be based on the old test, namely the settlor's domicile at the time the property became comprised in the settlement.

157. **Annex B** contains further information on how the transitional provisions apply.

IHT Double Taxation Conventions

158. The UK has 10 IHT Double Tax Conventions (DTCs) and there are no changes to the treaties or how these operate.

Domicile and IHT – the position pre-6 April 2025

Common Law Domicile

159. The scope of IHT is currently limited by certain non-UK property being classed as "excluded property" and so not within charge.

160. An individual's domicile under common law at a relevant date determines whether property is excluded property. The relevant date can be one of the following:

- Date of death of an individual
- Date a lifetime gift was made
- Date property becomes comprised in a settlement.

161. Where an individual has a domicile outside of the UK (and so is "non-domiciled"), at one of the relevant dates listed above, only UK assets are subject to the relevant IHT charge. Any non-UK assets owned by a non-domiciled individual are classed as 'excluded property'.

Deemed domicile

162. In certain circumstances, an individual who is non-domiciled under the common law is deemed to be UK domiciled and treated as if they were UK domiciled for IHT purposes:

- **Those with previous UK domicile:** If an individual was domiciled in the UK under the common law and they lose that domicile (for example, by acquiring a domicile of choice abroad) then they are deemed to be UK domiciled for a further 3 years from the point of acquiring the new domicile.
- **Formerly Domiciled Resident (FDRs):** If an individual was born in the UK, with a UK domicile of origin, then leaves and acquires a domicile of choice elsewhere, they are deemed to be domiciled in the UK if they are resident in the UK for the tax year of the IHT chargeable event and at least one of the two immediately preceding tax years.
- **Long stayers:** If a non-domiciled individual lives in the UK for a long period, they can become "deemed domiciled" and so treated as if they were UK domiciled for IHT purposes.
    - From 6 April 2017, an individual is deemed domiciled if they were resident in the UK for at least 15 out of the 20 tax years preceding the year of charge (the relevant tax year), and for at least 1 of the 4 tax years ending with the relevant tax year.
    - From 1975 and before 6 April 2017, an individual was deemed domiciled if they were resident in the UK for at least 17 out of the 20 years ending with the relevant tax year.

Moving to a residence-based system for IHT

Long-term residence

163. From 6 April 2025, the test for whether non-UK assets are in scope for IHT will be whether an individual is a long-term UK resident, meaning they have been resident in the UK for at least 10 out of the last 20 tax years immediately preceding the tax year in which the chargeable event (including death) arises.

164. If an individual has been UK resident for at least 10 out of 20 years and then becomes non-resident and does not return to the UK before the chargeable event, there will be provision to shorten the length of time they remain a long-term resident if they had been UK resident for between 10 and 19 years out of the last 20.

- For those who are resident between 10 and 13 years, they will remain in scope for 3 tax years.
- This will then increase by one tax year for each additional year of residence. So, if a person was resident for 15 out of 20 tax years on leaving, they would remain in scope for 5 years; if resident for 17 out of 20 tax years on leaving, they would remain in scope for 7 tax years.

165. An individual will not be treated as long-term resident for IHT purposes in the year following 10 consecutive years of non-residence, even if they return to the UK, and the test is

effectively reset. This aligns with the 10 consecutive years of non-residence required to access the 4-year FIG regime.

166. The long-term residence test applies regardless of an individual's common law domicile.

Assets owned outright (not in a settlement)

167. From 6 April 2025, IHT will be charged on non-UK assets owned outright when an individual is long-term resident.

168. Whether an individual is resident in a tax year will be as determined for the purposes of income tax and CGT, which many people will have already considered and have appropriate records. The Statutory Residence Test ("SRT") applies for 2013 to 2014 onwards. For tax years prior to 6 April 2013 the pre-SRT rules will apply (see HMRC6). Where an individual has split year treatment under the SRT this will count as a full year of UK residence for IHT purposes.

169. For an individual 20 years old or younger, the test will be whether they have been UK resident for at least 50% of the tax years since their birth.

170. As the system will be based on long-term residence, the concept of FDRs will no longer be relevant.

Spouse exemption and election

171. Transfers between UK domiciled spouses or civil partners are exempt from IHT. Where an individual is UK domiciled and their spouse or civil partner is non-domiciled, transfers of value are only exempt up to a limit equal to the current nil rate band (£325,000).

172. Since 17 July 2013, the non-domiciled spouse or civil partner of a UK domiciled individual can elect to be treated as deemed UK domiciled for IHT purposes. This means that transfers from their spouse or civil partner will benefit from uncapped exemption. Also, the non-domiciled spouse or civil partner is treated as UK domiciled for transfers made by them.

173. Once made, an election cannot be revoked but will cease to have effect when the electing individual leaves the UK and is non-resident for 4 consecutive tax years.

174. From 6 April 2025, the election rules will be amended so that the spouse or civil partner of a long-term resident who is not themselves long-term resident can elect to be treated as long-term resident. The election will last until 10 consecutive tax years of non-residence has elapsed.

175. After 6 April 2025, it will still be possible to make a domicile election which covers a period prior to 6 April 2025. In this case, the spouse making the election will be treated as deemed UK domiciled until 5 April 2025 and then long-term resident from 6 April 2025 until 10 consecutive tax years of non-residence have elapsed.

176. Elections made before 30 October 2024 will remain in place, with the spouse making the election treated as deemed UK domiciled until 5 April 2025 and then long-term resident from 6 April 2025 until 4 consecutive tax years of non-residence have elapsed.

177. It will also be possible to make a domicile election on or after 30 October 2024 and before 6 April 2025, with the spouse making the election treated as deemed UK domiciled until 5

April 2025 and then long-term resident from 6 April 2025 until 10 consecutive tax years of non-residence have elapsed.

178. Once an election has lapsed due to the requisite period of non-residence, the electing spouse's IHT position going forward will depend on whether they satisfy the long-term residence test.

Transfers in 7 years before death

179. IHT on an individual's estate when they die is calculated taking into account the values transferred by chargeable transfers (including potentially exempt transfers which become chargeable) in the 7 preceding years. A lifetime transfer of excluded property remains out of scope for IHT, regardless of whether the individual becomes long-term resident by the time of their death (at which point their remaining non-UK assets are no longer excluded property).

180. Similarly, a lifetime transfer which did not comprise excluded property at the time it was made will be chargeable at death rates if the transferor dies within 7 years, regardless of whether the individual is long-term resident or has ceased to be long-term resident by the time of their death.

Settlements (assets held in trust or a similar structure) for IHT

181. Currently, non-UK assets comprised in a settlement are excluded property if the settlor was non-domiciled at the time the assets became comprised in the settlement.

182. Subject to additional points outlined below, from 6 April 2025 the excluded property status of non-UK settled assets will not be fixed at the time the assets are added to the settlement. Instead, assets comprised in a settlement will only be excluded property (and so not subject to IHT charges) at times when the settlor is not long-term resident. When a settlor is long-term resident, any assets they have settled (even when not long-term resident) will be subject to IHT.

183. This test will apply to all settlements regardless of when the property became comprised in the settlement, subject to the provision for deceased settlors outlined below.

184. Where the settlor of a trust has died before 6 April 2025, non-UK assets will be excluded property based on the old test, namely the settlor's domicile at the time the property became comprised in the settlement.

185. Where the settlor of a trust dies on or after 6 April 2025, the excluded property status of the trust will depend on the settlor's long-term residence status at their death; if they were not long-term resident when they died then non-UK settled assets will be excluded property and if they were long-term resident at death then all UK and non-UK settled assets will be in scope for IHT for the duration of the trust.

Qualifying Interest in Possession Settlements

186. There will be an additional test for qualifying interest in possession (QIIP) settlements so that the property comprised in the settlement is only excluded property if both the settlor and the beneficiary with the QIIP are not long-term resident.

187. Where non-UK assets were comprised in a QIIP settlement and were excluded property immediately before 30 October 2024, they will not be subject to charge when the QIIP comes to an end or on the death of the QIIP beneficiary.

- UK assets comprised in the settlement will not benefit from this treatment even if they are later sold and become non-UK situs.
- After the existing QIIP ends and for QIIP settlements made on or after 30 October 2024, the settlement will be subject to the new long-term residence rules.

Relevant Property Settlements

188. For settlements within the relevant property regime, from 6 April 2025 non-UK settled property will no longer be excluded property if the settlor is long-term resident and will be excluded property if the settlor is not long-term resident.

- For settlements with a UK-domiciled settlor who is not long-term resident, this will mean that non-UK relevant property becomes excluded property and so an exit charge will arise on 6 April 2025. However, there will be no ongoing charges whilst the settlor remains not long-term resident.
- For settlements with a non-domiciled settlor who is long-term resident, this will mean that excluded property becomes relevant property on 6 April 2025. Charges will arise on any exits after that date or when each ten-year anniversary of the trust arises. The calculation of the charge will reflect the number of years that the non-UK property was excluded property, meaning reduced charges in the early years of the new rules.
- From 6 April 2025, where a settlor ceases to satisfy the long-term residence test, non-UK relevant property becomes excluded property and this will result in an exit charge.

189. See **Annex A** for more information about settlements.

IHT gifts with reservation of benefit

The position pre 6 April 2025

190. A gift with reservation (GWR) is where an individual (the donor) makes a gift and continues to be able to benefit from the property given away. Where the donor retains a benefit at the date of death, the property gifted is deemed to be part of the donor's estate for IHT purposes, with provisions to trace into any replacement property.

191. Where property is gifted into a settlement and the donor retains a benefit in the settled property at the date of death, the property comprised in the settlement at death is deemed to be part of the donor's estate for IHT purposes.

192. In addition, if during the donor's lifetime they become no longer able to benefit from the gifted property (the reservation of benefit ceases), they are treated as making a deemed potentially exempt transfer at the time the reservation ceases. This deemed transfer is only chargeable if the donor dies within 7 years of the reservation ceasing.

193. There is no charge under the GWR rules where the gifted property meets the definition of excluded property at the donor's death (or when the reservation of benefit ceases).

194. For assets gifted to another person, non-UK assets are only out of scope of the GWR rules if the donor is non-domiciled at the time of death (or when the reservation of benefit ceases).

195. For non-UK assets gifted to a settlement, the test for excluded property is the settlor's domicile at the time the assets are added to the trust. This means that assets added to a trust when a person was non-domiciled are not currently brought into scope of the GWR provisions, regardless of the donor's domicile position on death (or when the reservation of benefit ceases).

The position from 6 April 2025

196. From 6 April 2025, the scope of what is excluded property will change as described above, so it is based on the long-term residence test. This will feed through into the GWR provisions.

197. Therefore, if a donor is long-term resident at the time of their death (or when the reservation of benefit ceases), non-UK property given away where a benefit has been reserved by the donor will be chargeable under the GWR rules. This will be the case even if the gift was made when they were not long-term resident.

198. If a donor created a settlement from which they can benefit (even if the property was settled when they were not long-term resident), the property comprised in the settlement which is, or represents, the gifted property will be chargeable under the GWR rules if they are long-term resident at their death (or when the reservation ceases within 7 years of death).

199. Where non-UK assets comprised in a settlement were excluded property before 30 October 2024, these will not be subject to the GWR rules.

- Where applicable, such settlements will still be within the relevant property regime and charges will apply from 6 April 2025.
- UK assets comprised in the settlement will not benefit from this transitional protection, even if they are later sold and become foreign situs.
- Additions or new settlements made on or after 30 October 2024 will be subject to the GWR rules as they apply in accordance with the new long-term residence rules.

200. See **Annex A** for more information about settlements.

Pre-owned asset tax

201. Pre-owned assets tax is a charge to income tax on benefits received by a former owner of gifted property in certain circumstances.

202. Charges do not apply to non-residents. Currently, if an individual is non-domiciled but UK resident the charge does not apply unless the property (land, chattels, intangibles) is situated in the UK.

203. From 6 April 2025, the charges will still only apply to UK residents. For long-term residents, the charge will apply to both UK and non-UK property.

204. If an individual is UK resident but not long-term resident, the pre-owned asset charge will only apply if property is situated in the UK.

205. Property which is not subject to the GWR provisions as set out at paragraph 199 above (excluded property which was comprised in a settlement immediately before 30 October 2024) will also be disregarded for pre-owned assets tax purposes.

Annex A – Additional detail on settlements for IHT

Overview

206. Different types of settlement (assets held in trust or a similar structure) are taxed differently for IHT purposes.

207. However, the test for whether or not the property comprised in the settlement is chargeable or is excluded property is the same. UK assets are always in scope. Non-UK assets in a settlement are excluded property if the settlor was non-domiciled at the time the assets became comprised in the settlement.

208. As set out above, from 6 April 2025, non-UK settled assets will only be excluded property at times when the settlor is not a long-term resident. This means that assets in settlements will come into and out of charge on the same basis as a settlor's personally held assets.

209. For deceased settlors, the excluded property status of non-UK settled assets will depend upon whether the settlor was a long-term resident at the time of their death (unless the settlor died before 6 April 2025). If a settlor is long-term resident at death, the trust will continue to be subject to IHT.

210. These changes to what constitutes excluded property will feed through into the provisions for taxing settlements and the effect will depend upon the type of settlement.

Qualifying Interest in Possession Settlements ("QIIPs")

211. In certain prescribed circumstances, a person entitled to the income of the settlement (the income in possession or "IIP" beneficiary) is treated as if they own the underlying trust assets and so the settled property is included in their estate for IHT purposes. This is known as a qualifying interest in possession settlement or a QIIP.

212. Currently, whether or not the non-UK assets subject to a QIIP are excluded property depends upon the domicile status of the settlor (rather than the QIIP beneficiary) at the time the property becomes comprised in the settlement.

213. From 6 April 2025, the domicile test will be replaced with the long-term residence test. This will mean that non-UK settled assets will only be excluded property at times when the settlor is not long-term resident.

214. From 6 April 2025, there will be an additional test for QIIP trusts so that the property comprised in the settlement is only excluded property if both the settlor and the QIIP beneficiary are not long-term resident. If the settlor dies after 6 April 2025, the property will be excluded property if the settlor was not a long-term resident immediately before their death and the QIIP beneficiary is not long-term resident.

215. If the settlor dies before 6 April 2025, this additional test will not apply.

216. Where non-UK assets were comprised in a QIIP settlement and were excluded property immediately before 30 October 2024, these will not be subject to charge when the QIIP comes to an end or on the death of the QIIP beneficiary.

- UK assets comprised in the settlement will not benefit from this treatment even if they are later sold and become non-UK situs.
- After the existing QIIP ends and for QIIP settlements made on or after 30 October 2024, the settlement will be subject to the new long-term residence rules.

Relevant property settlements

217. Subject to various exemptions, property comprised in a settlement where there is no QIIP will be relevant property. This includes most trusts with discretionary terms where the trustees can choose to benefit anyone from a list of beneficiaries as they see fit.

218. The main charges in respect of settlements that are within the relevant property trusts regime are:

- An "entry charge" on the settlor (20% of the chargeable value of transfer (after reliefs and exemptions), with a further charge to bring this up to 40% if the settlor dies within 7 years of making the gift);
- A "ten-year anniversary charge" on the trustees, with limited secondary liability for the settlor and beneficiaries (maximum 6% of value of assets in the trust)
- An "exit charge" on the trustees, with limited secondary liability for the settlor and beneficiaries (a proportion of the 6% charge based on the length of time since the last ten-year charge)
- Property in the trust can be treated as being part of the settlor's death estate (and therefore chargeable at 40%) if the settlor can benefit from the assets in the trust, known as a "gift with reservation of benefit".

219. Currently, whether or not the non-UK assets in a relevant property settlement are excluded property depends upon the domicile status of the settlor at the time the property becomes comprised in the settlement.

220. From 6 April 2025, the domicile test will be replaced with the long-term residence test. This will mean that non-UK settled assets will only be excluded property at times where the settlor is not long-term resident. Following the settlor's death, ongoing charges will be based on whether the settlor was a long-term resident at death.

221. There will be no entry charge if a settlor is not long-term resident at the time non-UK assets are added to the trust.

222. **Case Study: Marianne** is non-domiciled and became resident in the UK in 2021 to 2022. In 2023 she settled non-UK assets in the Marianne Discretionary Settlement for her children and grandchildren.

- As Marianne was not UK domiciled or deemed UK domiciled before she created the settlement, there was no entry charge in 2023.
- The first ten-year anniversary of the settlement is in 2033, by which time Marianne is a long-term resident and so there is a charge of up to 6% of the value of the assets

comprised in the settlement. The charge will reflect the number of years that the property was relevant property. Marianne was long-term resident from 6 April 2031 so 2/10 years, applied to the maximum 6% would result in a rate of up to 1.2%.
- Marianne dies in 2040, when she is still a long-term resident. As Marianne cannot benefit from the settlement, there is no charge on her death, regardless of whether or not the transitional relief applies. Future ten-year anniversaries and exits from the settlement after Marianne's death are subject to IHT charges of up to 6% on each occasion because she was a long-term resident at her death.

223. From 6 April 2025, where a settlor ceases to satisfy the long-term residence test, relevant property becomes excluded property and this will result in an exit charge.

224. **Case Study: Jim** creates a settlement with £10m non-UK assets in November 2024 when he is non-UK resident and non-UK domiciled. He becomes UK resident in 2027 and so does not come into scope for IHT charges until 2037. Jim leaves the UK in 2050.

- There is no entry charge in November 2024 when the settlement is created as Jim is not domiciled in the UK.
- There is no IHT charge on the first ten-year anniversary of the settlement in 2034 as Jim is not a long-term resident.
- There will be a ten-year anniversary charge of up to 6% of the value of the assets comprised in the settlement in 2044 as Jim is now a long-term resident. However, the rate will be reduced to reflect the period during which the assets in the settlement were not relevant property. Jim has been long term resident for 7/10 years so applied to the maximum 6% would result in a rate of up to 4.2%.
- There will be a ten-year anniversary charge in 2054 (again up to 6% of the value of the assets in the trust) as Jim remains long-term resident.
- There would be an exit charge on 6 April 2061 when Jim ceases to be a long-term resident, because he has ten consecutive years of non-residence.
- If Jim is able to benefit from the settlement, this would be a GWR (he will not be able to benefit from the transitional relief because non-UK assets were not settled before 30 October 2024) and so the property comprised in the settlement would be treated as part of his death estate if he died whilst he was long-term resident.

Special trusts

225. Certain trusts are given specific or favourable IHT treatment if and for so long as their terms meet the requirements set out in the legislation.

226. If charges do arise then the excluded property status for non-UK assets will, like other forms of trust, depend on whether the settlor is or is not a long-term resident. But in contrast to other types of trust, excluded property for special trusts reduces the rate of tax that is charged.

Annex B – Additional detail on transitional provisions for IHT

227. There will be a transitional rule for non-domiciled or deemed domiciled individuals who are non-resident in 2025 to 2026. Those individuals will be long-term resident if they satisfy the existing deemed domicile test, namely whether they have been resident for at least 15 out of

the 20 tax years preceding the year of charge, and for at least one of the four tax years ending with the relevant tax year. If they return to the UK, the new rules will apply.

228. This transitional provision will not apply to individuals who are UK domiciled under common law on 30 October 2024 and the new rules will apply to them from 6 April 2025.

229. Non-UK assets comprised in a QIIP settlement and which were excluded property immediately before 30 October 2024 will not be subject to charge when the QIIP comes to an end or on the death of the QIIP beneficiary.

- UK assets comprised in the settlement will not benefit from this treatment even if they are later sold and become non-UK situs.
- After the existing QIIP ends and for QIIP settlements made on or after 30 October 2024, the settlement will be subject to the new long-term residence rules.

230. Where non-UK assets comprised in a settlement were excluded property immediately before 30 October 2024, these will not be subject to the GWR rules.

- Where applicable, such settlements will still be within the relevant property regime and charges will apply from 6 April 2025.
- UK assets comprised in the settlement will not benefit from this transitional protection, even if they are later sold and become foreign situs.
- Additions or new settlements made on or after 30 October 2024 will be subject to the GWR rules as they apply in accordance with the new long-term residence rules.

231. **Case Study: Katerina** is UK domiciled but became non-resident in 2011-2012.

- As she is UK domiciled under common law at 30 October 2024, the transitional provisions do not apply to her.
- In 2025 to 2026 Katarina is not long-term resident under the 10 out of 20 test and so is not in scope for UK IHT on her non-UK personal assets or non-UK assets she settled into trust.

232. **Case Study: Trevor** is UK domiciled and was resident in the UK all of his life until becoming non-resident in 2022-23. He put a non-UK house into a settlement he made on 31 December 2020.

- As Trevor is UK domiciled under common law at 30 October 2024, the transitional provision does not apply.
- Trevor will be long-term resident from 6 April 2025 under the 10 out of 20 test. If he does not return to the UK he will cease to be long-term resident on 6 April 2032 because he has ten consecutive years of non-residence.
- So, if Trevor dies before 6 April 2032, his worldwide estate is subject to IHT. If he dies after that date, only his UK assets would be subject to IHT.

- The non-UK property in Trevor's settlement did not qualify as excluded property before 6 April 2025 because he was UK domiciled at the time the property became comprised in the settlement. It is not excluded property on or after 6 April 2025 while Trevor is a long-term resident.
- If Trevor can benefit from the settlement, the GWR provisions would apply to treat the assets as part of Trevor's estate if he dies before 6 April 2032.
- From 6 April 2032, non-UK assets in Trevor's settlement would be excluded property.
- If Trevor's settlement comprises of relevant property, that regime will apply until Trevor ceases to be long-term resident. That means there is a charge on the ten-year anniversary on 31 December 2030.
- There will also be an exit charge when Trevor ceases to be long-term resident on 6 April 2032 on the non-UK property ceasing to be relevant property.

233. **Case Study: Anil** is non-domiciled and was UK resident for 11 years, becoming non-resident in 2025-26.

    - He never became deemed domiciled and, under the transitional provision would not come into the scope of IHT on his non-UK assets from 6 April 2025.

    - If Anil returned to the UK, the new rules would apply to him. He would be subject to the 10 out of 20 years residence test, which includes the years of residence in the UK up to 2024 to 2025.

234. **Case Study: Zhanti** is non-domiciled and was UK resident for 17 years, so is deemed domiciled under the current rules. She became non-resident in 2024 to 2025 and does not return to the UK.

    - Under the transitional provision, Zhanti will be a long-term resident, but the old 15 out of 20 test will apply to her, including remaining in scope until her fourth year of non-residence. So, she will remain in scope for IHT on non-UK assets as a long-term resident until 6 April 2027.

    - If Zhanti made a settlement before she became deemed domiciled, the non-UK assets comprised in the settlement as at 30 October 2024 will not be subject to the GWR provisions or charges under the QIIP provisions, if applicable. If Zhanti's settlement has UK assets or assets within Schedule A1 IHTA 1984 (overseas property with value attributable to UK residential property) then such property will not benefit from this treatment, even if it is later sold and becomes non-UK situs.

    - If Zhanti's settlement comprises relevant property, that regime will apply to UK and non-UK settled assets from 6 April 2025 until Zhanti ceases to be long-term resident.

    - This means that, if there is a ten-year anniversary after 6 April 2025 while Zhanti is a long-term resident then both UK and non-UK trust assets will be chargeable.

    - There will be an exit charge in relation to the non-UK assets (which become excluded property) when Zhanti ceases to be long-term resident on 6 April 2027.

- The rate of charge on relevant property is up to 6%, but this will be significantly reduced in Zhanti's case to reflect the period where the property was excluded property. (Very broadly, the charge is up to 0.6% for every year since the last ten-year anniversary that property is relevant property)

235. **Case study: Arnold** is non-domiciled and settled a trust in 1990 with non-UK property, before he became deemed domiciled. The Arnold Trust gave an interest in possession to Chidi, who has always been UK domiciled and resident. On Chidi's death, there is an interest in possession for his wife Linda.

    - The non-UK property in the Arnold settlement was excluded property as at 30 October 2024 and so benefits from the exemption from QIIP charges whilst Chidi's interest in possession subsists.
    - Chidi dies on 8 July 2026 and Linda's interest in possession begins. The protection from QIIP charges applies so that the non-UK trust property is not treated as part of Chidi's estate on death.
    - Linda's interest is also a QIIP, but the transitional protection does not apply to this interest. Therefore, the non-UK assets in the Arnold settlement will only be outside of charges if both Arnold (as settlor) and Linda (as the QIIP beneficiary) are both not long term residents or if Arnold had died after 6 April 2025, if he was not a long-term resident at the time of his death.