

Trusts

J02: 2017–18 edition

Web update 1: 14 February 2018

Please note the following update to your copy of the J02 2017–18 study text:

Deemed domicile/inheritance tax (IHT) on UK property held by non-domiciles via overseas structures

Please replace the text in Chapter 3, section F3, page 3/9, with the following:

From 6 April 2017, the rules on domicile have changed. According to the reformed rules, an individual will be deemed domicile for IHT purposes if they have been resident in the UK for at least 15 out of the previous 20 tax years (rather than 17 out of the previous 20 tax years), ending with the tax year in question.

The rules also provide that an individual born in the UK (to parents with a UK domicile of origin) who has subsequently acquired a domicile of choice elsewhere would be deemed domiciled for IHT purposes if, at any time, they move back to the UK, are resident in the UK and have been resident in the UK in at least one out of the two previous tax years (this is known as the residence condition).

This means that while there is no change to the current treatment of trust assets for IHT for long-term residents who had created trusts while they were non-UK domiciled and had subsequently become deemed domiciled, any overseas assets settled into a trust by returning UK domiciles while they were domiciled elsewhere will no longer be excluded property in relation to events occurring on or after 6 April 2017 at a time when the settlor meets the residence condition. This could feasibly create situations where property will switch between being excluded property and being within the scope of IHT, and trustees will therefore need to consider whether a ten-year anniversary charge (or exit charge) arises at any point during each period the settlor is UK resident. The legislation to effect these changes was included in the **Finance (No.2) Act 2017**.

Be aware

The deemed domicile rule that was due to be implemented for inheritance tax and be introduced for income tax and capital gains tax, from 6 April 2017, has been included in the **Finance (No. 2) Act 2017**. This means that those who have been UK resident for at least 15 of the past 20 tax years will be treated as deemed UK domiciled for all tax purposes from the 16th year.

As this rule has been implemented in the Finance (No. 2) Act, the remittance basis charge has also changed. The £90,000 remittance basis charge has disappeared.

