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INHERITANCE TAX: KEY STRATEGIES AND INSIGHTS EXPLAINED

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About Malcolm Finney

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He has been advising clients based in the UK and overseas on taxation matters for over 35 years and has been a prolific speaker at tax conferences around the world.

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About this guide

On 30 October 2024, the Chancellor of the Exchequer presented her Autumn 2024 Budget which, inter alia, contained significant proposals with respect to inheritance tax. These proposals became enshrined in the Finance Act 2025 which received Royal Assent on 20 March 2025 (the proposals taking effect typically on 6 April 2025). For present purposes, the key significant proposal was the abandonment of the concept of domicile as a key determinant of an individual's exposure to inheritance tax, replacing it with residence as the key determinant.

On 26 November 2025, the Chancellor of the Exchequer presented her Autumn 2025 Budget. However, no material or substantive changes with respect to IHT were announced.

1 A walk through the inheritance tax forest

1.1 Focus: Domicile versus residence

This chapter takes a general canter through some aspects of inheritance tax (IHT) designed to give the reader a flavour of how and when IHT is charged. Some of the key aspects mentioned are dealt with in greater detail in various other parts of the report.

It is important at the outset to draw the reader's attention to the Autumn 2024 Budget presented on 30 October 2024 (now Finance Act 2025) under which the concept of domicile (which at that time underpinned the principles of IHT) was abolished, effective 6 April 2025. Thus, from 6 April 2025, an individual's exposure to IHT is no longer determined based on whether the individual is UK (or deemed UK) domiciled or non-UK domiciled but based on their residence status.

Post-5 April 2025, IHT is therefore a residence (not domicile) based regime.

Pre-6 April 2025, the concept of domicile underpinned the extent of an individual's exposure to IHT. For those individuals who were UK domiciled under common law or deemed UK domiciled by legislation (i.e., IHTA 1984), their worldwide assets were subject to inheritance tax (albeit subject to various exemptions and reliefs). For those individuals who were not UK domiciled or deemed domiciled, only their UK situs assets were subject to IHT.

Domicile, as determined under common law, may refer to a domicile of origin, a domicile of choice or a domicile of dependence. Under the IHTA 1984, domicile may also refer to deemed UK domicile. Domicile is an extremely complex concept, and the reader is referred to specialist texts for more information. For the purposes of this report, it is only necessary to determine whether an individual is UK (or deemed UK) domiciled or non-UK domiciled as it is this status which determines the extent of their exposure to IHT pre-6 April 2025.

Effective 6 April 2025, a determination of exposure to inheritance tax thenceforth depends not upon domicile but upon whether an individual qualifies as a 'long-term UK resident' or not. Worldwide assets of individuals who qualify as long-term UK residents will be exposed to IHT, whereas exposure is restricted to UK situs assets for those qualifying as non-long-term UK residents. The definition in this regard is a little convoluted. In particular, it should be noted that when reviewing an individual's residence status over a number of tax years, it may be consecutive tax years not simply tax years, per se, that are relevant.

A 'long-term UK resident' for a tax year is an individual who has been resident in the UK (as determined under the Statutory Residence Test (SRT) contained in FA 2013) for at least ten tax years out of the 20 tax

years immediately preceding the tax year in which the chargeable event (including death) arises. Where an individual has been resident in the UK for at least ten tax years out of the 20 tax years and then becomes non-UK resident, provisions provide for a shortening of the length of time they remain a long-term UK resident if they had been resident for between ten and 19 tax years out of the last 20. For example, an individual who has been resident between ten and 13 tax years, on leaving the UK will be treated as a long-term UK resident for three more tax years (see table below).

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. The long-term UK resident test applies irrespective of an individual's common law domicile status.

Transitional provisions provide that an individual who would otherwise be a long-term UK resident will not be treated as such if the following conditions are satisfied: the individual was not UK domiciled on 30 October 2024; has not been resident for any tax year in the period beginning with the tax year 2025/26 and ending with the relevant tax year; and either was non-resident for none of the three tax years immediately preceding the relevant tax year or was resident in the UK for fewer than 15 of the 20 tax years preceding the relevant tax year.

An individual is *not* a long-term UK resident for a tax year (current tax year) if the individual satisfies one of two tests.

An individual is not a long-term resident for a tax year if the individual is non-UK resident for any ten consecutive tax years during the 19 tax years before that tax year. Alternatively, an individual is not a long-term UK resident for a tax year if the individual was non-UK resident for at least the 'required number' of consecutive tax years ending with the tax year before the current tax year (the 'required number' is ascertained by taking the last 20 tax years ending with the last tax year for which the individual was UK resident and ascertaining the number of those tax years for which the individual was UK resident. The 'required number' is then ascertained from the table below).

Number of tax years of residency	Required number of consecutive tax years
13 or less	3
14	4
15	5
16	6
17	7
18	8
19	9
20	10

Example 1: Non-long- term UK resident

Sarah wants to know whether she will be a non-long-term UK resident in the tax year 2029/30 (the current tax year).

i. Sarah was resident for ten tax years out of the last 20 tax years prior to the tax year 2025/26, the 21st tax year being 2025/26. Prior thereto she was non-UK resident.
ii. Her last tax year of residence was the tax year 2025/26.
iii. In the last 20 tax years ending with 2025/26, the number of tax years of residence was 11.
iv. Applying the table to 11 UK resident tax years gives a 'required number' of three tax years.

Thus, Sarah would become non-long-term UK resident after three consecutive non-resident tax years ending in the tax year 2028/29, i.e., non-residency required in tax years 2026/27, 2027/28 and 2028/29. Non-long-term UK residency thus commences in the tax year 2029/30.

After a period of ten *consecutive* tax years of non-UK residence, an individual will no longer be considered a long-term UK resident and will no longer be within the scope of IHT (even if the individual returns to the UK thereafter; the 'clock' is then restarted).

On or after 6 April 2025, it is possible for a spouse or civil partner of a long term resident who is not themself a long term resident to elect to be treated as a long-term UK resident (under either a so-called death election or a lifetime election). Care must be exercised as, once made, the election is irrevocable. The election will last until ten consecutive tax years of non-UK residence have elapsed. Pre-6 April 2025, an individual was able to elect to be treated as deemed UK domiciled. Transitional provisions enable pre-6 April 2025 elections to effectively continue after this date but as an elected long-term UK resident. Where such elections may be of value is in connection with inter-spouse or civil partner transfers (see section 3.4).

1.2 Misnomer

Although termed 'inheritance' tax, the name is perhaps a little misleading. The tax is in fact charged not only on an individual's estate (broadly, the value of all assets owned at death) but also on lifetime gifts made by the individual.

1.3 Lifetime gifts: Death within seven years

The legislation which deals with IHT is primarily contained in an Act, namely, the Inheritance Tax Act of 1984 (this original Act has over time been significantly amended; the latest significant amendments are contained in Finance Act 2025) and within this Act are various exemptions and reliefs which alleviate the full impact of the tax. For example, with reference to individuals, a lifetime gift made by one individual to another individual is only actually subject to inheritance tax if the donor (i.e., the individual making the gift) dies within seven years of making the gift;

otherwise, if the donor survives the seven years, no inheritance tax is charged thereon. Furthermore, any inheritance tax charged, should death occur within the seven-year period, is tapered (i.e., reduced) depending upon how long after making the gift the donor in fact survives within the seven years; this aspect is for ease ignored in the discussion below.

So, for example, if Mr Smith in his lifetime gives his car worth £20,000 to his son, James, although inheritance tax is in principle levied on the value of the gift, this is so only if Mr Smith dies within seven years of making the gift. Unfortunately, this therefore means that at the time Mr Smith gifted his car to James neither of them will know if any inheritance tax will actually be charged in due course as they will have to wait seven years to find out! This is not, of course, particularly satisfactory.

Having said this, it may not in fact be strictly necessary for Mr Smith and James to wait for seven years to see if he survives.

1.4 Nil-rate band

Whether Mr Smith and James will need to wait seven years will depend upon a number of factors. One such factor is whether at the time Mr Smith made the gift, he had or not used up his 'nil-rate band', commonly referred to as the NRB.

The NRB is currently (i.e., the tax year 2025/26) worth £325,000 and is to remain at this level up to and including the tax year 2030/2031 inclusive. The £325,000 figure initially applied from 6 April 2009 (for the tax year 2009/10).

If, when Mr Smith made the gift, he had not made any earlier lifetime gifts, then he will not have used up any of his NRB so the value of the car, £20,000, will fall within the £325,000 NRB and, whilst technically still subject to inheritance tax (the applicable rate will be nil, i.e., 0%), no actual inheritance tax is payable even if Mr Smith dies within the seven-year period.

It was assumed above that Mr Smith had not made any earlier lifetime gifts and hence had not used any part of his NRB when he made the gift to James. Assume, however, that two years earlier, Mr Smith had made a lifetime gift of a painting to his daughter, Susan, worth £15,000. Now, when working out how much of his NRB Mr Smith has left when he makes the gift to his son, he has to take into account that he has already used up £15,000 when he made the gift to Susan, and so he is left with an NRB of [£325,000 – £15,000], namely, £310,000. The £20,000 gift to his son thus still falls within his NRB of now £310,000 and so, despite making the earlier gift to Susan, it is still charged to inheritance tax but only at the nil rate, i.e., 0%, if Mr Smith dies within seven years of making the gift to his son.

If Mr Smith did not die within seven years of making either gift, then neither gift is subject to inheritance tax and as a consequence, no part of his NRB is used; he would therefore still have an NRB of £325,000.

To work out how much of an NRB is left when an individual makes a