

Domicile and UK IHT

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For those living in Hong Kong & Singapore, understanding your domicile is crucial for managing worldwide asset transfers and estate planning. Domicile is a legal concept perhaps best summarised as an individual's permanent home country. It is not the same as residency, which is often more closely linked to physical presence. An individual can be resident in one country but domiciled in another.

Regardless of residency, an individual's domicile status affects the amount of UK inheritance tax (IHT) their estate will be subject to. Consequently, it is essential to understand the rules and how they apply to non-UK residents.

For UK domiciled individuals, IHT is payable on their worldwide assets, including any assets held offshore. Non-domiciled individuals, on the other hand, are only subject to IHT on their UK assets.

Whilst transfers between spouses typically qualify for relief, it may not be when applied to non-domiciled individuals. If a UK domiciled spouse transfers assets to their non-domiciled spouse this relief no longer applies. Therefore, this can have significant tax implications that may not have been thought through.

Understanding UK domicile

Determining UK domicile status can be complex. Under UK law, there are five types of domicile: of origin, of choice, of dependency, deemed-domicile and formerly domiciled resident.

- Domicile of origin: This is the domicile an individual acquires at birth. It is usually the domicile of their father, although it can be their mother's domicile in certain circumstances.
- Domicile of choice: This is the domicile an individual acquires when they choose to settle permanently in another country with the intention of living there permanently or indefinitely. For example, Hong Kong & Singapore. To acquire a domicile of choice, an individual must sever ties with their previous country of domicile. They must have an intention to remain permanently in the new country.
- Domicile of dependency: A child follows their father's (or mother's) domicile until the age of 16. Women married before 1974 will also acquire and follow their husband's domicile.
- Deemed-domicile: When a non-domiciled individual is UK tax resident for 15 out of the previous 20 years, or when an individual acquires a domicile of choice outside the UK, they will remain deemed UK-domicile for 4 years.

- Formerly domiciled resident (FDR): An individual born in the UK with a UK domicile of origin who has acquired a domicile of choice outside the UK. If they returned to the UK and became tax resident, their UK domicile of origin would revert (after a 1-year grace period for IHT).

It is important to note that acquiring a domicile of choice is not straightforward. It will often take years to demonstrate an individual's ties and intentions to remain somewhere permanently. Given a domicile enquiry from HMRC will often happen after death, it is important to make sure that steps are taken to document any change in domicile during your lifetime. This is something that Bentley Reid can discuss with you and help you achieve.

IHT for non-domiciled individuals

For non-domiciled individuals, IHT is only payable on their UK assets. This includes UK property (such as residential property held through offshore structures), sterling bank accounts, investments and other assets with a situs in the UK.

Non-UK situs assets, such as property or investments held offshore, are not subject to UK IHT for non-domiciled individuals.

Planning for UK domicile and IHT

For individuals who are UK domiciled, IHT planning is essential to minimise the amount of tax payable on their estate. This includes making gifts during their lifetime, creating family investment companies, or investing in assets that qualify for IHT relief.

For non-domiciled individuals, planning for IHT, whether due to investing in UK assets or planning a move to the UK can offer more comprehensive options depending on their particular circumstances. Investing in non-UK assets, setting up trusts, or using offshore structures can all be effective strategies for managing IHT liability.