



# PRIVATE WEALTH HORIZON SCANNING 2020

# KEY LEGAL

## DEVELOPMENTS 2020



### TAXATION OF UK PROPERTY

All non-residents are now subject to UK tax on gains accruing on the disposal of UK property of any value (including let property and commercial property), and on gains accruing on the disposal of an interest in a UK property-rich company.

Non-resident individuals and trustees must file a return within 30 days of the disposal of UK property or an interest in a UK property-rich company.

Non-UK companies are subject to corporation tax at 19% on post-5 April 2015 gains accruing on the disposal of UK property. From April 2020 non-UK companies will also pay corporation tax at 19% (rather than income tax) on their UK rental income. The Non-Resident Landlord Scheme will continue to apply to non-UK resident company landlords (any tax deducted under the scheme can be offset against the non-UK company's corporation tax liability).

UK residential property held by a non-UK domiciled individual (or a trust set up by a non-UK domiciled individual) is also subject to IHT whether it is held directly or indirectly through, for example, a non-UK company.

The government plans to introduce an additional 3% stamp duty land tax (SDLT) surcharge on non-UK resident buyers of residential property increasing the maximum SDLT rate for such buyers to 18%.



### HMRC'S APPROACH TO WEALTHY INDIVIDUALS

HMRC's high net worth unit is increasingly working closely with tax advisers and wealthy individuals and using an enhanced understanding of their complex tax affairs to identify where the risks of under-reporting or tax avoidance arise. This has led to an increase in the use of so-called 'nudge' letters – letters from HMRC to individuals, or entities, identified as falling within a particular category suggesting that they check they have correctly reported their tax affairs.

Offshore jurisdictions remain a key focus for HMRC - HMRC considers that tax planning is one of the main reasons for the use of offshore structures. With the increase in the exchange of data between jurisdictions individuals holding wealth through – or simply those connected with - offshore structures should expect to hear from HMRC.



### NON-DOMICILED INDIVIDUALS

The government has not announced any further changes to the tax position of non-UK domiciled individuals



### EXTENSION OF THE UK TRUST REGISTER

From March 2020 the following will be required to register on the UK trust register:

- all UK resident express trusts
- non-UK resident express trusts where the trustees
  - acquire an interest in UK land on or after 10 March 2020; or
  - enter into a new business relationship, on or after 10 March 2020, with a UK entity that has to carry out customer due diligence checks in relation to the trust (e.g. bank, lawyer) unless the beneficial owner information in relation to the trust is held on a central register in another EEA country; or
  - are liable to UK tax on UK source income or UK assets.

Certain UK trusts will be exempt from having to be registered - including charitable trusts. The government is still considering whether bare trusts and nominee arrangements should be excluded from registering.

Information on beneficial owners of registered trusts will, generally, only be accessible to people who can demonstrate a 'legitimate interest'.

Most trusts will have until 10 March 2022 to register.



## NEW REGISTER OF OVERSEAS OWNERS OF REAL ESTATE

New rules, expected to be in force in 2021, will require overseas entities owning, acquiring and disposing of UK real estate to provide information on their beneficial ownership; this information will be publicly accessible.

Non-UK trusts may be exempt from the requirements, but the extent of any exemption will not be clear until draft legislation is published.



## INHERITANCE TAX REFORM?

There is good chance that the UK's inheritance tax (IHT) rules could be reformed given the increasing calls for reform from across the political spectrum. A recent all-party report called for radical changes including the introduction of a 10% flat rate of IHT on all lifetime gifts and gifts on death, and the abolition of all exemptions with the exception of the spouse/civil partner exemption and the exemption for gifts to charity, and reliefs, including for business assets.

The report suggested that domicile should no longer be used as the connecting factor for IHT. Instead individuals who have been resident for 10 out of the last 15 years should be subject to IHT on a worldwide basis. It is not clear whether individuals who do not meet this test would be entirely exempt from IHT under the proposals or would remain subject to IHT on UK assets, in particular UK residential property.

Whilst it is unlikely the government will enact such radical reforms to IHT, changes to the reliefs for business property and the lifetime gift exemptions could be imminent.



## ENTREPRENEURS' RELIEF

The government has promised to review entrepreneurs' relief (ER) and there is increasing speculation that the relief could be scrapped (at least in its current form) or severely restricted. There is widespread belief that, rather than incentivizing people to set up and grow trading businesses, ER rewards those who have already amassed significant wealth.

ER reduces the charge to capital gains tax when a person disposes of qualifying business assets. It is available to individuals and some trustees. ER, which cost the government £2.4m in 2018, has been described as "unfair" by the Institute for Fiscal Studies.



## OPPOSITE-SEX CIVIL PARTNERSHIPS

Opposite-sex couples in England and Wales can now marry or enter into a civil partnership. Opposite-sex civil partners will enjoy the same tax benefits as married couples and same-sex civil partners.



## ORGAN DONATION

From spring 2020, organ donation in England will move to an 'opt out' system; this means that all adults in England will be considered to have agreed to be an organ donor when they die unless they have recorded a decision not to donate. This will not apply to anyone who is under the age of 18, is just visiting England or who has lived in England for less than 12 months before their death.



## NO FAULT DIVORCE

A new divorce law due to come into force in 2020 will mean couples will no longer have to have been separated, or attribute blame for the breakdown of the relationship, in order to obtain a divorce. Under the new procedure one spouse/civil partner (or potentially the couple jointly) can give notice to the court of the intention to divorce, simply stating their belief that the marriage has broken down irretrievably. The ability to contest a divorce will also be abolished (except in unusual cases such as loss of mental capacity).



## CRYPTOASSETS

The rapid growth of cryptoassets has led an increasing number of jurisdictions to question what the appropriate tax and regulatory approach to such assets is. HMRC has published guidance on the taxation of exchange tokens acquired, held and disposed of by individuals. Profits realized on the disposal of exchange tokens will generally be subject to capital gains tax (CGT).

Exchange tokens beneficially owned by an individual will, in HMRC's view, be located for tax purposes where the beneficial owner is UK resident. If this is correct, non-UK domiciled remittance basis users (RBU) will be subject to CGT on an arising basis on gains realized on the disposal of exchange tokens, and if a RBU uses foreign income or gains to purchase exchange tokens HMRC will view that as a remittance of the foreign income/gains.

Exchange tokens held by a UK resident but non-UK domiciled and not deemed domiciled individual will also be subject to inheritance tax.

# BUSINESS WEALTH

Building a successful business is a lifetime's investment. We will help you protect your legacy, now and for your successors.

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## *Personal & Family* WEALTH

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  - > Family law > Fiduciaries > Philanthropy > Privacy & reputation protection > Private equity
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