

CHAPTER A1

FIG RELIEF/ABOLITION OF DOMICILE

This file contains Chapter A1

Taxation of Non-Residents and Foreign Domiciliaries
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Cross references work as links in the Online version of this chapter but do not work in this pdf file

A1.1 The 2025 revolution: Introduction

This chapter discusses the domicile tax reforms announced in Spring Budget 2024.

At the time of writing, a few days after the Budget, the information available is:

Spring Budget 2024 and Spring Budget 2024: Policy Costings¹

HMRC: Spring Budget 2024: Overview of tax legislation and rates (OOTLAR)²

HMRC Technical note: Changes to the taxation of non-UK domiciled individuals Updated 7 March 2024³

1 <https://www.gov.uk/government/publications/spring-budget-2024>

2 <https://www.gov.uk/government/collections/spring-budget-2024-tax-related-documents>

3 <https://www.gov.uk/government/publications/changes-to-the-taxation-of-non-uk-domiciled-individuals/technical-note-changes-to-the-taxation-of-non-uk-domiciled->

The Technical Note covers everything in the other two papers, except for estimates of yield, so that is all that one needs to study.

This chapter will be updated online during the year as further details emerge.

A1.2 FIG relief for new residents

A1.2.1 FIG relief

The Technical note provides:

3.1 4-year FIG regime overview

From 6 April 2025, a new regime for personal FIG [foreign income & gains] will be available to individuals for the first 4 tax years once becoming UK tax resident after a period of 10 years non-UK tax residence. Eligible individuals will not pay tax on FIG arising in the first 4 years, where a claim is made, and will be able to remit these funds to the UK free from any additional charges....

The Statutory Residence Test will be used to determine tax residence for any one tax year. Treaty residence or non-residence and split years will be ignored.

I coin the following terminology (with initial capitals to reflect the technical meaning of my terms):

Term	Meaning
New Resident	Individual who comes to UK after 10 years non-residence
Exempt Period	First four years of tax residence
FIG relief	Relief for first 4 years of tax residence

It appears that the New Resident will need to dispose of foreign assets during the Exempt Period, to obtain the relief, there is no rebasing at the end of it.

Life insurance might be an attractive investment vehicle for those staying in the UK for more than 4 years, but not permanently.

Will the foreign income/gains qualify for DT relief? Article 4(1) OECD Model second sentence provides:

This term ["resident of a Contracting State"], however, does not include

individuals

any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.⁴

What about capital losses? Losses on disposals of foreign assets during the 4 year period will not be allowable, will losses on disposals after that be allowable? What will be the effect of existing capital-loss elections?

It may be useful to set out an aide memoire of when a full four year's FIG relief can apply:

Last UK resident year	First possible year of return for 4 years FIG relief
2014/15	2025/26
2015/16	2026/27
2016/17	2027/28
2017/18	2028/29
2018/19	2029/30
2019/20	2030/31
2020/21	2031/32
2021/22	2032/33
2022/23	2033/34
2023/24	2034/35

It seems optimistic to assume that the FIG regime will remain in its current form for a whole decade. But clearly there is an incentive for those who are nearly there to remain non-resident a little longer.

A1.2.2 *Claim for relief*

The Technical note provides:

Claims to use the new 4-year FIG regime are to be made for each year to which it is to apply. Individuals need not make a claim for every year of the 4-year period. For example, an individual who makes a claim for the new 4-year FIG regime in year 1 but chooses not to make a claim for year 2 will still be able to claim for years 3 and 4.

Will the claim have to specify the amount of the foreign income and gains? If so the taxpayer will have additional work to complete their tax return; if not, the true cost of the relief will not be known.

The Technical note provides:

4 See 9.8 (Liable to source tax only). But this will be a question for the foreign State to answer, it will not arise in the UK.

If an individual chooses to be taxed under the new 4-year FIG regime, they will lose entitlement to personal allowances and the CGT annual exempt amount.

If one ignores the CGT annual exemption, now trivial, a claim is worthwhile if the individual has foreign income above the personal allowance, but that now a modest £12,570 (and frozen to 2028). The income would have to be larger if a foreign tax credit was available. Taxpayers with small amounts of foreign income will need to do the computation to check the benefit matches the cost.

A1.2.3 *Non-residence in Exempt Period*

The Technical note provides:

If an individual leaves the UK temporarily during the 4-year period they will be able to make a claim under the 4-year FIG regime for any of the qualifying tax years remaining on their return to the UK. For example, if someone becomes non-UK resident in year 2 and 3 but is UK resident again for year 4, they will be able to use the new 4-year FIG regime for year 4.

A1.2.4 *Transitional rules for UK residents*

The Technical note provides:

Individuals who on 6 April 2025 have been tax resident in the UK for less than 4 years (after a period of 10 years non-UK tax residence) will be able to use this new regime for any tax year of UK residence in the remainder of those 4 years. For example, an individual who became resident in the UK in 2022-23, after a 10-year period of non-residence, will have been resident in the UK for up to three tax years on 6 April 2025. They will be able to claim under the new 4-year FIG regime for 2025-26 because this is their fourth year following a period of 10 years non-UK tax residence.

The transitional rules for return to the UK before FIG relief starts (but were away for 10 years before they returned) will be:

Last UK resident year	First possible year of return for FIG relief from 25/26	FIG relief for	Years of relief
2011/12	2022/23	2025/26 only	1
2012/13	2023/24	2025/26 + 2026/27	2
2013/14	2024/25	2025/26 to 2027/28	3

A1.2.5 FIG relief/rem. basis compared

The main differences between the new FIG relief and the old remittance basis are as follows:

Topic	Remittance basis	FIG relief
Relief	Remittance basis (on FIG)	Exemption (on FIG)
Who qualifies	Non-doms	New Residents
Cost of claim	Rem.basis charge + allowances lost	Allowances lost (only)

FIG relief is for a shorter period than the remittance basis, but:

- (1) it is much more generous (exemption for foreign income/gains, rather than remittance basis); no flat charges
- (2) it is much more widely targeted (applying to all New Residents, including UK domiciled individuals)⁵

Those thinking of returning to the UK in the course of a year would do well to defer their return until the following year (avoiding a split year), if that is possible.

A1.3 Offshore trusts

A1.3.1 Post-2025 income/gains

The Technical Note provides:

3.3 Trust Protections

From 6 April 2025, the protection from tax on income and gains arising within settlor-interested trust structures will no longer be available for non-domiciled and deemed domiciled individuals who do not qualify for the new 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 at present, unless the settlor is eligible for the new 4-year FIG regime.

A1.3.2 Pre-2025 income/gains

5 The pre-2025 regime, particularly once the remittance basis charges applied, was restricted to very top of the income distribution. According to Advani, Burgherr & Summers, “Taxation and Migration by the Super-rich”, IZA DP No. 16432, 29% of those claiming the remittance basis were in the top 0.1% income range. See <https://docs.iza.org/dp16432.pdf>

The Technical Note provides:

From 6 April 2025 the matching of pre-6 April 2025 FIG to trust distributions will continue, but UK resident non-domiciled individuals will no longer be entitled to the remittance basis in respect of worldwide trust distributions. Beneficiaries and settlors who are within the 4-year FIG regime will also be able to receive benefits from 6 April 2025 free from any UK tax charges whether or not the benefits are received in the UK. However, such benefits are not matched to trust income and gains and will be subject to a modified onwards gift rule.

The best course will sometimes be to wind up the trust, but there will be IHT and many other matters to consider.

A1.4 Non-dom transitional reliefs

Spring Budget 2024 provides three transitional reliefs for “existing non-doms claiming the remittance basis”. Presumably a claim for 2024/25 will suffice. It may be beneficial to make a remittance basis claim to take advantage of the transitional reliefs (rather than to qualify for the remittance basis).

A1.4.1 2019 CGT Rebasing

The Technical Note provides:

3.5 Capital Gains Tax rebasing

From 6 April 2025, an individual who is not, or who later ceases to be, eligible for the new 4-year FIG regime will be taxed on foreign gains in the normal way.

Transitional rules will apply for individuals who

[1] have claimed the remittance basis and

[2] are neither UK domiciled nor UK deemed domiciled by 5 April 2025.

If, on or after 6 April 2025, they dispose of a personally held foreign asset that they held at 5 April 2019, they will be able to elect to rebase that asset to its value as at 5 April 2019. This rebasing will be subject to conditions that will be set out later.

Rebasing reliefs can be done in many different ways. Details remain to follow.

There is no relief proposed for assets held in trusts or companies.

A1.4.2 2025/26 50% IT relief

The Technical Note provides:

3.4 Reduced amount of foreign income subject to tax

There will be a one-year reduction in the amount of foreign income that will be subject to tax for individuals who

[1] move from the remittance basis to the arising basis from 6 April 2025 and

[2] who are not eligible for the new 4-year FIG regime.

For these individuals only 50% of the foreign income arising in 2025-26 will be subject to tax. The reduction in the amount of foreign income subject to tax will apply for one tax year only and the reduction will not apply to foreign chargeable gains.

Charles Russell Speechley comment:⁶

It is not entirely clear from this whether only individuals who would have been eligible for the remittance basis in 2025/26, had the regime continued, will be eligible for the reduced rate, or whether individuals becoming deemed domiciled on 6 April 2025 will also qualify.

A further question is whether the relief will apply to offshore income gains and other deemed income. The Parliamentary drafting team have form for forgetting about OIGs and producing tax legislation that does not address them, resulting in anomalies and controversy.

A1.4.3 Temporary Repatriation Facility

The Technical Note provides:

3.6 Temporary Repatriation Facility (TRF)

A new 12% rate of tax will be introduced for remittances of FIG made in tax years 2025-26 and 2026-27 where the FIG arose to the individual personally in a year when the individual was taxed on the remittance basis and the individual is UK resident in the relevant tax year.

There will be some relaxation of the mixed fund ordering rules to make it easier for individuals to take advantage of the TRF if, for example, they have FIG in a mixed fund or they are unable to precisely identify

6 <https://www.charlesrussellspeechlys.com/en/insights/expert-insights/private-wealth/2024/regime-change-the-beginning-of-the-end-of-the-remittance-basis/> (March 2024)

the quantum of their FIG.

From 2027-28 remittances of pre-6 April 2025 FIG will be taxed at normal tax rates.

Where DT relief is available, this will generally be an effective 0% rate. Taxpayers will plan to remit, and, where appropriate to trigger clawback of remittance investment relief.

A1.5 Overseas Workday relief

A1.5.1 *Who qualifies for OWR*

The Technical Note provides:

3.2 Overseas Workday Relief⁷

Relief will continue to be available for employees who opt to use the new 4-year FIG regime. The new Overseas Workday Relief (OWR) will be like that currently available, providing relief on earnings for employment duties performed outside the UK.

The new OWR will be available for the first 3 tax years of UK residence.

The new OWR will provide relief from income tax whether or not these earnings are brought to the UK. As under the current rules, the new OWR will not provide relief from National Insurance contributions (NICs), so any NICs liabilities on these earnings will be determined as usual.

Thus differences between OWR and FIG relief include:

Topic	FIG relief	OWR
Relief for	FIG (not OWR income)	employment income for duties abroad
Duration of relief	4 years	3 years
Applies to	All New Residents	OWR Employees
Transitional rules	2023/4 & 2024/5 OWR users	New Residents only

A1.5.2 *23/4 & 24/5 residents: Transitional rule*

The Technical Note provides:

Employees who are eligible for OWR in 2023-24 or 2024-25 for their

⁷ See 34.22 (Overseas workday relief).

first year since returning to the UK should still be able to claim OWR for the full three years. However, those re-entering from 2025-26 will not be able to claim OWR, if they are not eligible for the FIG regime.

A1.6 Remittance basis for pre-2025 FIG

The Technical Note provides:

4. Ending the existing income tax and capital tax regime

The remittance basis of taxation will be abolished for UK resident non-domiciled individuals from 6 April 2025. The last year for which a remittance basis claim can be made will be the 2024-25 tax year.

FIG that has arisen to a remittance basis user prior to 6 April 2025 will continue to be taxed if they are remitted on or after 6 April 2025, subject to the TRF set out above.

Business Investment Relief will be available for qualifying investments of pre 6 April 2025 FIG made on or after 6 April 2025 and will continue to be available for qualifying investments made prior to 6 April 2025.

The remittance basis is not abolished: it is *prospectively* abolished.

A1.7 IHT domicile reform

The Technical Note provides:

5. Inheritance tax

Inheritance tax (IHT) is currently a domicile-based system. The government intends to move IHT to a residence-based system, subject to consultation and applying this only from 6 April 2025.

A1.7.1 *Non-settled property post-2025*

The Technical Note provides:

5.3 The position from 6 April 2025 – Property owned outright

It is envisaged that the new rules will involve charging IHT on worldwide assets owned outright when a person has been resident in the UK for 10 years (the “residence criteria”), with a provision to keep a person in scope for 10 years after leaving the UK (the “tail” provision). The design of the system (including consideration of further criteria such as other connecting factors) will be subject to consultation. UK situs assets will remain in charge on the same basis as at present, regardless of residence.

In the following discussion, a “**IHT-chargeable person**” is an individual

who

- (1) been resident in the UK for 10 years, and
- (2) if they have left the UK, have not achieved 10 year's non-residence

There will be winners and losers. The winners may include UK domiciliaries who are not IHT-chargeable persons.⁸ They will fall outside the scope of personal IHT under the new regime. The losers are individuals who are:

- (1) non-domiciled and non deemed domiciled; and
- (2) become IHT-chargeable persons (10-year residents).

Losers will outnumber winners. For some there will be a strong incentive not to become an IHT-chargeable person, or to cease to be one, ie to leave the UK (or not to come).

Important commencement issues are currently unanswered. If a long term resident leaves in 2024/25, they should avoid the 10 year tail, but that remains to be seen.

The restriction on the IHT spouse exemption will operate differently. Expect gifts from H to W to be PETs, not exempt, (and within GWR) if H is an IHT-chargeable person and W is not; subject to a domicile election.

A1.7.2 *Post-2025 settlements*

The Technical Note provides:

5.4 The position from 6 April 2025 – Property held in trust

It is envisaged that the new rules for chargeability of assets comprised in a settlement will depend upon whether a settlor meets the residence criteria or is within the tail provision at the time the assets are settled and/or when charges such as 10-year anniversary charges or exit charge arises.

The design of the system (including consideration of further criteria such as other connecting factors) will be subject to consultation. UK situs assets will remain in charge on the same basis as at present, regardless of residence.

It appears that if the settlor becomes an IHT-chargeable person, a post-

⁸ Depending on the (unidentified) “other connecting factors”.

2025 settlement will fall within the scope of IHT, and (unless the settlor is excluded) GWR. What will happen after the death of the settlor?

The reference to “other connecting factors” is intriguing, but it is impossible to say what it might mean.

Settlement will move in and out of the IHT net from time to time. The 10 year tail means that trusts which fall within the IHT net will generally suffer at least one 10-year charge.

A1.7.3 *Pre-2025 settlements*

The Technical Note provides:

The treatment of non-UK assets that are settled by a non-UK domiciled settlor and become comprised in a settlement prior to 6 April 2025 will not change. For these settled assets:

- provided the assets in the settlement continue to meet the legislative requirements to be excluded property under current legislation, and subject to any future anti-avoidance provisions, there will be no IHT charges; and
- the interaction between the gift with reservation provisions and excluded property trust rules will also remain, meaning excluded property will not be brought into charge on the settlor’s death even if the settlor retains a benefit in the trust assets.

This seems a generous transitional rule, but it would have been difficult or impossible, in some cases, to backdate a 10-year residence rule, as residence records may not be available. So domicile is not abolished for IHT purposes. It is *prospectively* abolished. Domicile will remain important for the duration of pre-2025 settlements, ie for about a century.

The exception to this is that the treatment of non-UK property comprised in a settlement that currently comes back into scope where the settlor is a formerly domiciled resident (see above) will be subject to consultation.

It is impossible at present to say what will be the position of a settlement made by a formerly domiciled resident, but perhaps it will remain as at present.

A1.7.4 *IHT consultation questions*

The Technical Note provides:

5.5 The IHT consultation

The IHT consultation will deal with the design of a new residence based system to apply from 6 April 2025. There are a number of detailed issues and interactions that will be consulted on such as ...

The Technical Note identifies the following:

Issue	JK Comment
Transitional provisions	
Length of the residence criteria	
Length of the tail provision	
Connecting factors other than residence	
Gifts with reservation	
Domicile elections	See 5.14 (Election-domicile)
Formerly domiciled residents	
Calculation of trust charges	

One can add to this list. What about existing IHT DTAs?

A1.7.5 *Comments on IHT reforms*

The IHT proposals are at an early stage, and the final rules may be significantly different from the sketch in the Technical Note.

If a 10-year tail applies to those who are UK resident for 10 years, there would in some cases be a significant incentive to leave within 10 years (in other cases an IHT DT relief may apply; in other cases (younger individuals, especially if married) the effective IHT exposure could inexpensively be covered by insurance or ignored (self-insured). The individual would still need advice in connection with lifetime giving for 10 years (essentially the need to avoid chargeable transfers, and the risks of PETs and, perhaps, GWR)

A1.8 Amounts raised and policy issues

A1.8.1 *Amounts raised*

Spring Budget 2024 provides estimates, combining into one figure 3 distinct matters: the abolition of the nondom regime, the FIT regime which replaces it, and transitional reliefs.

Sensibly, the estimates ignore the IHT reforms, though these may well increase Revenue receipts.

2024-25	2025-26	2026-27	2027-28	2028-29
+0m	+185m	+2,805m	+3,675m	+2,715m

These figures should not be given any credence, because:

- (1) There is no indication of the working behind the figures⁹ (the reader may think this suggests that the authors would prefer no serious investigation into the figures).
- (2) We do not have full details as to what the rules will be, on which large sums will depend.
- (3) The Warwick/LSE paper estimated the saving from abolishing the remittance basis as £3.2 billion *without any short term residence relief*.¹⁰ The cost of FIG relief can hardly be less than that.

The apparent precision (to within 5m) is obviously spurious. It would be more reasonable to estimate figures to the nearest £500m.

Spring Budget 2024 states that the Temporary Repatriation Facility “is expected to bring in an additional £15 billion of foreign income and gains onshore to the UK and raise over £1 billion in additional tax receipts.”¹¹ Assuming the £1 billion is spread equally between 2025/26 and 2026/27, that equates to £500m receipts in each of the two years. It is not clear if those sums are included in the figures above. But while the TRF will affect the timing of receipts, it is not obvious why someone should chose to remit and pay the tax if there is a viable alternative of not remitting.¹² The TRF will not raise significant *additional* tax receipts.

My own guess would be no net gains to the Revenue at all, and more likely than not a net loss, except for additional receipts:

- (1) For 2025/26, because of additional income timed to take advantage of 2025/26 50% IT relief
- (2) for 2025/26 and 2026/27, because of remittances to take advantage of the Temporary Repatriation Facility

9 For what it is worth, HM Treasury, “Spring Budget 2024 Policy Costings” states: “The costing accounts for behavioural responses including migration and tax planning.”

But what allowance is made for these matters is not identified.

10 See 1.6 (Warwick/LSE paper). This is likely to be an overestimate.

11 Para 2.36.

12 Unless the UK tax charge is covered by DTA relief.

Those receipts will be outweighed by lower receipts in other years.

A1.9 Policy issues

Spring Budget 2024 states that the reforms create “a modernised¹³ regime that is simpler, fairer and more competitive”. But I doubt if anyone is expected to take that seriously.

A1.9.1 *Tax competitive*

Spring Budget 2024 claims the new system will remove a rule “that incentivises individuals to keep income and gains offshore in the current system”.¹⁴ That is very broadly correct, though it does not mention that the new relief will continue to incentivise individuals to realise income and gains offshore in the four year Exempt Period, that IHT may also continue to provide a similar incentive, and that the incentive will continue to apply to pre-2025 FIG (mitigated to some extent by the Transitional Relief Facility).

A1.9.2 *Simplicity*

The sketch in the Technical Note is simple. The final law will not be simple; FIG relief and transitional provisions will need 3 schedules and I guess about 100 pages of legislation.

The Technical Note says:

Under the new regime individuals will not be required to track the movement of their FIG through investments in the way they are required to do now under the current regime. This will make the new 4- year FIG regime much simpler than the remittance basis regime.

The law for post 2025 FIG will be simpler than the present law, because the remittance basis has become so very complicated (mainly a result of the 2008 and 2017 reforms). But the remittance basis, with all its complications, will remain for a generation, as it will continue to apply to unremitted income/gains before 2025/26, though mitigated by the TRF, and after a couple of decades will gradually fade into insignificance.

Simplicity is multi-faceted. The abolition of protected trusts (certainly

13 Para 2.35; see [App 1.2](#) (Clarify/modernise/reform).

14 Box 2C, p.40.

a simplification) means that attention will need to be given to the ToA and CGT s.3 motive defences, and reliefs such as SSE, which did not have to be considered for protected trusts.

A1.10 Some certainties and uncertainties

A1.10.1 Certainties

Countless client briefing emails will be sent, and conferences arranged.

Tax practitioners will be busy advising on the implications of the new regime (coming up to 5 April this year, and next year, frantically so).

There will be much scope for tax planning.

Parts of this book will need to be rewritten - but large parts will remain substantially the same. The title of the book will change; I have wanted to change it for a while but have been unable to think of the right title. Suggestions from readers would be welcome.

A1.10.2 Uncertainties

Some non-doms will leave the UK as a result of the reforms, (and some will chose not to come). But how many?

Others will be attracted to the UK, but how many and will they stay?

We will know a little more in a decade, when figures for the early years of the FIG regime are available and academics have studied them.

Macfarlanes say:¹⁵

we would anticipate that individuals who are planning a major exit from a business within that four-year period will be attracted to the UK. In this sense, the regime is better than Italy, because in Italy there can be significant problems with disposals of major private company shareholdings in the first five years of residence.

It remains to be seen what view the next government take. It was Labour policy to abolish the remittance basis and replace it with a new residents relief.¹⁶ On that basis one can expect the FIG regime to survive for now.

¹⁵ <https://www.macfarlanes.com/what-we-think/in-depth/2024/non-uk-domiciliary-regime-an-analysis> (March 2024)

¹⁶ The nature of Labour's new relief were unspecified, presumably undecided, and most likely, unconsidered.

There is of course a history of Conservative governments adopting popular Labour

The transitional reliefs might be restricted or abolished even before they take effect.

The Technical Note does not mention forestalling rules, but such rules may emerge (under the current government or the next) and it may be desirable for taxpayers to act sooner rather than later. We will only know with the benefit of hindsight.

The new law will not be enacted in the Bill which will become the F(no2)A 2024. It is a matter of politics whether it will be in FA 2025, or in a F(no.3)A 2024, though there is not enough time to do a good job in 2024 and anything enacted in 2024 will be reviewed in 2025. One hopes that the debacle of the 2008 reforms will not be repeated.¹⁷

The IHT reforms can only go in the FA 2025. The timetable might slip to 2026 but I would not plan on that.

A1.10.3 *Will IT/CGT regime be stable*

The law will no doubt be amended a few times in the next few years, as issues emerge. After that, will the new law be stable? It seems unlikely. A government in need of funds might:

- (1) Cut the Exempt Period to 2 or 3 years, or
- (2) Impose a FIG relief claim charge comparable to the remittance basis claim charge.

That is especially likely if, as I would guess, the published figures underestimate the cost of FIG relief.

On the other hand, there will be pressure to increase the Exempt Period. Macfarlanes say:¹⁸

... the four-year period is really very short, especially when looked at in the international context. The Irish remittance regime does not have a time limit, the Italian and Greek regimes are each available for 15 years, a French inbound regime lasts for eight years and the Spanish “Beckham” law lasts five years.

A four year period is significantly less attractive. Such a short period

policies; see 1.10.1 (Political background). There is nothing necessarily wrong with that: indeed, one might applaud it.

¹⁷ See 1.9.4 (FA 2008 enactment process).

¹⁸ <https://www.macfarlanes.com/what-we-think/in-depth/2024/non-uk-domiciliary-regime-an-analysis> (March 2024)

could also be said to encourage what might be termed “fiscal nomadism”. Individuals who choose to benefit from the regime are likely to leave a limited footprint in the UK. After all, why would they purchase a property, or invest in the UK, if they only choose to be in the UK for four years?

That is not comparing like with like. FIG exemption while it lasts is more generous than a remittance basis, is uncapped, and does not incur a significant flat tax payment. The length of the Exempt Period is only part of the picture.

As to whether the new IHT law will be stable, discussion should wait until we know what the law will be.