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, the information available is as follows:

(1) Three papers published with the spring budget:
(a) HMRC Technical Note: Changes to the taxation of non-UK domiciled individuals Updated 7 March 2024[1] (the Technical Note)
(b) Spring Budget 2024 and Spring Budget 2024: Policy Costings[2]

1 *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-individuals*
2 *https://www.gov.uk/government/publications/spring-budget-2024*

(c) HMRC: Spring Budget 2024: Overview of tax legislation and rates[3]

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

(2) Policy paper: Changes to the taxation of non-UK domiciled individuals[4] ("the July policy paper")

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....

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

Term	Meaning
New Resident	Individual in UK after 10 years non-residence, qualifies for FIG relief
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 FIG relief, though there is 2019 CGT rebasing afterwards.

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

3 *https://www.gov.uk/government/collections/spring-budget-2024-tax-related-documents* (known as OOTLAR)

4 *https://www.gov.uk/government/publications/2024-non-uk-domiciled-individuals-policy-summary/changes-to-the-taxation-of-non-uk-domiciled-individuals* (Jul 2024)

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 any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.[5]

What about capital losses? Losses on disposals of foreign assets during the Exempt 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 was a settled Labour policy to abolish the remittance basis and replace it with a new residents relief.[6] Nevertheless, it seems optimistic to assume that the FIG regime will remain in its current form for a whole decade.

However that may be, there is clearly 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:

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5 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.

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

> 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:

> 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 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 *The test of residence*

The Technical Note provides:

> 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.

That is, a UK resident year is counted as one of the years of the exempt period, even though it is a year during which the person is treaty non-resident or a split year, so FIG relief may not be needed. That is not surprising, as these are the usual rules:

Rule	**See**
Treaty non-residence ignored	9.2
Split year treated as a resident year	10.2

A1.2.4 *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.

A1.2.5 *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 those 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

A1.2.6 *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)[7]

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*

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 in 2024/25, but there will be IHT and many other matters to consider.

7 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*

A1.4 Non-dom transitional reliefs

Spring Budget 2024 provides some 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 been done in many different ways. Details remain to follow.

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

The July policy paper confirms a rebasing relief but is vaguer as to the details:

> Transitionally, for CGT purposes, current and past remittance basis users will be able to rebase foreign capital assets they hold to their value at the rebasing date when they dispose of them. The government is considering the appropriate rebasing date and will set this out at the Budget.

A1.4.2 *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 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.

The July policy paper confirms a TRF relief but is vaguer as to the details:

> Individuals that have previously claimed the remittance basis will be able to remit FIG that arose prior to 6 April 2025 and pay a reduced tax rate on the remittance for a limited time period after the remittance basis has ended. The rate and the length of time that the TRF will be available will be set to make use as attractive as possible.
> The government is also exploring ways to expand the scope of the TRF, including to stockpiled income and gains within overseas structures, and will confirm further details at the Budget.

A1.4.3 *2025/26 50% IT relief?*

The Technical Note provided:

> ***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.*

This will not now happen. The July policy paper provides:

> The policy announced by the previous government, providing a 50% reduction in foreign income subject to tax for individuals who lose access to the remittance basis in the first year of the new regime, will not be introduced.

This is not a surprise: it had been anticipated in earlier announcements.

A1.5 Overseas Workday relief

A1.5.1 *Who qualifies for OWR*

The Technical Note provides:

> **3.2 Overseas Workday Relief**[8]
> 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

The July policy paper hints at further reforms, without specifying more:

> A form of Overseas Workday Relief will be retained. Officials will engage with stakeholders on the design principles for this tax relief and further details will be confirmed at the Budget.

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8 See 34.22 (Overseas workday relief).

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 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 Forestalling rules

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.

For CGT purposes, one should expect anti-forestalling rules similar to Entrepreneurs' Relief, which prevented planning using uncompleted unconditional contracts and share for share exchanges.[9]

A1.8 IHT domicile reform

The Technical Note provides:

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9 See sch 3 FA 2020 and Langston, "Entrepreneurs' relief: the anti-forestalling rules" Tax Journal, 1 May 2020.

> **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.

This reform may seem comparable to the abolition of the remittance basis, because in each case the concept of domicile is abolished. But that is not so.

The fundamental territorial link for income tax/CGT is based on residence.[10] The domiciled-based remittance basis is just a minor add-on. Technically, its abolition does not affect the fundamental territoriality of the tax, and economically, the change materially impacts only a relatively small number of taxpayers (though to them it is important).

By contrast, domicile *is* the fundamental territorial link for IHT. Technically, its abolition involves a fundamental change of the territoriality of the tax, and so of all the UK's IHT DTAs; and economically, the change materially impacts a much larger number of taxpayers.

A1.8.1 *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.

The July policy paper adopts the same approach:

> The government envisages that the basic test for whether non-UK assets are in scope for IHT from 6 April 2025 will be whether a person has been resident in the UK for 10 years prior to the tax year in which the chargeable event (including death) arises, with provision to keep a

10 See 16.2 (Source: IT territorial limit).

> person in scope for 10 years after leaving the UK. The government will engage further with stakeholders on the operation of the new test, so that any refinements can be considered fully. IHT charges arising on deaths occurring before 6 April 2025 will be unaffected by these changes and will be charged according to the existing rules.

In the following discussion, a **"IHT-chargeable person"** is an individual who:
(1) has 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.[11] 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. HMRC's intention might be that there should be no transitional rules and that potentially those who left as long ago as 2016/17 (and have been non-resident since) could be brought back into the 10 year tail in 2025/26. But this would seem particularly retroactive and would give rise to significant lobbying.

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.

A1.8.2 *Post-2025 settlements*

The Technical Note provides:

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

11 Depending on the (unidentified) "other connecting factors".

> 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-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 current intention seems to be that the settlor's status at the date of death fixes the IHT status of the trust permanently thereafter.

The reference to "other connecting factors" is intriguing, but it is impossible to say what it might mean. Ordinary residence is not suitable, as its meaning is vague and contested and recent cases suggest it means little more than residence.[12] The ties which apply for the residence test might be pressed into service, but are not particularly suitable for IHT. Citizenship might be the best additional factor to choose, eg requiring a longer period of residence, and a shorter period of absence, for non-UK citizens to fall within the IHT net.[13]

Settlements 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.

A1.8.3 *Pre-2025 settlements*

The Technical Note provided:

> *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*

12 See 46.12 (Residence and ordinary residence).
13 See App App. 15.1 (Citizenship-based taxation).

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.*[14]

I commented at the time:

> This seems a generous transitional rule, but it would be difficult or impossible, in some cases, to backdate a 10-year residence rule, as residence records may not be available.

However that may be, the July policy paper withdraws the transitional relief for pre-2025 settlements:

> The government will end the use of Excluded Property Trusts to keep assets out of the scope of IHT. The government intends to change the way IHT is charged on non-UK assets which are held in such trusts, so that everyone who is in scope of UK IHT pays their taxes here. The government recognises that trusts will already have been established and structured to reflect the current rules, so is considering how these changes can be introduced in a manner that allows for appropriate adjustment of existing trust arrangements, while ensuring that the treatment of all long-term residents of the UK is the same for IHT purposes. Confirmation of these new rules and their detailed application, including transitional arrangements for affected settlors, will be published at Budget, following external engagement.

This is a major change of policy from the Technical Paper. The reference to allowing "appropriate adjustments of existing trust arrangements" would allow a certain amount of back-tracking, if the full impact of the proposal was realised;[15] but I would not count on that.

Settlors of excluded property trusts who will be IHT-chargeable persons (more than 10 years UK residence) in 2025/26 may consider the following options:

(1) Leave the UK in 2024/25 (with the reasonable expectation that the

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14 One exception was proposed: *"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."*

15 See A1.12.1 (Tax competitive).

trust will not become chargeable)

(2) Leave the UK after 2024/25; with the trust likely to be subject to
    (a) one or more IHT 10 year charges and
    (b) possibly, a GWR charge.

(3) If possible, wind up the trust in 2024/25.
    (a) The effective rate of IHT on non-settled property is generally lower than the effective rate of IHT on settled property (the effective rate of IHT will vary according to individual circumstances)
    (b) The tax cost of winding up the settlement is likely to depend on whether the settlor can claim the remittance basis in 2024/25.
    (c) Trusts are not just created for tax reasons, of course, and non-tax issues of winding up the trust would need to be considered.

(4) If the trust continues, consider excluding the settlor (if practical) to avoid GWR:
    (a) exclude in 2024/25, to avoid a GWR PET charge; or
    (b) exclude subsequently, but accepting the risk of a GWR PET.

Similar points apply to settlors of excluded property trusts who will become IHT-chargeable persons (more than 10 years UK residence) after 2025/26. They have the possibility of waiting until next year, when the details of the new law will be available; but a decision to wind up existing trusts may need to be made by 5 April 2025 while the remittance basis is still available (or by the end of the FIG Exempt Period, if later).

It would probably be safe to wait until later in 2024/25. No doubt further details will emerge in the budget on 30 October 2024, but that may not extend to details of the IHT reforms: there is more thinking to be done in this area, where policy is less developed than is the case for the IT/CGT reforms.

In some cases other IHT relief may be available:

(1) IHT DTAs; see 114.1 (IHT double taxation treaties)
(2) BPR (if this continues in its present form)

A1.8.4 *IHT consultation*

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	**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?

The July policy paper provides:

> The government will not carry out a formal policy consultation on moving to a residence-based system for IHT. Instead, it will review stakeholder feedback provided following the Spring Budget and officials will carry out further external engagement over the summer on IHT policy design.

A1.8.5 *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 and July policy paper.

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). That is even before considering the position of excluded property trusts discussed above.

A1.8.6 *International comparisons*

Short summary descriptions of foreign tax laws are bound to mislead.

Nevertheless the following quote is of interest as it illustrates how foreign jurisdictions have, unsurprisingly, struggled with the policy issues of using residence as a connecting factor for IHT:[16]

> Last year, [2017] Japanese inheritance tax rules were amended such that, where a foreign national had lived in Japan for 10 years (in the aggregate) out of the last 15, died outside of Japan, the foreigner national's heirs would be subject to Japanese inheritance tax on such foreign national's assets located both in Japan and elsewhere (a similar rule also applies for gift tax purposes).
> The above rule resulted in a situation where the heirs of a foreign national who had left Japan would potentially be subject to Japanese inheritance tax on the foreign national's worldwide assets for up to five years after such foreign national had left Japan. The fact that Japanese inheritance tax could "follow" a foreign national for up to five years after such person had left Japan caused great concern among Japan's expatriate community, and threatened to derail the Japanese government's efforts at attracting successful foreign talent to live and work in Japan.
> In this year's tax reform, [2018] the Japanese government indicates that it will abolish the above rule applying to foreign nationals, subject to a certain anti-avoidance countermeasures in the context of gift tax... This change to the inheritance tax provisions should aid Japan in its efforts to show Japan to be an attractive location for successful foreign executives to reside long term.

I would be interested if readers with knowledge of Japanese IHT have further comments on this episode.

A1.9 Other domicile reforms?

There are other topics where domicile matters for tax purposes. The following is not a full list:

Topic	**See**
Trust with mixed-resident trustees	
Residence of trust	7.6
Registration of trust	131.7

16 *https://www.notaio-busani.it/it-IT/INTERNATIONAL---JAPAN--Disastrous-Japanese-inheritance-tax-IHT-amendment-to-be-repealed.aspx*

Transitional reliefs
2008 Rebasing relief 61.48 ff

It would be logical to rewrite all these rules to avoid reference to domicile, but the work involved would be considerable.

The Technical Note does not consider these aspects, and what will happen remains to be seen.

A1.10 Offshore avoidance review

The July policy paper provides:

> The government intends to conduct a review of offshore anti-avoidance legislation, including the Transfer of Assets Abroad and Settlements legislation, to modernise the rules and ensure they are fit for purpose. The intention for this review will be to remove ambiguity and uncertainty in the legislation, make the rules simpler to apply in practice and ensure these anti-avoidance provisions are effective. Further details on the review will be provided in due course. It is not anticipated that this review will result in any changes before the start of the 2026/27 tax year.

With the abolition of protected trusts these rules will become more important from 2025/26; though whether that consideration was the spur to the review is a matter of speculation.

We are living in interesting times.

A1.11 Amounts raised and policy issues

A1.11.1 *Amounts raised*

Spring Budget 2024 provides estimates, combining into one figure 3 distinct matters: the abolition of the nondom regime, the FIG 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 figures[17] (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.*[18] The cost of FIG relief can hardly be less than that.
(4) The figures will be affected by the changes in the July policy paper.

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."[19] Assuming the £1billion 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.[20] 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 for 2025/26 and 2026/27, because of remittances to take advantage of the Temporary Repatriation Facility. Those receipts will be outweighed by lower receipts in other years.

A1.12 Policy issues

Spring Budget 2024 states that the reforms create "a modernised[21] regime

17 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.
18 See 1.6 (Warwick/LSE paper). This is likely to be an overestimate.
19 Para 2.36.
20 Unless the UK tax charge is covered by DTA relief.
21 Para 2.35; see App 1.2 (Clarify/modernise/reform).

that is simpler, fairer and more competitive". But I doubt if anyone is expected to take that seriously.

A1.12.1 *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".[22] That is very broadly correct, though it does not mention that the new FIG 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 Repatriation Facility and remittance investment relief).

The July policy paper claims that the new law will be internationally competitive. Whether or not the new law is competitive will depend on the length of stay. The system of FIG relief is competitive for new residents who stay for four years. But the IHT charges proposed by the July policy paper are not competitive for those who are UK resident for 10 years, particularly taking into account that IHT rates are high by international standards, and that inheritance taxation of trusts is penal. I suspect many readers will agree with the non-dom businessman quoted in the Financial Times as saying: "If there was a more balanced, less punitive inheritance tax I might have considered staying", and another who expressed the same thought in the Times: "We can afford to live here. We just can't afford to die here."[23]

The Warwick paper predicted, rightly or wrongly, that the emigration response to the abolition of the remittance basis and protected trust relief would be low.[24] But the reforms it considered did not include the IHT reforms currently proposed, so the paper offers no reason to think that the same will apply now.

A1.12.2 *Simplicity*

22 Box 2C, p.40.

23 Financial Times, June 21 2024; The Times July 28 2024. Both articles were written before the July policy paper announced the abolition of IHT transitional relief for pre-2025 trusts.

24 See 1.6 (Warwick/LSE paper).

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 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 may not have mattered for protected trusts.

A1.13 Some certainties and uncertainties

A1.13.1 *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.

A1.13.2 *Uncertainties*

Some non-doms will leave the UK as a result of the reforms, (and some will chose not to come). The exodus will be increased by the decision in the July policy paper to tax excluded property settlements. But how many?

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

after four years? or 10 years?

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:[25]

> 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.

The new law is not in the F(no2)A 2024; we can now expect it in the FA 2025. One hopes that the debacle of the 2008 reforms will not be repeated.[26]

The timetable might slip to 2026, particularly for the IHT reforms. I would not plan on that, but time will tell.

A1.13.3 *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:[27]

> ... 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

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

26 See 1.9.4 (FA 2008 enactment process).

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

> "Beckham" law lasts five years.
> A four year period is significantly less attractive. Such a short period 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.