



INTRODUCTION AND WHAT'S NEW

1.1 Abolition of domicile and scope of this book

2025 is a year that will be remembered in tax history. It announced a set of reforms:

- (1) For IHT:
 - (a) Long-term residence replaces domicile
 - (b) Excluded property in trusts depends on the settlor's LTR from time to time
- (2) For IT/CGT:
 - (a) FIG relief replaces the remittance basis
 - (b) Transitional rules include the Temporary Remittance Facility, 2025 rebasing, and a new definition of remittance (for pre-2025 unremitted income)

One might summarise this package as the abolition of domicile, though as usual, the short label does not fully describe the details of the reforms.

This is the most important change in UK taxation since the introduction of CGT/CT in 1965, VAT in 1973, and CTT in 1974, and very few readers will have firsthand memory of any of those. So it is the biggest change in our working lifetime. It will take some years to work out its consequences.

Territorial rules (now based on residence, situs and source) are best addressed as part of a general discussion: in taxation, as in life, everything is connected. Even a preliminary sketch needs more time than is available in the month between the publication of the finance bill in its final form, and the start of the tax year when this book is published; the discussion of the new law will go online over the course of the year.

The new title of this work reflects this change and this approach.

1.2 Co-authorship

This book has always benefited from comments and contributions from readers and discussions with my colleagues in chambers. It has now

grown beyond my ability to maintain it all. The following chapters are now in the good hands of junior members of my chambers:

Chapter: Topic	Responsible author
35: Travel expenses: employment income	Rebecca Sheldon
46: National Insurance Contributions	Mary Ashley

These names will be familiar to readers: Rebecca as the moderator of the online edition of this work; Mary as co-author of my *Taxation of Charities*.

If any readers are attracted to the challenge of “adopting” a chapter or section from this book please contact the author.

1.3 A statute-focussed approach

I set out statutory and other material verbatim:

... in the end we must always return to the words of the statute¹

Returning to the verbatim text, it is surprising how often one finds that the words do not say what one expects.

This is not just a common law approach. Richard Hyland tells this story of his class at Université Paris II Panthéon-Assas:²

Mme Gobert asked simply: *L'article 2 du Code civil, qu'est-ce qu'il dit?* Article 2 of the Civil Code, what does it say?

My classmates were some of the best private law students in France. This was a question to which they knew the answer. One of them explained that article 2 provides for the nonretroactivity of the law. Mme Gobert looked at the student without smiling. Then she repeated the question. *L'article 2 du Code civil, qu'est-ce qu'il dit?* A different student mentioned Paul Roubier's suggestion that a new law may be applied to *les situations juridique en cours*. Again she repeated the question. *L'article 2 du Code civil, qu'est-ce qu'il dit?* Another student tried, and then another, each new voice attempting yet a more refined statement of the concepts involved. After each comment she responded in the same way. It was my first French law class, so I did not know what to think. It seemed like a Zen-like version of the Socratic method. The French students were terrified. This was material they thought they knew, and yet they could not guess what was on her

1 *RFC 2012 Plc v AG* [2017] UKSC 45 (the *Rangers* case) at [11]; see 87.5.2 (A judicial gloss).

2 Hyland. *Gifts: A study in comparative law*, 1st ed (1989) p.xvi.

mind. Finally, one of the students had the presence of mind simply to read the code provision aloud. Mme Gobert's eyes lit up. *Mais bien sûr!* she responded *C'est ça qu'il dit!*

1.4 The year 2024/25 in review

2024/25 saw the final decision in the statutory residence test case (*A Taxpayer v HMRC*), with a welcome decision of the Court of Appeal.

Delay in the FTT continues to be an issue. In 2023 The Judicial Conduct Investigations Office said:

A nominated judge found that Mr Justice Sweeting had not issued a judgment in a timely manner and failed to immediately recognise the consequences of his actions. The judgment was not issued until 14 months after the initial hearing.

Mr Justice Sweeting apologised and acknowledged that the judgment should have been completed earlier. In mitigation he cited his busy sitting schedule and personal matters.

The lord chief justice and the lord chancellor took into consideration the mitigating circumstances in this case and agreed to issue Mr Justice Sweeting with formal advice.

The reader may think the JCIO is absolutely right. However the message has not reached the FTT. I have not done a full survey - though someone should - but note that in 2025, Judge Geraint Williams brought out *two* decisions more than *eighteen* months after the hearings,³ without any adverse comment that I have noticed. If the problem is acknowledged, the solution seems attainable. There should be a target date for judgements (from 3 weeks for simple cases to 6 weeks for the most complex) and scheduling of hearings which allows judges to achieve it; and if there have to be years of delay, which of course there should not be, it would be better to defer the hearing than to extend the period between hearing and judgment.

1.4.1 Simplification/complication

Office of Tax Simplification (now abolished) stated in 2017:

3 *Lloyds Asset Leasing Ltd v HMRC* [2025] UKFTT 57 (TC) decision 20 Jan 2025, hearing dates 5-26 May 2023; *HMRC v Asset House Piccadilly Ltd* decision 12 February 2025, hearing dates 12-16 June 2023.

The UK tax code is widely cited as being the longest in the world”.⁴

This claim had been made at least since 2010.⁵ In recent years Parliament added:⁶

Finance Act(s)	Pages		
2012	703 (a record)	2019	337
2013	648	2020	217 ⁷
2014	668	2021	428
2015	597 (2 Finance Acts)	2022	225
2016	662	2023	416 (2 Finance Acts)
2017	829 (2 Finance Acts)	2024	337
2018	196	2025	296

The OTS estimated HMRC guidance at 90,000 pages in 2018;⁸ whatever

4 It is hard to empirically assess the claim that the UK has the longest tax code in the world, and OTS made no attempt to do so. But if any readers are aware of other serious contenders for that title, I would be interested to hear.

5 For older references see the Introduction to the 2016/17 edition of this work.

6 Finance Act page counts are a rough proxy for the ever growing complexity of the UK tax system, but not an altogether bad one. A (slightly) better proxy would also consider secondary legislation and HMRC guidance; and, perhaps, case law; then the page counts would multiply the Finance Act numbers set out here tenfold.

For a discussion of the multidimensional concept of tax complexity, see Tran-Nam and Evans, “Towards the Development of a Tax System Complexity Index” (2014) *Fiscal Studies* Vol 35 p.341.

OTS have published two (somewhat simplistic) discussions of tax complexity:

Length of Tax Legislation as a Measure of Complexity (Apr 2012)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/193496/ots_length_legislation_paper.pdf

OTS Complexity Index (2012)

http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/193493/ots_complexity_index_methodology_paper.pdf

7 The unusually short length of the FA 2020 is due to the December 2019 election.

8 OTS, “Guidance for taxpayers: a vision for the future” (2018) para 1.21. These pages have assuredly not been printed or counted. Quantification raises methodological issues which deserve a short essay to itself. We have reached the stage where the amount of HMRC guidance is impossible to quantify: the words are uncountable. Within the limits of guesswork, and assuming 500 words per page (single spacing), the figure of 90,000 pages seems to me to be on the low side. There are 150 HMRC Manuals, just for a start.

Perhaps the focus of enquiry should be whether HMRC guidance is too short, because 90,000 pages would not be sufficient to do justice to the topic. The legislation, measured by pages of the Orange & Yellow tax handbooks, can be counted and amounts to 20,836 pages in 2020/21 (that does not include DTAs, which would be

the true figure, it will have grown considerably since then. This guidance was “not comprehensive” - something of an understatement; but according to the OTS “real life cannot be reduced to a neat description in a few (!) pages of writing”.⁹

It is easier to *talk* of simplification. In the ill-fated “mini” budget of October 2022:

the government will embed tax simplification into the institutions of government ... and set a mandate to HM Treasury and HMRC to focus on simplifying the tax code.¹⁰

The reader may think that satirists better identify the reality:

We will further complicate the UK tax system so that large companies can no longer find loopholes.¹¹

Furnished holiday letting relief has gone. This will be a simplification; though that is not much to set against the size of this Finance Acts.

1.5 The future

The 2024 budget announced two more radical reforms from 2026/27:

- (1) Abolition of 100% Business/Agricultural property relief
- (2) Pension IHT reform

There is also a review into the settlement code, transfer of asset code and s.86/s.87 TCGA, starting with a call for evidence.¹² Anything could happen, and at this stage it is pointless to speculate.

another 3,000 pages). The Tax Cases reports, which began in 1875, and ceased publishing in 2014, reached 82 volumes and did not cover VAT.

⁹ Para 1.24.

¹⁰ HM Treasury, “The Growth Plan 2022”.

<https://www.gov.uk/government/publications/the-growth-plan-2022-documents>

The emphasis, or one might say, rhetoric, of simplification has fluctuated. OOTLAR 2008 had 45 references to simplification. OOTLAR 2021 had none. The “Growth Plan 2022” had 15.

In (I think) 2013 the government came up with the slogan “Creating a simpler, fairer tax system”, which OTS adopted; it imagines away a troubling reality in which simplicity and fairness are competing values which require hard choices.

<https://www.gov.uk/government/policies/creating-a-simpler-fairer-tax-system>

¹¹ Official Monster Raving Loony Party Manifesto 2017

<https://www.loonyparty.com/2017-general-election-manifesto>

¹² <https://www.gov.uk/government/calls-for-evidence/personal-tax-offshore-anti-avoidance-legislation/personal-tax-offshore-anti-avoidance-legislation>

We face a continued period of change and uncertainty, in politics, economics, law and taxation, and will continue to live in fiscally exciting times.

1.6 Thanks ...and request for help

I am very grateful to my colleagues in chambers, especially Robert Venables KC, Philip Simpson KC and Rory Mullen KC, for discussions on many aspects of tax. Yijia Liu as research assistant resolved many puzzles. I owe a great debt to Jane Hunt and Ruth Shaw who work committedly on this text throughout the year.

Comments from my readers and clients continue to be of the greatest value and interest. I am very grateful to all who commented, and in particular to John Barnett and Sam Dewes (who commented on a variety of topics), and Mark Pearce (cryptoassets). In order not to be defeated by the size of this work, readers' help is needed more than ever. If anyone would like to offer to write or revise a section - or chapter - of this book please get in touch.

The pleasure in writing this book consists in the interest of the questions which it raises, and the success which it may have achieved in answering them. On the basis of what is known at 1 April 2025, it seeks to state the law for 2025/26.

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If you want advice on which you are legally entitled to rely you can obtain it - but not from this work.

In particular, you may instruct the author to advise. I enjoy writing, but spend most of my time giving independent specialist professional advice in private client matters, especially areas covered in this work. For further details see <https://www.kessler.co.uk>

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TFD Online is moderated by Rebecca Sheldon, a member of Tax Chambers, 15 Old Square, Lincoln's Inn.

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The professional bodies issue the *Professional Conduct in Relation to Taxation* with a disclaimer:

While every care has been taken in the preparation of this guidance¹ the PCRT Bodies do not undertake a duty of care or otherwise (?) for any loss or damage occasioned by reliance on this guidance. Practical guidance cannot and should not be taken to substitute appropriate legal advice.²

¹ PCRT is not in fact guidance: it is mandatory.

² *Professional Conduct in Relation to Taxation* (2019), Forward.

<https://www.tax.org.uk/professional-standards/professional-rules/professional-co>

When that appeared in 2011 it seemed extraordinary. But nowadays no professional body issues guidance without a disclaimer.³ Similarly, and *a fortiori*, the views expressed in this book are put forward for consideration only and are not to be relied upon. Neither the author nor the publisher accept responsibility for any loss to any person arising as a result of any action or omission in reliance on this work. But could anyone have thought that a claim might arise in absence of this disclaimer?

A note to the lay reader

This book is not intended as a self-help guide, and is addressed to tax practitioners. In earlier editions I said: “... but it is readable for a lay person.” I think that is still true, though the text is more daunting than when I first wrote those words, because the law has become more complicated. However, initiation in these matters must often be by the taxpayer. If you wish to research this subject in depth, and so take more control of your own tax affairs, read on. But for implementation you will need to find professionals to advise you. Self-help guides extol “the benefit of bypassing expensive lawyers”; but the bypass may prove the more expensive route in the long run.

Edition history

1 st 2001	8 th 2009	15 th 2016	22 nd 2023
2 nd 2003	9 th 2010	16 th 2017	23 rd 2024
3 rd 2004	10 th 2011	17 th 2018	24 th 2025
4 th 2005	11 th 2012	18 th 2019	
5 th 2006	12 th 2013	19 th 2020	
6 th 2007	13 th 2014	20 th 2021	
7 th 2008	14 th 2015	21 st 2022	

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The second sentence is an improvement on the common form that guidance on legal issues “does not constitute legal advice”. That seems an idiosyncratic use of the word “advice”; but for the meaning of “advice” see 132.6 (Tax adviser).

3 For instance, the Law Society likewise issue a disclaimer for their Practice Notes: The standard form is: “While care has been taken to ensure that they are accurate, up to date and useful, the Law Society will not accept any legal liability in relation to them.”

This book was called *Taxation of Foreign Domiciliaries* for 9 editions; it changed to *Taxation of Non-Residents and Foreign Domiciliaries* from the 10th to the 24th edition and to *Kessler on Private Client Taxation* from the 25th edition.⁴

⁴ The text of earlier editions is available on <https://www.foreigndomiciliaries.co.uk>