

Financial services, regulation and ethics

R01: 2017–18 edition

Web update 1: 14 February 2018

Please note the following update to your copy of the R01 2017–18 study text:

Deemed domicile/inheritance tax (IHT) on UK property held by non-domiciled individuals via overseas structures

Finance (No. 2) Act 2017 reinstated, with retrospective effect from 6 April 2017, new rules for deemed domicile.

- A non-domiciled individual, who has been resident in the UK for at least 15 of the preceding 20 tax years, is treated as UK domiciled for the purposes of income tax, capital gains tax (CGT) and inheritance tax (IHT).
- A non-domiciled individual, who was born in the UK with a UK domicile of origin, and who is resident in the UK for the relevant tax year, is also treated as UK domiciled for income tax and CGT purposes. This will only apply, however, if the individual has been UK resident in at least one of the previous two tax years.
- With retrospective effect from 6 April 2017, **Finance (No. 2) Act 2017** extended the scope of IHT to UK residential property held by a non-domiciled individual through an overseas structure. This negates a common practice for non-domiciled individuals to avoid IHT by holding their UK property indirectly through offshore structures such as companies, trusts and partnerships. This change adds to the obstacles when structuring the purchase of UK residential property, such as the annual tax on enveloped property (ATED) and will encourage some non-domiciled individuals to unscramble their existing arrangements.

This change affects the following section:

- Chapter 2, section B9A, page 2/47.

Penalty for enablers of defeated tax avoidance schemes (section 65)

A new penalty was introduced in **Finance (No. 2) Act 2017**, which will apply to any person who enables the use of 'abusive tax avoidance arrangements', which are later defeated. Enablers are defined as those who design, manage, market or otherwise facilitate (including the provision of financial products) tax avoidance. The penalty charged is equal to the fee(s) paid to the enabler. This provision will apply from Royal assent.

This change affects the following section:

- Chapter 2, section B9B, page 2/48.