

UK IHT FOR A NON-UK DOMICILE WITH UK SITUS ASSETS

THIS GUIDE LOOKS AT HOW A NON-UK DOMICILED INDIVIDUAL WHO HOLDS UK SITUS ASSETS COULD USE A LIFE INSURANCE POLICY OR CAPITAL REDEMPTION POLICY TO REDUCE A POTENTIAL UK INHERITANCE TAX (IHT) LIABILITY.

Investing in an asset that is situated in a different jurisdiction to where an investor is resident or domiciled can sometimes have unexpected consequences. Such assets are known as 'situs assets' and could give rise to a potential IHT liability in the country where they are situated.

WHAT IS A UK SITUS ASSET?

For the purposes of UK IHT, all assets are potentially within scope if they are UK Situs (place they are located), this includes shares unless they are excluded property. In relation to a share (i.e. inscribed and registered security), its location is the place where the title of ownership must be registered.

WHAT IS THE CURRENT UK IHT SITUATION?

A UK domiciled individual's worldwide estate is subject to IHT, regardless of whether or not the individual is resident in the UK. A non-domiciled individual is generally only taxed on their UK situs assets. IHT is levied on death at a standard rate of 40% on the value of the estate that exceeds the nil rate band. The nil rate band is currently £325,000 and it will remain fixed at this amount until April 2026.

HOW COULD TRANSFERRING UK SITUS SHARES TO A POLICY OF LIFE ASSURANCE OR CAPITAL REDEMPTION HELP?

An in-specie transfer of shares considered UK situs into a policy could reduce or eliminate any liability to UK IHT for non-UK domiciles, which would otherwise

be assessable on the deceased's estate. An in-specie transfer is not a gift for UK IHT purposes and therefore there are no IHT implications upon disposal.

Once the shares have been transferred into the policy they are held in the name of the insurance company. The policyholder is deemed to have relinquished all their legal and beneficial rights to those assets. Therefore, the value of these assets are not assessable to UK IHT.

OTHER CONSIDERATIONS

Whilst the transfer of the UK assets into the policy would be a disposal for Capital Gains Tax (CGT) purposes, CGT is not typically applicable in the UK for non-UK resident individuals unless the shares are directly or indirectly linked to UK real property or connected with a trade or business in the UK. However, CGT may still be applicable in the jurisdiction that the non-UK individual is currently resident.

IMPORTANT NOTES

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