# EXCLUDED PROPERTY TRUST CASE STUDY

## INTRODUCTION

An Excluded Property Trust can be used by individuals who are not domiciled in the United Kingdom and who want to protect their non-UK assets from UK Inheritance Tax (IHT).

This trust is not suitable for individuals who are born in the UK with a UK domicile of origin at birth and are now UK tax resident.

'Excluded property' is the term used in IHT legislation to describe assets that are outside, or excluded from, the scope of IHT.

## CASE STUDY

Inger was born in Norway, she is widowed with 2 daughters, Mona aged 4 and Anna aged 2.

She has family in the UK and is looking to move there until her children's education is complete. She already owns a property in London which is currently rented out, however, she plans to live in the property once the lease expires.

Worried about the impact of UK IHT on her family, Inger speaks to her financial adviser who confirms that should she could become 'deemed domiciled' for IHT if she lives in the UK for 15 or more tax years.

If Inger were to die after being resident in the UK for 15 out of 20 tax years, her worldwide estate would be subject to UK IHT.

Her adviser also explains that legal planning exists which would allow her to protect her non-UK assets from the scope of UK IHT, provided it is completed prior to her being deemed UK domiciled. The planning involves using something called an Excluded Property Trust.

Under the trust, Inger is automatically a potential beneficiary and can therefore benefit at the trustees' discretion. However, it is her intention that the trust fund is to be left untouched for as long as possible due to the IHT advantages it offers.

Inger has free capital of £750,000 that she was planning to invest in the UK. However, following her discussion with the adviser, she instead invests into an RL360 PIMS plan as this could be more beneficial in respect of Income Tax and Capital Gains tax as a UK resident.

Once established, the PIMS is assigned into an RL360 Excluded Property Trust.

By placing the PIMS in an Excluded Property Trust, the IHT charge on her estate in the event of her death could be significantly reduced, as shown on the comparison tables below:

For illustrative purposes these tables assume that upon her death after returning to live in her London apartment, Inger's property and other assets total £550,000 and the PIMS has increased in value to £850,000.

| No Excluded Property Trust used | |
|---|---|
| Value of Estate | £1,400,000 |
| Nil Rate Band (NRB)* | (£325,000) |
| Residence Nil Rate Band (RNRB)* | (£175,000) |
| Value subject to IHT at 40% | £900,000 |
| IHT to pay on death | £360,000 |

| Excluded Property Trust used | |
|---|---|
| Value of estate | £550,000 |
| Nil Rate Band (NRB)* | (£325,000) |
| Residence Nil Rate Band (RNRB)* | (£175,000) |
| Value subject to IHT at 40% | £50,000 |
| IHT to pay on death | £20,000 |

**SAVINGS = £340,000**

*The IHT NRB and RNRB have been frozen at these levels until April 2026.

RL360

## FURTHER INFORMATION ON THE IHT RULES AND THE CONDITIONS OF 'EXCLUDED PROPERTY TRUSTS'

### Who are the parties in the Excluded Property Trust?

The **settlor** is the individual who provides the funds for the trust.

The **trustees** are the individuals who administer the trust.

The **beneficiaries** are the people who will ultimately benefit from the trust. The possible beneficiaries include the settlor, the settlor's spouse or civil partner, children, grandchildren and remoter descendants, brothers and sisters, and any individual or charity named by the settlor as a beneficiary.

### On what is IHT charged?

IHT is generally charged on the worldwide assets of individuals domiciled in the UK and in respect of the UK assets of those individuals domiciled elsewhere.

It should be remembered that domicile for IHT purposes includes 'deemed domicile'.

### What is 'deemed domicile'?

For the purposes of IHT, individuals who are not already UK domiciled as a matter of law can be treated as being UK domiciled ('deemed domiciled') if, at the point of transferring (assigning) the RL360 offshore plan into the Trust, they have been:

a) resident in the UK for at least 15 of the previous 20 tax years immediately preceding the relevant tax year, and

b) resident in the UK for at least 1 of the 4 tax years ending with the relevant tax year.

In addition, if they return to the UK to become UK resident, having been born in the UK, had a UK domicile of origin but later emigrated and acquired a foreign domicile, and they were UK resident for at least one of the two previous tax years, they would be deemed domiciled for IHT and known as a Formerly Domiciled Resident (FDR).

### What are the rules relating to assets held in trust?

Trust property is excluded property if the settlor was not UK domiciled at the time the settlement was established and the property is situated outside the UK. A trust meeting these conditions is known as an 'Excluded Property Trust'.

The domicile status of the settlor at the time the trust was established is the key factor. If the settlor's domicile later changes (for example, they become deemed domiciled in the UK) the trust assets remain excluded property (unless the settlor is a FDR).

The domicile status of the beneficiaries is irrelevant.

### Why is an offshore plan suitable for use in an Excluded Property Trust?

One of the main conditions is that the trust asset must not be UK situs property.

An RL360 offshore plan is an Isle of Man asset issued by an Isle of Man resident company and is governed by Isle of Man law. In a suitable trust it meets the test of being "situated outside the UK".

An offshore plan can be assigned without a capital gains tax charge, making it particularly suitable for use in trust arrangements.

### Additional points

- The settlor's gift is a not a transfer of value for UK IHT purposes.
- The reservation of benefit rules do not apply to the Excluded Property Trust.
- The settlor will not be within the scope of pre-owned asset tax in relation to the trust fund.
- Avoids the requirement to obtain Isle of Man probate, as the trustees are the legal owners of the plan.

## IMPORTANT NOTES

For financial advisers only. Not to be distributed to, nor relied on, by retail clients.

This case study is an example only and while it highlights opportunities for planning, you should recognise that it is not an exhaustive description of the opportunities or pitfalls. The details shown are based on our understanding of current UK taxation law and practice as at April 2021 and may be affected by future changes in UK legislation and the individual circumstances of the investor. Specialist tax and legal advice should be taken before any investment is made or tax strategy implemented.

RL360 Insurance Company Limited. Registered Office: International House, Cooil Road, Douglas, Isle of Man, IM2 2SP, British Isles. Registered in the Isle of Man number 053002C. RL360 Insurance Company Limited is authorised by the Isle of Man Financial Services Authority.