



## Inheritance Tax

### Clauses 70 to 76

#### Executive Summary

Clauses 70 to 76 introduce a mix of relatively minor changes to the inheritance tax (IHT) legislation.

We comment on the new £5 million IHT cap for certain offshore trusts, noting that policy intention in this area may be better achieved through consultation.

The restrictions on IHT relief for charitable giving appear to have a wider impact than may have been intended, and we suggest changes to narrow the scope.

#### 1 Clause 70 (Relevant property: disapplication of exemptions from exit charges)

##### 1.1 Overview

Historically, a trust created by a non-UK domiciled individual could remain outside the scope of IHT indefinitely provided the trust held non-UK assets. Conversely, a trust created by a UK domiciled individual would still be subject to IHT even if they were no longer resident here. Following Finance Act 2025, a trust's IHT status is now determined by where the settlor is long-term resident, meaning the trust can move in and out of scope for IHT if the settlor's long-term residency changes.

This clause imposes an IHT exit charge where there has been a change in the settlor's long-term residence status followed by an exchange of the trust's UK assets for non-UK assets.

##### 1.2 CIOT comments

Without this change, an individual could ensure their trust holds only UK assets (relevant property) on becoming non-long-term resident to benefit from an exemption from IHT exit charges, before then switching back to non-UK assets. The effect of this clause is a one-off IHT charge on the value of the trust's assets ceasing to be UK assets before the trust falls out of scope of UK IHT going forward.

Although adding an exception to an exemption adds some complexity to an already complex area of law, our view is that this measure is reasonable in an international context.

We suggest sufficient resource is allocated to a thorough review of HMRC's suite of IHT forms and guidance documents. This would help to reduce compliance errors and confusion stemming from the substantial changes to the IHT regime for trusts over the past year, as highlighted by our members.

#### 2 Clause 71 (Relevant property: cap on charges for pre-30 October 2024 excluded property)

## 2.1 *Overview*

Up until April 2025, UK resident but non-UK domiciled individuals could keep their overseas assets outside the scope of UK IHT through an overseas trust (known as excluded property). The Autumn Budget 2024 brought those assets into the scope of UK tax from 6 April 2025.

Clause 71 introduces a £5 million cap on the IHT charges payable by these trusts provided they were in existence prior to 30 October 2024.

The £5 million cap applies over each ten-year period to the total IHT payable when assets come out of the trust (periodic charges) and at the ten-year anniversary (principal charge). A cumulative cap of £125,000 applies for each 3-month quarter period between the assets first coming within scope in April 2025 and the trust's next principal charge.

## 2.2 *CIOT comments*

The £5 million cap is of benefit only to a very small number of overseas trusts (those worth at least £83.3 million given the maximum IHT charge of 6%). However, we recognise that one of the concerns driving wealthy individuals out of the UK seems to have been the significant changes to the IHT regime, therefore, while we do not comment on policy decisions, the introduction of a capped liability is worthy of consideration. For those few ultra-high net worth individuals affected, the cap may positively influence their decision to remain in the UK and so achieves its purpose.

Nevertheless, we do feel that bringing in this change retrospectively with little or no prior consultation does not represent an ideal legislative process. Individuals faced with the prospect of UK IHT on their overseas trusts may have already decided to leave the UK and/or wind up the trust, limiting the cap's impact.

Additionally, while many of those at the top of the wealth spectrum hold trusts, many do not. The temporary repatriation facility introduced in Finance Act 2025 also encourages the winding up of trusts. This leads to a feeling that policy in this area is disjointed and would benefit from a holistic review to better align the legislation with its aims.

## **3 Clause 72 (Foreign diplomats etc: periods of UK residence to be disregarded)**

### 3.1 *Overview*

This clause prevents those with a relevant international exemption (e.g. foreign diplomats) from being treated as a long-term UK resident for IHT purposes.

### 3.2 *CIOT comments*

We have no comments on this clause.

## **4 Clause 73 (Minor corrections)**

### 4.1 *Overview*

Clause 73 makes minor changes to the drafting of Inheritance Tax Act 1984 clauses (as inserted by Finance Act 2025).

### 4.2 *CIOT comments*

We have no comments on this clause.

## **5 Clause 74 (Power to make provision about infected blood compensation payments)**

5.1 *Overview*

Clause 74 makes provision for a statutory instrument to extend the IHT relief available for infected blood compensation payments.

Compensation payments to an infected or affected individual are relieved from IHT on death. Where that individual has died before compensation could be paid, these changes will allow the IHT relief to extend to the beneficiary of the payment.

5.2 *CIOT comments*

We have no comments on this clause.

**6 Clauses 75 - 76 (Scope of exemption for gifts to charities and registered clubs, and transitional protections)**

6.1 *Overview*

Clause 75 narrows the definition of a charity for the purpose of IHT gift relief, excluding gifts to charitable trusts. Clause 76 then provides some transitional protection for existing trusts that pay out to a registered UK charity or community amateur sports club.

6.2 *CIOT comments*

We understand that the policy intention of this change is to prevent individuals from benefitting from IHT relief on payments to foreign charities.

However, the effect of the legislation is to also remove the ability for personal representatives to be given discretion over the payment of (UK) charitable gifts. In practice, wealthy individuals use charitable trusts in their wills if they have a broad idea of their preferred charitable purpose, but wish to leave the details to others able to judge the benefit of varying amounts to specific charities after their death.

We suggest that the draft legislation goes further than necessary in its attempt to deal with anti-avoidance, and could be varied to allow IHT relief on gifts to charitable trusts that only pay out to UK registered charities.

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7.2 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

- 7.3 The CIOT's 20,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

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The Chartered Institute of Taxation  
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