International Comparative Legal Guides

Private Client 2024

13th Edition

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glg Global Legal Group

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1 Connection Factors

1.1 To what extent is domicile or habitual residence relevant in determining liability to taxation in your jurisdiction?

As can be seen from the discussion of pre-entry planning below, domicile is a key factor in determining the extent (and nature) of an individual's liability to UK tax; its relevance is second only to their residence. Habitual residence is not relevant to an individual's liability to tax in the UK.

1.2 If domicile or habitual residence is relevant, how is it defined for taxation purposes?

Under the law of England & Wales, a person initially has a domicile of origin, which is normally the domicile of their father at the date of their birth. In the case of parents who are not married, the child's domicile will be that of the parent with whom the child usually lives, reversing the presumption that the father's domicile is the domicile of origin of the child.

The domicile of a person under 16 is, in general, the same as, and changes with, the domicile of the person on whom the child is legally dependent (referred to as a domicile of dependency).

Once an individual reaches the age of 16, he or she can acquire a new domicile (a domicile of choice). To do this, two factors must be satisfied: firstly, the person must reside in another country; and secondly, the person must intend to live there permanently or indefinitely. The onus of showing that a domicile of origin has been lost is on the person alleging or asserting the change in domicile. The standard of proof required to show the settled intention to live in the new country permanently or indefinitely is high. In English law, the domicile of origin is adhesive and difficult to shed.

A domicile of choice is lost if the person ceases to reside in the country of the domicile of choice, intending not to return to reside there permanently or indefinitely. Having lost their domicile of choice, they will acquire a new domicile of choice if the residence and intention factors explained above are satisfied. If a new domicile of choice is not acquired, the domicile of origin will revive.

These rules are generally helpful to individuals moving to the UK. It may be possible for a person whose intentions are clear, or who intends to return to another country (not necessarily their domicile of origin) on the occurrence of some event that is not unrealistic, to retain their non-UK domicile of origin for many years.

As a result of this, rules were introduced with effect from 6 April 2017 that limit the length of time for which a non-UK domicile may be claimed for tax purposes by long-term UK residents. Under these rules, such individuals become "deemed" domiciled in the UK for all tax purposes once they have been resident for at least 15 of the prior 20 tax years. Once the individual is deemed domiciled under this test, they will become subject to income tax, capital gains tax and inheritance tax in the same way as a UK-resident and domiciled individual.

These changes also affect the treatment of non-UK structures created by non-UK-domiciled individuals under the anti-avoidance provisions explained at question 2.5 below. However, structures established by deemed domiciliaries are treated more favourably than those set up by an individual who is actually domiciled in the UK. Broadly speaking, the effect is that tax is not payable on non-UK income/gains within the structure but only on benefits received from the structure.

One of the harshest aspects of the deemed domicile regime is reserved for individuals who were born in the UK with a UK domicile of origin, but who have later moved away from the UK and acquired a foreign domicile. If such individuals move back to the UK and become UK-resident (even on a short-term basis), they are treated as becoming UK-domiciled for income and capital gains tax purposes as soon as they become UK-resident again, and for inheritance tax purposes once they have been back in the UK for a year. One effect is that structures created by these individuals while domiciled and resident abroad will not continue to enjoy any beneficial tax status following their "return", including the exemption from inheritance tax for trusts set up whilst non-domiciled – described in question 3.1 below.

1.3 To what extent is residence relevant in determining liability to taxation in your jurisdiction?

Inheritance tax

Residence is not the main connecting factor in relation to inheritance tax. Instead, domicile and the *situs* of assets are of primary relevance. However, residence is important in three ways in relation to inheritance tax.

Firstly, residence in the UK can result in the deemed domicile rules described above applying.

Secondly, a limited number of exemptions apply where a person is resident outside the UK. The first relates to securities that have been issued by the Treasury, which qualify for exemption from taxation if they are in the beneficial ownership of persons resident outside the UK; the exemption does not depend on the person being domiciled outside the UK. The second relates to UK-situated qualifying foreign currency accounts, which are exempt on the death of a person who is not domiciled or resident in the UK.

A "qualifying foreign currency account" means any account other than one denominated in sterling.

Thirdly, the residence of trustees can be relevant to determine who is liable to pay inheritance tax on settled property if a chargeable event occurs during the lifetime of the settlor. Normally, the trustees are liable, but the settlor can be liable where the trustees are not UK-resident.

Income tax

Residence is a key connecting factor for income tax purposes. Income arising to a person resident in the UK is liable to income tax but subject to the application of the remittance basis of taxation (see question 2.2 below) for persons who are not domiciled or deemed domiciled in the UK.

A person who has been resident in the UK for at least four of the preceding seven tax years and then becomes non-resident remains liable to UK income tax on certain types of income unless the person remains non-resident for more than five years (normally this means being non-resident for six tax years). The income that is liable to tax includes certain employment income, pension income, foreign income taxed on the remittance basis that arose before the period of non-residence began, dividends from private companies and most gains from life insurance contracts.

Certain UK source income arising to a non-resident person can be liable to UK income tax, although the scope of the non-UK resident's liability to income tax is limited to the sum of the following amounts: firstly, any tax deducted at source or treated as tax credits (for example, tax deducted from interest income); and secondly, tax on UK source income other than "disregarded income". Disregarded income encompasses most savings, investment income and pension income. The main categories of UK source income liable to tax will be income from land and buildings and employment income.

A non-resident who claims the benefit of these provisions does not benefit from personal allowances that are otherwise available. Personal allowances include an income tax personal allowance (£12,570 for the tax year 2023/24).

Capital gains tax

For capital gains tax purposes, residence is also the primary connecting factor. A person is chargeable to capital gains tax in respect of chargeable gains accruing in a year of assessment during any part of which he or she is resident in the UK. For a discussion of the remittance basis for non-UK-domiciled persons, see question 2.2 below.

There is a similar rule to that applying for income tax for persons who realise capital gains in a period of non-residence of five tax years or less.

A person who is not resident in the UK is, however, chargeable to capital gains tax where he or she is carrying on a trade in the UK through a branch or agency. Such a non-resident is chargeable on capital gains accruing on the disposal of assets situated in the UK used for the purposes of the trade at or before the time on which the gain accrued. A similar rule applies to non-resident companies with a permanent establishment in the UK.

In addition, non-residents are subject to UK capital gains tax (or corporation tax) on gains arising on the disposal of all UK real estate (not just residential property) and on the disposal of interests in "property-rich" vehicles (i.e. where more than 75% of the value derives from UK real estate).

1.4 If residence is relevant, how is it defined for taxation purposes?

Up until 6 April 2013, the test for residence was largely based on case law and on His Majesty's Revenue and Customs' (HMRC) published practice.

The Finance Act 2013 introduced a statutory test of residence applying as from 6 April 2013.

The structure of the statutory residence test is to provide three separate tests as follows:

- firstly, the automatic overseas tests whereby an individual satisfying any of these tests will be non-resident. Importantly, an individual satisfying any of the automatic overseas tests cannot be UK-resident under the automatic UK tests;
- secondly, the automatic UK tests whereby an individual satisfying any of these tests will be UK-resident; and
- thirdly, the sufficient ties test. This will apply to an individual who is neither automatically resident under the automatic UK tests nor automatically non-resident under the automatic overseas tests. A number of ties are counted in relation to an individual in determining whether or not he or she is UK-resident for a particular tax year.

For certain purposes, days spent in the UK due to exceptional circumstances are ignored. However, the maximum number of days that can be discounted in any one tax year is 60.

The automatic overseas tests are as follows:

- The individual was resident in the UK for one or more of the three tax years preceding the year and the number of days they spend in the UK in that year is less than 16.
- The individual was resident in the UK for none of the three tax years preceding the year in question and the number of days they spend in the UK in that year is less than 46.
- The individual works full time overseas in the year.

The automatic UK tests are as follows:

- The individual spends at least 183 days in the UK in that year.
- The individual has a home in the UK during the year, is present in the UK home for at least 30 days in the year and, while he or she has the UK home, there is a period of 91 consecutive days (at least 30 of which fall within the year in question) in which he or she has no overseas home, or he or she has one or more overseas homes in none of which he or she is present for more than 29 days during the year.
- The individual works full-time in the UK for 365 days or more and at least one day in that period falls in the year in question.

Under the sufficient ties test, an individual will be resident in the UK if he or she has sufficient UK ties in the year. The number of ties required will depend on how many days the individual spends in the UK and on whether or not the individual was resident in the UK in any of the previous three tax years. The number of ties required is set out below.

The following table shows how many UK ties are sufficient in the case where an individual was resident in the UK in one or more of the three preceding tax years.

Days spent by the individual in the UK in the tax year	Number of UK ties that are sufficient	UK ties
More than 15 but fewer than 46	4	A family tie An accommodation tie A 90-day tie A work tie A country tie
More than 45 but fewer than 91	3	
More than 90 but fewer than 121	2	
More than 120	1	

The table below shows how many UK ties are sufficient in a case where an individual was resident in the UK for none of the three preceding tax years.

Days spent by the individual in the UK in the tax year	Number of UK ties that are sufficient	UK ties
More than 45 but fewer than 91	4	A family tie An accommodation tie A 90-day tie A work tie
More than 90 but fewer than 121	3	
More than 120	2	

The UK ties are defined in broad terms as follows:

- An individual has a family tie if their spouse, civil partner, cohabitee with whom they live as husband and wife or their child under the age of 18 is UK-resident in the year.
- An individual has an accommodation tie if they have a place "available" to them to live in the UK (they do not have to own the property) for a continuous period of at least 91 days during the year and the person spends at least one night at that place in the year.
- An individual has a 90-day tie in a year if the person has spent more than 90 days in the UK in either of the two tax years preceding the year concerned.
- An individual has a work tie if they work for at least three hours in the UK on at least 40 days (whether continuously or intermittently) in the year.
- An individual has a country tie if the country in which the person is present at the end of the day for the greatest number of days in the year is the UK.

Generally speaking, an individual will be tax resident for a whole tax year, even if they arrive part of the way through the year. However, in certain circumstances, they will not have to pay tax on income/gains arising before they arrive.

1.5 To what extent is nationality relevant in determining liability to taxation in your jurisdiction?

Nationality is not generally a factor that is relevant to liability to taxation. However, there are some contexts in which it can play a part.

The domicile of a person under the general law is determined by reference to the overall factual situation of the person as well as the person's intention. Nationality may therefore be a factor in determining a person's domicile in some cases.

Nationality may also be relevant in determining an individual's residence status for the purposes of a double tax treaty. It is also relevant under the UK/US double tax treaty on estates and gifts. Assets other than the assets of a permanent establishment and real property situated in the state concerned will be exempt from estate and gift taxation in that state if the beneficial owner (or the settlor of the trust concerned) was domiciled in the other contracting state and not a national of the state in which the assets are situated. Under certain of the UK's estate tax double tax treaties (which are referenced in question 6.4 below), the election in testamentary arrangements to apply the law of (say) their British nationality or the omission to apply the local (non-UK) law may preserve the UK's taxing rights, which the treaty in question might otherwise have curtailed.

1.6 If nationality is relevant, how is it defined for taxation purposes?

As outlined above, nationality is not generally relevant for taxation purposes. However, so far as nationality is relevant, this means full British citizenship rather than other categories (such as citizenship of British overseas or dependent territories).

1.7 What other connecting factors (if any) are relevant in determining a person's liability to tax in your jurisdiction?

The main connecting factors are an individual's residence and domicile. As will be clear from the discussion above, however, the *situs* of an individual's assets and the source of any income are also relevant (e.g. non-UK residents are generally subject to UK capital gains tax or UK income tax on profits from UK real estate).

In particular, UK inheritance tax is payable (subject to application of any double tax treaty – see question 6.3 below) in respect of all assets situated in the UK, even if the owner is neither resident nor domiciled in the UK.

Source and *situs* are particularly relevant in the context of the remittance basis of taxation described in more detail in question 2.2 below.

In an employment income tax context, a non-UK-resident individual's liability to income tax on earnings in respect of his or her duties will depend on the extent to which they are performed in the UK.

Similarly, a non-resident's liability for tax on trading profits depends on whether the trade is carried on in the UK.

2 General Taxation Regime

2.1 What gift, estate or wealth taxes apply that are relevant to persons becoming established in your jurisdiction?

Inheritance tax is relevant for a person becoming established in the UK because such a person may acquire UK assets. The assets might be a house or other residence, although in early years a person may have a tenancy or short-term lease, which may not have a significant value, rather than a freehold or long leasehold interest. A person will also be likely to acquire personal chattels, UK bank accounts, and other financial assets in the UK. HMRC's view is that cryptocurrencies are located where the owner is resident. Such assets will therefore become UK assets when the owner moves to the UK, even if they are held through a custodian or exchange outside the UK.

Assets situated in the UK are within the scope of inheritance tax whether or not the owner is UK-resident or domiciled. There are exceptions to this rule, such as exemptions under the double taxation agreements (see question 6.3 below) and the exemption for UK authorised unit trusts or open-ended investment companies (OEICs) in the ownership of a person domiciled outside the UK and not deemed UK-domiciled. There are also exclusions for certain UK Government savings certificates beneficially owned by persons domiciled in the Channel Islands and the Isle of Man.

By contrast, the worldwide assets of a person who becomes UK-domiciled or deemed domiciled are within the scope of inheritance tax. If a person ceases to be domiciled in the UK, they will continue to be within the scope of worldwide inheritance tax for at least three years. This will be relevant to foreign individuals who have lived in the UK for at least 15 years before leaving.

The rate of inheritance tax on assets within the scope of tax passing on death, or within three years of death, is 40%. The rate applying on lifetime gifts to most trusts is 20% if the gift is made more than seven years before death. There is a tapering relief for gifts made between three and seven years before death. The first £325,000 in value is not taxable (the nil-rate band).

Gifts made to another individual more than seven years before death are not taxable.

There is generally a full spouse exemption and also full exemptions for certain business and agricultural property (including shares in private trading companies).

In the past, many non-UK-domiciled individuals purchased UK residential property through non-UK-incorporated companies. The shares in such a non-UK-incorporated company are non-UK-situated assets for inheritance tax purposes and, therefore, provided that the individual remained non-UK-domiciled, would pass free of inheritance tax on their death. The fact that the value of the company was represented solely by UK real estate was irrelevant.

From 6 April 2017, non-UK-domiciled individuals who hold UK residential property indirectly are now within the scope of UK inheritance tax even if they are non-UK resident; such that ownership by non-UK companies, partnerships, trusts or other opaque vehicles will no longer exclude inheritance tax charges.

In addition, the benefit of loans used to purchase UK residential property and any collateral for such loans are subject to UK inheritance tax. These rules apply whether or not the owner of the asset in question is UK-resident or domiciled.

The UK currently has no wealth taxes.

2.2 How and to what extent are persons who become established in your jurisdiction liable to income and capital gains tax?

Liability to income and capital gains tax is primarily based on being resident in the UK. A person who is resident but not domiciled (and not deemed domiciled) in the UK can elect to pay income and capital gains tax on the remittance basis.

The effect of claiming the benefit of the remittance basis is that non-UK source income and gains on non-UK assets are only taxable if the overseas income/gains are "remitted" to the UK.

A person who has been resident in the UK for more than seven out of the preceding nine years of assessment has to pay a remittance basis charge of £30,000 per year in order to validly elect to pay tax on the remittance basis. This is increased to £60,000 per year for a person who has been UK-resident for at least 12 out of the preceding 14 tax years. This liability is in addition to the liability for tax on any non-UK income or gains that are remitted to the UK. As described above, anyone who has been resident in the UK for 15 out of the previous 20 years can no longer benefit from the remittance basis of taxation.

The definition of remittance is very wide. It includes any use or enjoyment of the overseas income/gains in the UK. For example, using an overseas credit card to pay for a flight from Paris to London booked with a travel agent in Paris would be a taxable remittance if the cost is met out of overseas income and gains; the same may be true of a flight wholly outside the UK with a British-headquartered airline.

A remittance can also arise where a borrowing that relates to the UK is funded or facilitated out of offshore income or capital gains. The use of offshore income or capital gains as security for such a loan will, for example, give rise to a deemed remittance of that income or capital gains in addition to any further remittance of other offshore income or capital gains used to service or repay the borrowing.

In addition, the remittance of the income or gains of the non-domiciled UK-resident individual by certain close family members or by associated structures would be deemed a remittance by that person. This includes the individual's spouse or civil partner, child or grandchild under the age of 18, a closely controlled company in which the individual or other relevant person is a participator and the trustees of a settlement, of which a relevant person is a beneficiary or a company connected with such a settlement.

However, there are a number of situations where no tax charge will arise even though there has been a remittance. For example, foreign income and capital gains brought into the UK by the individual concerned or by a relevant person for the purposes of making an investment in a private trading company are treated as not having been remitted.

The UK tax rates for 2023/24 are as follows.

The first £12,570 (personal allowance) of income and £6,000 of gains are not liable to tax, although these allowances are not available if a person elects to be taxed on the remittance basis. The income tax allowance is increased for those over 65 and may be reduced (even on the arising basis) for high incomes. Income/gains above the personal allowance are taxed at the rates below.

	Income	Residential Property Gains	Other Gains
£0–£37,700	20%	18%	10%
£37,701–£125,140	40%	28%	20%
£125,141 and above	45%	28%	20%

Dividends are taxed at a different, slightly lower, rate.

Tax rates in Scotland are different to the rest of the UK and are, in general, slightly higher.

2.3 What other direct taxes (if any) apply to persons who become established in your jurisdiction?

There are other taxes that apply in relation to activities in the UK but not directed specifically at UK-resident persons. For example, transfer taxes (generally payable by the purchaser) apply on transfers of UK-situated land and securities and are not limited to purchasers resident in the UK.

Likewise, national insurance contributions that apply on salaries and other employment income will apply in relation to all UK employments.

Most companies pay corporation tax on their profits at 25% (see question 5.2 below).

2.4 What indirect taxes (sales taxes/VAT and customs & excise duties) apply to persons becoming established in your jurisdiction?

VAT (value-added tax) is levied on supplies of most goods and services in the UK. VAT must be charged on any taxable supply made by a taxable person in the course of business in the UK. The person making that supply must then account for the VAT to HMRC.

A taxable person is one who is registered, or required to be registered, for VAT purposes with HMRC. A person must register if they have made taxable supplies in the previous 12 months or expect to make supplies in the next 30 days, with a value exceeding £85,000.

The standard rate of VAT is 20%. Some types of supply attract VAT at a reduced rate of 5%, while others are liable to VAT at 0%.

Supplies that are not taxable, such as financial services, are termed "exempt". VAT is not charged on exempt supplies. The distinction between zero-rated supplies and exempt supplies determines whether associated "input" VAT is recoverable.

To the extent a taxable person's business involves making taxable supplies (including those that are zero-rated), they are entitled to recover the VAT charged on the "input" supplies that are received in the course of that business. A taxable person need only account to HMRC for the difference between the tax paid on their inputs and the tax due on the "output" supplies they have made. A person whose business involves making only taxable supplies should be able to recover all the VAT suffered on their inputs. However, to the extent a business involves making exempt supplies, the input VAT will not be recoverable and so represents a real cost.

Other taxes and/or duties may also be due on the supply of certain goods and services; for example, on the sale of alcohol, tobacco and petrol.

Question 4.2 below deals with taxes and duties payable on importing assets into the UK.

2.5 Are there any anti-avoidance taxation provisions that apply to the offshore arrangements of persons who have become established in your jurisdiction?

There are a number of anti-avoidance provisions that apply, in particular, in relation to income tax and capital gains tax.

The "transfer of assets abroad" legislation is designed to enable HMRC in certain circumstances to assess the income of offshore structures on persons who are UK-resident.

Income arising to a person abroad (e.g. an overseas company or trust) can be assessed on the transferor of the assets if the transferor has the power to enjoy the income of the person abroad and the transferor is resident in the UK.

This is a very broad provision, partly due to the fact that the definition of when the transferor has the power to enjoy the income is wide. The transferor is deemed to have the power to enjoy the income if the income is, in fact, so dealt with by any person as to be calculated at some time to ensure for the benefit of the transferor whether in the form of income or not. The transferor will also be deemed to have the power to enjoy the income if the receipt or accrual of the income will operate to increase the value of any asset of the individual or any asset held for the individual's benefit. There are further categories of deemed power to enjoy income.

This provision also applies where the transferor receives a capital sum (including a loan repayment) from the offshore structure.

An important aspect of the legislation is that not only the income of a trust but also that of a company or any other offshore entity can be assessed on the transferor.

The transfer-of-assets code also contains a provision enabling a non-transferor such as the beneficiary of a non-resident trust who is resident in the UK to be assessed on overseas income of the structure to the extent that he or she receives any benefit.

Since 6 April 2017, the non-UK source income within a trust structure is no longer taxable on a settlor/transferor who is not domiciled in the UK. This is also the case where the settlor is deemed domiciled in the UK as a result of having been resident in the UK for more than 15 years provided the trust was established before the settlor became deemed domiciled and no additions have been made to the trust since then. Instead, the individual will only pay tax on the overseas income of the structure if they receive a benefit. If the individual pays tax on the remittance basis, a benefit received outside the UK will only be taxable if the benefit is remitted to the UK or if the underlying income of the structure has been remitted to the UK.

The transfer-of-assets code does not apply if the transfer and associated operations were not made for the avoidance of UK tax. There is a further exemption in relation to genuine commercial transactions where to impose tax would be in breach of EU treaty obligations.

There are parallel anti-avoidance provisions applying for capital gains tax, enabling the capital gains made by offshore structures to be assessed on UK residents.

A UK-resident and domiciled settlor will be assessed on the gains of the non-resident structure if the settlor, the settlor's spouse, or certain other persons can benefit from the structure in any circumstances whatsoever. These other persons are: the children of the settlor or his or her spouse; the spouse of any child; the grandchild of the settlor or his or her spouse and the spouse of any grandchild; and also controlled companies. Gains not only of trusts but also of underlying companies can be assessed on the settlor in this way.

Gains not assessed on the settlor can be assessed on UK-resident beneficiaries up to the value of any benefit received by them from the structure that is not subject to income tax.

There are anti-avoidance provisions designed to prevent these rules being sidestepped by conduit arrangements. For example, if a trust makes a distribution to a non-UK resident who then makes a gift to a UK resident, the recipient of the gift may be taxable as if it had come direct from the trust.

There is also an anti-avoidance rule applying to capital gains made by non-UK-resident close companies. The capital gains made by such a company under the control of five or fewer participators (broadly shareholders and certain loan creditors) are attributed to the participators. A UK-resident or ordinarily resident participator will therefore be assessed to tax on the gains attributed to him or her but only if he or she (or people connected with him or her) holds more than 25% of the company. Gains will not be attributed to participators where it is shown that neither the disposal of the asset by the company nor its acquisition or holding by the company formed part of a scheme for the avoidance of capital gains tax or corporation tax.

The capital gains tax charge on settlor provisions described above do not apply at all if the settlor is not domiciled in the UK. This is the case even if the settlor does not elect to be taxed on the remittance basis. The charge also does not apply even if the settlor has become deemed domiciled in the UK (as long as he or she is not actually domiciled in the UK). This protection can, however, be lost if an addition is made to the trust after becoming deemed domiciled.

Gains attributed to beneficiaries of offshore trusts are treated as non-UK gains even if the gains realised by the trustees derive from UK assets. If the beneficiary pays tax on the remittance basis, there is therefore no tax unless the benefit is remitted to the UK.

Where a gain is realised by a non-UK company, a non-domiciled UK participator in the company will have an immediate tax liability if the gain derives from a UK asset but, again, will be taxed on the remittance basis if the gain derives from a non-UK asset.

2.6 Is there any general anti-avoidance or anti-abuse rule to counteract tax advantages?

A general anti-abuse rule was introduced in 2013 designed to enable HMRC to counteract tax advantages arising from tax transactions that are abusive.

The General Anti-Abuse Rule (GAAR) applies to all the major UK taxes including income tax, capital gains tax, the Annual Tax on Enveloped Dwellings (ATED) (see question 4.3 below), inheritance tax and stamp duty but not VAT.

A tax arrangement is widely defined. An arrangement is a tax arrangement if, having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a tax advantage was the main purpose, or one of the main purposes, of the arrangements.

The next requirement for the application of the GAAR, that the tax arrangement must be "abusive", is also widely defined. Tax arrangements are "abusive" if they are arrangements, the entering into or carrying out of which "cannot reasonably be regarded as a reasonable course of action" in relation to the relevant tax provisions. This is referred to in the "double reasonableness test".

In applying this test, regard is had to all the circumstances including: (a) whether the substantive results of the arrangements are consistent with any principles on which the relevant tax provisions are based (whether expressed or implied) and the policy objectives of those provisions; (b) whether the means of achieving those results involves one or more contrived or abnormal steps; and (c) whether the arrangements are intended to exploit any shortcomings in those provisions.

The legislation gives examples of factors that might indicate that the tax arrangements are abusive. These are: (a) if the arrangements result in an amount of income, profits or gains for tax purposes that is significantly less than the amount for economic purposes; (b) if the arrangements result in deductions or losses of an amount for tax purposes that is significantly greater than the amount for economic purposes; and (c) if the arrangements result in a claim for the repayment or crediting of tax (including foreign tax) that has not been paid, but in each case only if it is reasonable to assume that such a result was not the anticipated result when the relevant tax provisions were enacted.

The fact that the tax arrangements accord with established practice accepted by HMRC at the time indicates that the arrangements are non-abusive. Established practice may be established by reference to HMRC Manuals or other HMRC publications and other writings available at the time.

The burden of proof is on HMRC to show that there are tax arrangements that are abusive and that their proposed counteraction is just and reasonable. The legislation provides for a GAAR Advisory Panel, which has issued Guidance. This Guidance and opinions of the Advisory Panel must be taken into account by HMRC and the courts.

The longer-term impact of the GAAR is hard to gauge. The Guidance issued by the Advisory Panel includes a number of specific examples of situations and structures that are or are not abusive. Overall, the GAAR is unlikely to apply to mainstream tax planning. It has, however, been successfully invoked by HMRC where highly artificial or marketed schemes are involved.

2.7 Are there any arrangements in place in your jurisdiction for the disclosure of aggressive tax planning schemes?

In certain circumstances, promoters of tax avoidance schemes (or, if there is no promoter, the taxpayers involved) are required to report aggressive tax avoidance schemes to HMRC.

Originally, these disclosure rules were aimed at mass-marketed tax avoidance schemes; however, they are gradually being widened so that they could potentially apply to more bespoke tax-planning arrangements.

The disclosure rules apply to all of the main taxes and are triggered if the features of the planning include certain "hallmarks" described in the legislation. This can include generic hallmarks, such as the promoter charging a fee based on the amount of tax saved or requiring clients to sign a confidentiality agreement. There are also hallmarks relating to specific areas such as arrangements designed to generate artificial losses, attempts to avoid or reduce tax on employment income and tax avoidance using financial products.

3 Pre-entry Tax Planning

3.1 In your jurisdiction, what pre-entry estate, gift and/or wealth tax planning can be undertaken?

Inheritance tax, which is the UK estate and gift tax, applies to the worldwide assets of a person domiciled (or deemed to be domiciled) in the UK. However, the non-UK assets of a person domiciled outside the UK (and not deemed to be domiciled in the UK) are not liable to inheritance tax; conversely, such a person's UK assets are within inheritance tax.

Assets held in trust, also called settled property, are treated in a broadly similar way. Inheritance tax charged in relation to a trust made by a person domiciled outside the UK (and not deemed to be domiciled in the UK) is restricted to assets that are situated in the UK. This contrasts with a trust made by a UK-domiciled settlor; the assets of such a trust are within the scope of inheritance tax wherever they are situated.

The regime governing trusts is particularly beneficial to persons coming to the UK because the status of the trust is determined by reference to the domicile of the settlor at the date they put assets into the trust. Subsequent changes in domicile do not affect the status of the trust. There is a limited exception to this for some trusts where the settlor or settlor's spouse or civil partner has an initial right to the trust income.

A person coming to the UK may, therefore, wish to consider transferring overseas assets into trust before they come to the UK and, therefore, before there can be any question of their becoming domiciled in the UK. While it is clear that a person will not easily lose a non-UK domicile (particularly if it is a domicile of origin) merely because they come to the UK, the creation of a pre-entry settlement or trust can be a safeguard against possible arguments over domicile.

As mentioned above, the UK does not currently have any wealth tax.

3.2 In your jurisdiction, what pre-entry income and capital gains tax planning can be undertaken?

Liability to income tax generally depends on the residence status of the individual receiving the income. A UK-resident person who is domiciled outside the UK is, however, not automatically liable to income tax on their worldwide income. A resident non-domiciled individual is liable to income tax on their UK source income but (if they make an election) is not liable to income tax on their non-UK source income except to the extent that it is remitted to the UK. This is discussed further at question 2.2 above.

Income arising in the tax year prior to becoming UK-resident is not taxable. The UK tax year runs from 6 April in year 1 to 5 April in the following year. Pre-entry planning may include measures to accelerate the receipt of income prior to entry into the UK. Furthermore, the transfer of assets into a trust or to other persons who would then receive the income themselves, rather than the individual concerned, may be considered. However, anti-avoidance rules may deem income brought into the UK by family members and connected entities (such as companies, foundations, and trusts) to be the income of the individual themselves.

UK capital gains tax is primarily assessed by reference to the residence status of the individual concerned. A person who is resident but not domiciled in the UK is not liable to capital

gains tax on non-UK assets except to the extent that the gain is remitted to the UK.

Capital gains realised in a year prior to entry into the UK are not taxable. An individual intending to come to the UK can therefore improve their position by accelerating disposals of assets so that gains are realised in the tax year before entry into the UK. The proceeds of those gains can then be remitted as clean capital without a capital gains tax charge.

If an individual sells an asset after arriving in the UK, they will pay capital gains tax on the full amount of the gain and not just on any increase in value since the date of arrival. Therefore, even if it is not possible to accelerate a third-party disposal, it is often sensible to trigger a disposal of investments held before coming to the UK so that the capital gains tax base cost of the asset is increased to current market value. This can be done, for example, by transferring the asset to an offshore trust or to an overseas company.

Offshore trusts are also beneficial from a capital gains tax perspective for individuals moving to the UK. The main benefits are as follows:

- Provided the settlor is not UK-domiciled, no tax is payable on the trust gains until benefits are received from the trust even if the remittance basis charge referred to in question 2.2 above is not paid.
- Gains realised on UK assets are also sheltered from tax until such time as benefits are received from the trust and (if a remittance basis user) remitted to the UK.

Making sure that clean capital (which can be remitted to the UK tax-free) remains uncontaminated is an important part of the strategy for enabling someone who is coming to live in the UK to do so as tax-efficiently as possible. This may involve establishing separate bank accounts for income and gains that arise after taking up residence in the UK, as well as altering the investment management profile. Holding investments through an offshore trust can assist with this.

3.3 In your jurisdiction, can pre-entry planning be undertaken for any other taxes?

Pre-entry planning for individuals is normally restricted to the points noted above in relation to UK inheritance tax, capital gains tax and income tax.

4 Taxation Issues on Inward Investment

4.1 What liabilities are there to tax on the acquisition, holding or disposal of, or receipt of income from investments made by a non-resident in your jurisdiction?

Generally, no tax arises on the use of funds in the UK by a non-UK resident to make a UK investment or for any other purpose.

The liability to tax of a non-resident on UK income (dividends, interest, etc.) is normally limited to any withholding tax. There is no withholding tax on dividends. A withholding tax of 20% normally applies on the payment of interest to a non-resident. Income received by a non-resident from real estate investments is subject to full UK tax and a UK tax return will need to be submitted.

A non-resident will not normally pay UK tax on any profit arising from the disposal of a UK asset. The main exception to this is that non-residents are liable to UK capital gains tax on the disposal of all UK real estate as well as interests in companies that derive more than 75% of their value from UK real estate.

4.2 What taxes are there on the importation of assets into your jurisdiction, including excise taxes?

Customs duty and VAT are charged on the import of goods to the UK. Excise duty will also be payable on the import of certain goods such as alcohol and tobacco.

Customs duty is charged as a percentage of the total value of the goods being brought into the UK. The rate varies from product to product and may also depend on the country from which the goods have come.

Import VAT is usually charged at 20% of the value of the goods (including customs and/or excise duties), although certain supplies may fall outside the scope of VAT or attract tax at a reduced rate of 5% (including works of art, antiques and collectors' items).

Full or partial relief from import VAT, customs duty and/or excise duty may be available where:

- goods are imported for temporary use in the UK;
- individuals import their personal belongings, private motor vehicles, and/or private aircraft;
- newlyweds (or those shortly to marry) come to live in the UK;
- belongings are brought into the UK by someone moving their normal home here (or who originally came as a visitor, but now intends to stay permanently);
- household effects are brought into the UK for the purpose of setting up a second home;
- assets received by way of inheritance are brought into the UK; and
- charities import donated goods.

4.3 Are there any particular tax issues in relation to the purchase of residential properties by non-residents?

Residential and other properties in the UK are within the scope of inheritance tax, because they are UK-situated, whether or not the owner is UK-domiciled. It is mainly for this reason (as explained above) that non-UK-domiciled persons have in some cases purchased UK residential properties through a non-UK-incorporated property holding company. As noted above, one impact of the extension of UK inheritance tax in relation to indirect holdings of UK residential property is that such structures are no longer widely used.

A potential disadvantage of holding a UK residential property through a company is that in certain circumstances the person having the use of the property could suffer a benefit-in-kind income tax charge if their involvement in decisions concerning the property was significant. The non-UK-resident status of the company could also be prejudiced.

Prior to 2015, a capital gain made by a non-UK resident, including a non-UK-resident company or trust, on a disposal of UK residential property was not generally chargeable on the non-UK-resident person or entity but could be chargeable on a beneficiary of a non-UK-resident trust or a participator in a non-UK-resident, closely controlled company under the anti-avoidance provisions outlined in question 2.5 above.

With effect from 6 April 2015, capital gains tax was extended to all non-UK residents (including individuals, trusts and companies) that hold residential property. In general, the charge only applies to any increase in the property's value after 6 April 2015. The non-UK resident can, however, elect that the total gain be either (i) time-apportioned over the whole period of ownership, or (ii) calculated using the original acquisition cost.

Residential properties occupied by their owner or by a beneficiary of a trust that owns the property may be free of capital gains tax if occupied by the owner or the beneficiary as their only or main residence.

Individuals pay capital gains tax at the higher capital gains tax rates (18% or 28% depending on their other income and capital gains) applicable to residential property; whereas companies pay corporation tax at 25%.

A number of other charges to tax apply to certain higher-value residential properties held through companies and other "non-natural persons" such as a partnership in which a company is a member or a collective investment scheme. This does not, however, include a company acting in its capacity as a trustee of a settlement.

There are two different elements of this regime:

- Firstly, the rate of stamp duty land tax (which applies in England) on transfers of residential properties worth £500,000 or more into the ownership of a non-natural person is 15%.
- Second, there is an annual charge on non-natural persons holding high-value dwellings. This is referred to in the legislation as the ATED (annual tax on enveloped dwellings). The rate of tax is increased each year by reference to the increase in the UK Consumer Prices Index.

The rates of ATED for 2023/24 and the bands for the tax are:

Property value	Annual charge
More than £500,000 but less than £1 million	£4,150
More than £1 million but not more than £2 million	£8,450
More than £2 million but not more than £5 million	£28,650
More than £5 million but not more than £10 million	£67,050
More than £10 million but not more than £20 million	£134,550
More than £20 million	£269,450

Since 1 April 2021, there has been a 2% additional stamp duty land tax charge (taking the top rate to 17%) on the purchase of residential property in England by non-UK residents. An individual will only be UK-resident for this purpose if they spend 183 days or more in the UK in a 12-month period. It is therefore possible for someone to be UK tax resident for income and capital gains tax purposes but still be non-resident for stamp duty land tax purposes.

5 Taxation of Corporate Vehicles

5.1 What is the test for a corporation to be taxable in your jurisdiction?

A company is charged UK corporation tax on its worldwide profits if it is resident in the UK. "Profits" include both income and capital gains. Subject to any applicable double taxation treaty, a company will be resident in the UK if it is either (i) incorporated in the UK, or (ii) centrally managed and controlled in the UK.

Central management and control (CMC) will be exercised wherever decisions about the strategic policy and direction of a company are taken. It should be noted that CMC is not the exercise of powers vested in the shareholders in the general meeting, the day-to-day management of a company's business (since this is the implementation of the policy and decisions of those who ultimately control the company) or the actual carrying on of a company's business.

HMRC's approach to this is to ascertain (a) who exercises CMC, and (b) where they exercise that control. HMRC will look at the following:

- whether the directors in fact exercise CMC; and if so
- where the directors exercise this control (not necessarily where board meetings are held); or
- where directors do not exercise control, where and by whom it is actually exercised.

HMRC may try to bring a non-UK company within the UK tax net by arguing that either: (i) the directors exercise control in the UK; or (ii) someone other than the directors (for example, a majority shareholder) exercises control from within the UK.

If an individual becomes UK-resident, it is therefore important to examine what (if any) involvement that person may have in the affairs of any non-UK company.

5.2 What are the main tax liabilities payable by a corporation which is subject to tax in your jurisdiction?

UK-resident companies are subject to corporation tax on their worldwide profits for the financial year, which runs from 1 April to 31 March. Capital gains realised by a company are included in the company's profits and charged to corporation tax at the same rates.

The rate of corporation tax for most companies is 25%.

5.3 How are branches of foreign corporations taxed in your jurisdiction?

A non-resident company that carries on a trade in the UK through a permanent establishment is chargeable to UK corporation tax on its profits (wherever they arise) to the extent that those profits are attributable to the UK permanent establishment. A company will have a permanent establishment in the UK if: (i) it has a fixed place of business in the UK through which the business of the company is carried on; or (ii) an agent acting on behalf of the company has, and habitually exercises in the UK, authority to do business on behalf of the company. However, a company does not have a permanent establishment where the activities carried out at the place of business or by the agent are of a preparatory or auxiliary character to the business of the company as a whole, or if the agent has independent status and acts in the ordinary course of its own business. Trading with the UK (rather than in the UK) will not bring the company within the charge to UK corporation tax.

A non-UK-resident company that does not carry on a trade in the UK through a UK permanent establishment is not chargeable to UK corporation tax except in relation to income/gains from UK real estate.

6 Tax Treaties

6.1 Has your jurisdiction entered into income tax and capital gains tax treaties and, if so, what is their impact?

The UK has entered into a large number of income tax and capital gains tax treaties. These treaties are not only with countries having major economies such as the G20 members but also with a large number of smaller countries. The UK Government has an active programme of extending the network of these treaties.

The treaties are designed to stimulate trade and minimise fiscal disincentives to economic relations between the UK and its trading partners.

6.2 Do the income tax and capital gains tax treaties generally follow the OECD or another model?

The treaties generally follow the OECD Model subject to variations depending on the other party.

6.3 Has your jurisdiction entered into estate and gift tax treaties and, if so, what is their impact?

The UK has entered into a relatively small number of estate and gift tax treaties but, unlike the case with the income tax and capital gains tax treaties, the UK has not recently entered into additional estate and gift tax treaties.

The impact of the treaties is limited, to some extent, by the fact that there are only 10 treaties in total. Nonetheless, treaties, where they apply, can significantly affect the structuring of trust and other arrangements established by individuals with a UK connection. Some of these treaties effectively override deemed domicile for inheritance tax in limited circumstances.

6.4 Do the estate or gift tax treaties generally follow the OECD or another model?

Six out of the 10 treaties follow the OECD Model. There are, however, four older treaties, namely those with France, Italy, India and Pakistan, which were entered into for estate duty purposes prior to the introduction in 1975 of capital transfer tax (the precursor to inheritance tax). Those treaties are continued for inheritance tax. They do not follow the OECD Model but rather are in the form more usual at the time. One important feature of these treaties is to override the deemed domicile rules for inheritance tax purposes in relation to assets passing on death (although there may be a restriction of this override if the testamentary arrangements proceed under English law, e.g. owing to a choice of law under the provisions discussed in question 7.1).

The six treaties entered into after the introduction of capital transfer tax follow the OECD Model but with significant variations. The six treaties are those with the Republic of Ireland, South Africa, USA, Netherlands, Sweden and Switzerland. The last treaty to be entered into was that with Switzerland in March 1995. There has been no indication that the UK Government is contemplating further such treaties at this time.

The structure of the OECD Model Treaty is to define the person's domicile for the purposes of the treaty. The structure of the model is then as follows: (a) in the case of immovable property and business property, the state of *situs* may tax the property; and (b) in the case of all other property, only the state of treaty domicile may tax.

The state of treaty domicile may also tax immovable and business property in the other state, but must give credit against its own tax for the tax paid on that property in the other state.

Where inheritance tax is payable on an indirect interest in UK residential property (see question 2.1 above), a tax treaty will only prevent a UK tax charge arising if there is some inheritance tax to pay in the other state (however small) or if the reason that there is no inheritance tax payable is due to a specific relief or exemption.

7 Succession Planning

7.1 What are the relevant private international law (conflict of law) rules on succession and wills, including tests of essential validity and formal validity in your jurisdiction?

Under the English conflict of law rules, questions of formal validity (concerning the execution of wills) are governed by different rules to those applying to essential validity. Essential validity relates to the effective provisions of a will or other testamentary document. This includes issues such as "forced heirship".

English law incorporates the 1961 Hague Convention – a will is formally valid and therefore treated as properly executed if this is done in accordance with any of the following systems of law: the internal law of the country where it was executed; the country where at the time of its execution or at the testator's death he or she was domiciled or habitually resident; or the state of which, at either of those times, the testator was a national.

Essential validity concerning immovable property is governed by the "*lex situs*", the law of the country where the immovable property is situated. Essential validity in relation to other assets is governed by the law of the domicile of the deceased at the date of death.

English conflict of law rules include the doctrine of "*renvoi*". Where the system of law to which the English conflict of law rules refers a question, for example, of the essential validity of a will concerning movables, it is possible that the law concerned may itself direct the question to yet another system of law or indeed back to English law. Whilst the UK is not a signatory of the Regulation referred to below and England & Wales does not internally have the concept of choice of law, the law will respect a choice of law – including for English law – introduced under the umbrella of a *renvoi*.

Suppose a British citizen dies domiciled in Italy. He leaves his shares and chattels to his wife. English law will refer the question of the essential validity of the will to Italian law as the law of domicile. Prior to 17 August 2015 (see below), Italian law would, under its own conflict of law rules, refer the matter back to English law as the law of nationality. If the Italian law rules do not accept a reference back (again) to Italian law by the law of England, it is likely that an English court would respect that *renvoi* and apply English law.

The doctrine of *renvoi* under the English conflict of law rules is complicated and not entirely settled.

The provisions of the European Succession Regulation (EU No 650/2012) came into effect in most of the EU on 17 August 2015. The Regulation (which unlike a Directive has direct force in each country) has been adopted by all EU Member States (other than Ireland, Denmark and the UK). Under the terms of the Regulation, estates are governed, both as to real and personal property, by the law of the habitual residence of the deceased, unless the deceased chose that the law of his or her nationality is to apply. The provisions of the Regulation apply in the signatory states to UK residents and domiciliaries and will be of particular importance for those having properties in the EU Member States. Where the law of nationality is chosen, the Regulation abolishes all *renvoi*. However, if a UK law applies under the primary "habitual residence" route, *renvoi* may still apply.

Succession rules in Scotland and Northern Ireland are different from those which apply in England & Wales.

7.2 Are there particular rules that apply to real estate held in your jurisdiction or elsewhere?

As referred to above, as far as England is concerned, the succession law of the *lex situs* applies to real estate whether that real estate is situated in England or in some other country. Real estate will come within the meaning of immovable property under the normal conflict of law rules.

7.3 What rules exist in your jurisdiction which restrict testamentary freedom?

In England & Wales, an individual has complete testamentary freedom. However, where the individual was domiciled in England & Wales at the date of their death, a claim can be made against the estate by a spouse, child (including an adult child) and any other person who, immediately before the death, was being maintained by the deceased.

As far as spouses are concerned, any claim is not limited to what is needed for their maintenance, and one of the factors that the court must take into account is what they might expect to receive on a divorce (where the starting point is equal sharing of matrimonial assets).

Claims by other individuals are limited to what is needed for their maintenance.

The rules are different in Northern Ireland and Scotland.

8 Powers of Attorney

8.1 In your jurisdiction, can an individual create a power of attorney which continues to be effective after the individual has lost capacity?

Individuals can create lasting powers of attorney (LPAs) to nominate another person or persons to act on their behalf if they lose mental capacity. The defining feature of an LPA is that it remains effective and valid once the donor (the individual who created the LPA) becomes mentally incapable. LPAs must be officially registered with the Office of the Public Guardian (OPG) before they can be used. LPAs registered with the OPG are effective in England & Wales.

There are two types of LPAs – one for financial decisions and the other for health and welfare. Donors can choose to have one or both of these and can appoint different attorneys under each LPA. They are also able to pre-nominate replacements for their attorneys.

Financial LPAs cover paying taxes and bills, managing bank accounts and property, pensions and managing and making investments. A donor can make separate financial LPAs in order to have different attorneys dealing with personal and business affairs.

Health and welfare LPAs can cover decisions relating to where the donor lives, the donor's day-to-day care, giving or refusing consent to medical examinations and/or treatment, dealing with the donor's personal correspondence and exercising the right to access person information about the donor. Unlike financial LPAs, health and welfare LPAs are only effective once the donor has lost capacity, although they can and should be registered with the OPG as soon as they have been signed.

It is possible to appoint up to four attorneys to act. If more than one attorney is appointed, the donor is required to specify whether each attorney can act alone, or whether all attorneys must act together and agree unanimously on all decisions. It is possible for the donor to specify that attorneys can usually act alone but must act together in certain prescribed cases.

The provisions relating to powers of attorney in these circumstances are different in Scotland and Northern Ireland.

8.2 To what extent would such a power of attorney made by an individual in their home jurisdiction be effective to allow the attorney to deal with assets belonging to the individual which are located in your jurisdiction?

The applicability of powers of attorney across borders is determined by Hague Convention XXXV on the International Protection of Vulnerable Adults (the Convention). The UK has ratified the Convention only in respect of Scotland and not England & Wales or Northern Ireland. LPAs and issues concerning mental capacity are governed by the Mental Capacity Act 2005 (the MCA) in England & Wales. Whilst the MCA considers Scotland to be a foreign jurisdiction, the wording in Schedule 3 of the MCA closely mirrors the wording of the Convention and the law in England & Wales is therefore similar to that contained in the Convention.

As set out in the case of *Re Various Applications Concerning Foreign Representative Powers [2019] EWCOP 52*, holders of a foreign power of attorney have five options available to them. The first is to simply rely on the power in accordance with Schedule 3 of the MCA. However, in practice, financial institutions in England & Wales will seek domestic confirmation of the attorney's authority. This confirmation can be obtained through an application to the courts in which the donor is habitually resident, with this order being subsequently recognised under Schedule 3 of the MCA.

Alternatively, an application can be made to the Court of Protection, in one of three ways. The first is to seek a declaration that the representative will be acting lawfully when exercising authority under the foreign power of attorney in England & Wales. The second is to seek a declaration under the Court of Protection's full and original jurisdiction to appoint the holder of the foreign power of attorney as the donor's deputy for property and financial affairs, or to authorise the holder to execute a one-off transaction. Lastly, the holder may apply for an order recognising that the foreign power of attorney as a protective measure.

A foreign power of attorney can therefore be used to deal with assets in England & Wales. In practice, however, acting under the foreign power of attorney will likely require an application to the court of the original foreign jurisdiction, or an application to the English Court of Protection.

9 Trusts and Foundations

9.1 Are trusts recognised/permitted in your jurisdiction?

Trusts are recognised under English law and are widely regarded as one of the supreme contributions of English law to jurisprudence. The scope and sophistication of trust law have been developed over the centuries both by the courts and also by legislation from time to time. English trust law has, in recent years, been modernised and updated.

Trust law in Scotland and Northern Ireland is different to that which applies in England & Wales.

The Recognition of Trusts Act 1987 gives statutory effect in the UK to the Hague Convention on the law applicable to trusts and on their recognition. The UK will therefore recognise the existence and validity of a trust governed by the law of another country.

9.2 How are trusts/settlors/beneficiaries taxed in your jurisdiction?

Trustees are together treated for income and capital gains tax purposes as if they were a single person (distinct from the persons who are trustees of the settlement from time to time).

The rules for ascertaining the residence status of trustees for capital gains tax and income tax are the same for both taxes. In broad terms, the trustees will be UK-resident if all the trustees are resident in the UK and, in a case where there are both UK and non-UK-resident trustees, the trustees as a body will be UK-resident unless the settlor was both domiciled and resident

outside the UK when he or she made the settlement or added property to the settlement.

Liability to income tax arises by reference to the residence status of trustees, as with individuals, but the scope of income tax is wider for non-resident trustees than for non-resident individuals. Trustees who are non-resident will nonetheless be liable to income tax on all UK source income if any beneficiary is resident in the UK.

As with individuals, trustees are liable to capital gains tax if the trustee body is resident in the UK.

Trustees pay income tax/capital gains tax at the highest rates (45%/20% respectively in England).

By way of contrast, inheritance tax arises not by reference to the residence of the trustees but by reference to the domicile status of the settlor and the *situs* of the trust assets. The application of inheritance tax to trusts set up by a non-domiciled settlor is outlined in question 3.1 above.

There are two regimes for inheritance tax in relation to trusts that are within the scope of inheritance tax.

The assets of a trust with a "qualifying" interest in possession (i.e. a right to income), such as a life interest, are deemed to be the property of the life tenant and chargeable in the same way as property owned outright by the life tenant (i.e. potentially a 40% tax charge on death). Qualifying interests in possession include an interest in possession, which commenced before 22 March 2006 but not one that commenced after that date, unless it arose immediately on death under a will or intestacy.

Secondly, settled property in which there is no qualifying interest in possession is taxed as if the trust were a separate entity. There is a charge to inheritance tax (currently at a maximum rate of 6%) on every 10th anniversary of the creation of the settlement and on the distribution of capital to a beneficiary.

A settlor is taxable on the trust income if the settlor or the settlor's spouse is a beneficiary of the trust, if a distribution is made to an unmarried child of the settlor or if the settlor receives a capital sum from the trust (for example, the repayment of a loan).

A beneficiary will be taxable on any distributions of income from the trust. Generally, they will be entitled to credit for any tax that has already been paid by the trustees.

Settlors and beneficiaries are never subject to tax on the capital gains of a UK-resident trust as the trustees will already have paid tax at the highest rate.

Where a settlor is a beneficiary of a trust, the trust assets will be treated as remaining part of the settlor's estate for UK inheritance tax purposes, and so will be subject to inheritance tax on the death of the settlor. This does not, however, prevent the trustees being liable to inheritance tax on each 10-year anniversary of the trust as described above.

9.3 How are trusts affected by succession and forced heirship rules in your jurisdiction?

Under English law (unlike in Scotland), there is testamentary freedom and there are no forced heirship rules that apply domestically. Where the deceased was domiciled in England & Wales (but not Scotland or Northern Ireland), the courts, however, have power under the Inheritance (Provision for Family and Dependants) Act 1975 to award reasonable financial provision where a will or intestacy does not provide reasonable financial provision (see question 7.3 above). The courts have wide power to make an order for appropriate provision, which can include altering the terms of a will trust to provide, for example, a lump sum to a claimant who has not received adequate financial provision under the will.

9.4 Are private foundations recognised/permitted in your jurisdiction?

There is no exact equivalent of a foundation under English law. The English courts will, however, enforce the terms of a foundation as ascertained under the law under which the foundation was established.

9.5 How are foundations/founders/beneficiaries taxed in your jurisdiction?

The taxation of a foundation depends on how it is classified for UK tax purposes. If the foundation is similar in its effect to a trust, HMRC will be likely to treat the foundation for taxation purposes as a trust. The precise treatment may, however, depend on the specific taxation provisions in place.

Where a foundation is structured more like a company, the rules applying to companies and corporation tax will apply. For example, the residence status will be determined by reference to the management and control of the foundation (see question 5.1 above).

In some circumstances, anti-avoidance rules relating to both trusts and companies, such as those mentioned in question 2.5 above, may apply to foundations, often making them unattractive from a UK tax perspective.

9.6 How are foundations affected by succession and forced heirship rules in your jurisdiction?

As there is no equivalent to a foundation under English law, it is not a vehicle that is used for succession purposes in England. There is no forced heirship regime under the English law of succession. The treatment of foundations will therefore follow the analysis of the particular foundation in question. For example, the rights of a deceased person in a foundation will be an asset that would be available for the English court to take into account in a claim by a person seeking financial provision under the Inheritance (Provision for Family and Dependants) Act 1975.

10 Matrimonial Issues

10.1 Are civil partnerships/same-sex marriages permitted/recognised in your jurisdiction?

Civil partnerships are recognised in the UK under the Civil Partnership Act 2004 (CPA). Civil partnerships registered abroad are recognised if they are a "specified relationship" or a relationship that meets the general conditions in the CPA and the relationship is between a couple of the same sex or of the opposite sex, neither of whom is already a civil partner or already married.

A specified relationship is a relationship registered in a country or territory listed in Schedule 20 of the CPA. The general conditions set out in the CPA are that the relationship under the law of the territory in which it was formed must be exclusive in nature, of indeterminate duration and the effect of entering into it is that the parties are treated as a couple either generally or for specified purposes.

The Marriage (Same Sex Couples) Act 2013 gives same-sex couples in England & Wales the right to marry and accordingly same-sex marriages are recognised in the jurisdiction.

Parties to a same-sex marriage entered into outside England & Wales are treated as being married in England & Wales, regardless of whether the particular country provided for same-sex marriage at the time the 2013 Act came into force, or at some later date.

10.2 What matrimonial property regimes are permitted/recognised in your jurisdiction?

English law does not contain a matrimonial property regime. The property rights of spouses and civil partners are generally governed by the same property law that applies to other individuals, except where the courts have discretion to intervene. For example, the English courts have powers to redistribute a couple's property between them following the death of one party (if the deceased was domiciled in England & Wales), under the Inheritance (Provision for Family and Dependants) Act 1975 and upon divorce where the English courts are given a very wide discretion under the Matrimonial Causes Act 1973 to make an extensive range of orders.

The courts of England & Wales will only apply English law in relation to a divorce. When a court in England makes orders for financial provision and ancillary relief on the dissolution of marriage, its powers and duties are those set out in the Matrimonial Causes Act 1973.

However, English private international law recognises marital property regimes under the law of the couple's domicile at the time of the marriage as valid, at least for succession purposes. The governing law in the absence of an express provision in a marriage contract will be that of the matrimonial domicile. There is some debate as to whether an express contract is required for this rule to apply to immovable property.

If the husband and wife are domiciled in the same country, in the absence of special circumstances, that country will be the matrimonial domicile. If they are not, the applicable law will be that of the country with which the parties and the marriage have the closest connection.

There is some uncertainty as to the effect of a post-matrimonial change in domicile. However, an English court will regard the matrimonial property regime as having changed if a court in the country of the new domicile would so regard it. In the same way, if the foreign court would not regard the change of domicile as affecting rights over property that was acquired before the change of domicile, an English court will most likely regard that property as still subject to the original regime.

Again, this is an area where the position in Scotland is different to England & Wales.

10.3 Are pre-/post-marital agreements/marriage contracts permitted/recognised in your jurisdiction?

Nuptial agreements are not automatically enforceable under English law. The parties to a nuptial agreement cannot oust the jurisdiction of the court and override the court's broad discretion to decide how to redistribute their assets and income on an application for financial remedy under the Matrimonial Causes Act 1973.

Nonetheless, when considering an application for financial remedy, the court will give appropriate weight to a nuptial agreement as a relevant circumstance of the case. It may be that a nuptial agreement will be given decisive weight. This will depend on the circumstances of the case. The court is likely to give effect to a nuptial agreement that is freely entered into by each party with a full appreciation of its implications unless in the circumstances it would not be fair to hold the parties to their agreement (as per *Radmacher v Granatino* [2010] UKSC 42). There is still a weighing exercise, involving judicial discretion, under MCA 1973, and the outcome of that process can never be guaranteed. This rule applies to both pre- and post-nuptial agreements. Some time ago, the Law Commission published a report finding that certain pre-nuptial agreements should be legally binding in divorce settlements. A draft bill was proposed and new legislation was recommended but has not been enacted.

The legal status of a nuptial agreement in England & Wales is the same whether the agreement is made in England or in a foreign jurisdiction. The English court will apply English law, irrespective of any foreign connection. However, as with an English nuptial agreement, the foreign nuptial agreement will be included as a factor to consider when the court exercises its discretion on how to redistribute the couple's assets and income. The relevance of the agreement being made in a jurisdiction where nuptial agreements are binding is as an indicator that the parties intended it to be binding in any future divorce or financial proceedings. The agreement will not be automatically enforceable but is likely to be applied if it is fair in all the circumstances. It is more likely to be followed if each party was separately represented, there is full disclosure of assets and income and the agreement is not made shortly before the marriage (which may raise a suspicion of undue influence). Another element to consider is that the English court has been prepared to uphold more readily one particular type of clause: namely, an agreement to litigate proceedings for divorce and related financial claims in a specified jurisdiction.

10.4 What are the main principles which will apply in your jurisdiction in relation to financial provision on divorce?

Under English law, there is no standard formula for calculating appropriate financial provision on divorce. Instead, the court has a duty to consider all the circumstances of the case and to take into account a range of specific statutory factors set out in section 25 of the Matrimonial Causes Act 1973.

The court's approach to the section 25 factors is to calculate and then distribute the parties' available resources. Before considering the individual section 25 factors, the court first considers the welfare of any children of the family under the age of 18. The section 25 factors include the capital and income resources available to the parties, either existing or reasonably foreseeable (which may, for example, include assets held in trust), details of the financial needs of the parties, the respective contributions of each party, the conduct of each party (although only in exceptional cases) and any benefit either party will lose as a result of the divorce (such as a spouse's pension).

A line of cases has established a standard approach that the court follows. The starting point is that assets accrued during a marriage are divided equally, and the guiding principles applied are "equal sharing", "needs" and "compensation". The matrimonial home is normally considered a matrimonial asset, so is divided equally between the parties even if it was owned by one of them before the marriage.

Where significant matrimonial assets have been generated by the special contribution of one party, the court may provide the other party with a less than equal share to reflect this. However, special contribution arguments rarely succeed.

The sharing principle does not apply to property that is inherited or introduced by one party during the marriage. The exception is where such property has become part of the matrimonial assets; for example, by being put into joint names or converted into a different type of property enjoyed by the family.

Where the needs of the parties and any children cannot be met by an equal division, an unequal division of resources may be appropriate instead. In these cases, needs are likely to determine how capital and income are divided. The fact that assets have been inherited, or assets have been introduced by one party during the marriage, may count for little. However, where possible, the court tries to ensure that a party who inherited or introduced a particular asset retains it as part of the resources to meet their own needs.

Where assets are entirely, or largely, non-matrimonial, the division of resources may be determined entirely by the claimant's

needs. These needs are generously interpreted. The financial provision may also include compensation for economic disadvantage (for example, because the party has given up a successful or lucrative career to look after children).

Where possible, the court seeks to achieve a clean break between parties on divorce, so that they are no longer financially dependent on one another. If there are insufficient assets to achieve a clean break, one party may pay continuing maintenance to the other.

If divorce proceedings are issued against a beneficiary of a trust, there are two ways in which the court could take trust assets into account when making a divorce order. Firstly, the court could make an order to vary any "ante-nuptial" or "post-nuptial" trust; and secondly, the court may take the trust assets into account as a "resource" of the individual getting divorced, with the result that the individual has to hand over a greater share of his or her personal assets.

A trust or a financial arrangement count as a nuptial settlement if the beneficiary was married, or was contemplating marriage, at the time the trust or arrangement was created and where the trust makes provision for either or both of the parties to the marriage in their capacity as spouses. If a settlement was not created at the time of marriage or at the time marriage was contemplated, the trust is less likely to be regarded as a nuptial settlement, although this could still be the case if the class of beneficiaries includes an individual's possible future spouse or widow. The fact that the settlement includes a power to give an interest in the trust to such a future spouse or widow, however, may not be sufficient to make the trust "nuptial".

Where a divorcing party is entitled to the income from a trust or the couple have relied on the trust for financial provision, that income or the measure of provision will be a financial resource of the divorcing party and will be considered by the court when making a divorce order. If trust assets are considered a financial resource of a party, the court could make a more costly order against the individual's personal estate on the basis that they can then rely on the trustees for funding.

Where a divorcing party does not have a current interest in the income or capital of a trust, when looking at that individual's other financial resources, the family courts are empowered to look at trust assets to which a divorcing party will be or may become entitled in the future. Whether or not trust assets are to be considered a financial resource of an individual will largely depend on whether that individual has benefitted from the trust in the past, and to what extent they may be expected to benefit in the future.

The court cannot put improper pressure on trustees to exercise their discretion to pay capital to a beneficiary who is obliged to meet divorce payments. However, the court can make an order that will encourage trustees to make a distribution in favour of a beneficiary, particularly where the court is satisfied that the individual could persuade the trustees to distribute capital. Trustees are expected to respond positively to such orders. Even where a trust is not governed by English law, the English court will still consider the trust assets when making a divorce order.

If the trustees are not resident in the UK, any direct order from the English courts may be ineffective due to enforcement difficulties. Therefore, to a certain extent, trusts administered outside the UK are better protected from divorce proceedings. However, it is important to be aware that certain jurisdictions, provided the divorce order does not require the trustees to act outside their powers, may apply the doctrine of comity so as to assist the foreign court and may give effect to the divorce order.

11 Immigration Issues

11.1 What restrictions or qualifications does your jurisdiction impose for entry into the country?

British and Irish passport holders have the automatic right to live and work in the UK without restriction. All other nationalities can enter either as a short-term visitor or to work, reside, study or join family depending on obtaining a visa appropriate to their circumstances.

Nationals of the countries specified in "Appendix Visitor: Visa national list" of the UK Immigration Rules must apply for a visa before travelling to the UK as a visitor. Nationals of other countries may be able to travel to the UK without a visa and, instead, apply on arrival to enter the UK for up to 180 days as a visitor.

Visitors must show that they only want to visit the UK for up to 180 days, plan to leave the UK at the end of their visit, have enough money to support and accommodate themselves in the UK or that they will be supported and accommodated by relatives or friends, and that they do not intend to study or work (although recreational study for up to 30 days is allowed, but not including English language courses). They must also demonstrate that they do not intend to live in the UK for extended periods through frequent or successive visits or make the UK their main home.

Visitors coming to the UK to undertake business activities must be employed abroad and receive their salary from abroad. They can undertake limited activities in the UK, such as attending meetings and training. There are also visitor visa categories for sportspeople, entertainers and prospective entrepreneurs.

Those non-British/Irish nationals who wish to enter the UK beyond a short-term visit must apply for the relevant visa. There are a number of different categories depending on the individual's circumstances and purposes in the UK. The main categories are: Global Talent; Innovator Founder; Skilled Worker; Global Business Mobility; Student; Graduate; High Potential Individual; and Family Member. Skilled Worker is for those who wish to work in the UK in a skilled position and who have a job offer prior to arrival or for those who have graduated in the UK who have a job offer. It is important to note that UK companies who wish to sponsor individuals to work in the UK under Skilled Worker must first apply to the Home Office for a sponsor licence.

There are also separate categories that enable individuals to work in the UK. These include categories for Commonwealth citizens with a UK-born grandparent, and the High Potential Individual and Innovator Founder categories.

11.2 Does your jurisdiction have any investor and/or other special categories for entry?

The Investor visa was closed to new applicants in February 2022; however, existing visa holders may still apply to extend and apply for Indefinite Leave to Remain (ILR) – see question 11.5. It was designed to encourage high-net-worth individuals to make substantial financial investments in the UK. To qualify under this category, an applicant must have had at least £2 million of their own money that was disposable in the UK.

To qualify for an extension of stay, the Investor migrant must demonstrate that the capital was invested within three months of their entry into the UK and has been maintained in the portfolio. That is, once the Investor has purchased their initial £2 million of qualifying investments, all of the capital has remained invested for the duration of the Investor migrant's stay in the UK. If an investment is sold at a loss, the Investor must purchase a new investment at the price at which the previous investment was sold. If an investment is sold at a gain, the Investor must, again, purchase a new investment at the price at which the previous investment was sold. In other words, the Investor must reinvest the gains.

Any income generated from the investments declared after the date of purchase, such as interest or dividend payments, may be removed from the portfolio. However, invested capital cannot

be used to pay any portfolio management fees, transaction costs or tax incurred through the buying and selling of investments, if these charges will deplete the investment below the initial investment level.

Investor visa holders are eligible to apply for ILR in the UK (also known as permanent residence or settlement) after five years if they invest at least £2 million, after three years if they invest at least £5 million, or after two years if they invest at least £10 million in the UK.

The Tier 1 (Entrepreneur) visa was closed to new applicants on 29 March 2019 and it has been replaced by the Innovator Founder visa. Applicants to the new visa category will first need to apply to a relevant endorsing body, which will assess their business plan to confirm it is innovative, viable and scalable. Provided an endorsement is granted, applicants can then submit their UK immigration permission application to the Home Office. The route requires applicants to meet a maintenance and English language requirement.

Provided the application is successful, applicants will be granted a visa for three years. After three years under this category, the applicant can apply for settlement, provided certain requirements are met. Alternatively, if the applicant cannot meet the settlement requirements, they may continue to extend their visa by another three years. There is no limit to the number of times they can extend this visa until they are eligible for settlement.

Settlement applications require the business to be successful based on the Home Office criteria. For example, investment into the business, turnover, number of employees, number of customers and market share will all be taken into consideration.

There are also a limited number of Global Talent visas for exceptionally talented applicants. Individuals wishing to apply under this category must be endorsed by one of the designated bodies, which are the Royal Society, the Arts Council, the British Academy, the Royal Academy of Engineering, Tech Nation and UK Research and Innovation.

11.3 What are the requirements in your jurisdiction in order to qualify for nationality?

A number of visa routes entitle the holder to apply for ILR once they have been resident in the UK for five years, have passed the "Life in the UK" test and are able to demonstrate that they meet the English language requirement.

Under the standard rules, once an individual has held ILR for one year and has resided in the UK for five years, they may apply for British citizenship. The accelerated route to ILR under the former Investor visa (for example, by investing £5 million or £10 million) does not override the need to have lived in the UK for at least five years before they can apply for nationality (there is only a three-year wait if the migrant is married to a British citizen).

There are tight residence restrictions on eligibility: the applicant should not have been absent from the UK for more than 90 days in the 12 months preceding the application, and not more than 450 days in the five-year period preceding the application (this is a stricter day-count than the rules for ILR). It is important to note that these residence requirements can be waived in some circumstances. Applicants must also meet the "good character" requirements.

Children born in the UK acquire British citizenship at birth if one parent was either a British citizen or had obtained ILR by that time.

British nationals and those settled in the UK are required to sponsor their non-British or Irish spouse in order for them to come and live and work in the UK.

11.4 Are there any taxation implications in obtaining nationality in your jurisdiction?

The UK does not tax on the basis of citizenship, so there are generally no direct tax consequences of obtaining British nationality (but see further question 1.5 above). However, obtaining British nationality may impact an individual's claim to be non-UK-domiciled, especially where it leads to the loss of their citizenship of origin.

11.5 Are there any special tax/immigration/citizenship programmes designed to attract foreigners to become resident in your jurisdiction?

From an immigration and nationality standpoint, the UK does not operate an economic citizenship programme whereby an individual is able to obtain citizenship in return for a certain level of investment in or contribution to the economy of the relevant country. Consequently, any individual looking to obtain British nationality must have resided in the UK for five years under a category leading to settlement and have held ILR for one year (or be married to a British citizen, hold ILR and have resided in the UK for three years).

The UK no longer operates an economic residence programme following the withdrawal of the Investor route detailed above. Individuals who have already entered the UK under that route may, however, still undertake any work or study in the UK or simply be self-sufficient. Although they must satisfy the 180-day residence requirement if they wish to apply for ILR, if they do not satisfy this requirement, they are only able to apply to extend their stay before 17 February 2026. For those wishing to apply for ILR, they must apply before 17 February 2028.

The remittance basis of taxation for individuals who are resident but not domiciled in the UK has been a feature of the UK tax system for well over a century. For those individuals who do not have earned income, this tax regime has enabled non-UK-domiciled individuals to live in the UK on a pretty much tax-free basis for very many years, given the difficulty of HMRC proving that an individual has lost his or her domicile of origin and acquired a domicile of choice in the UK.

This is the reason why the rules have been tightened up, for example, with the introduction of the remittance basis charge for individuals who have lived in the UK for more than seven years, and is also the reason for the further changes described in question 1.2 above, which took effect from April 2017 and which limit the benefits of the remittance basis to a 15-year period. This is, however, still much longer than the beneficial tax regimes available in most other jurisdictions.

The main difficulty with the remittance basis of taxation is that it is complex and contains many anti-avoidance provisions. It is easy to make inadvertent remittances to the UK. In addition, once an individual runs out of clean capital, significant tax liabilities will arise on sums remitted to the UK in order to fund living expenses.

It is therefore important to plan properly before coming to the UK and to monitor the operation of any offshore structures very carefully.

12 Reporting Requirements/Privacy

12.1 What automatic exchange of information agreements has your jurisdiction entered into with other countries?

The UK has entered into a "Model 1" intergovernmental agreement with the US to implement the US Foreign Account Tax

Compliance Act (FATCA) and has also enacted the required domestic legislation.

The purpose of FATCA is to ensure that US taxpayers have fully disclosed their foreign assets to the US Internal Revenue Service (IRS). Foreign Financial Institutions are required to file reports annually with HMRC that relate to financial accounts or structures held for US persons or owned and controlled by US persons. That information will then be shared with the IRS. Both "Foreign Financial Institutions" and "financial accounts" are broadly defined, which gives FATCA a surprisingly long reach.

If Foreign Financial Institutions are not fully compliant, this will be reported to the IRS and they may face withholding on (broadly) any US source investment income and proceeds of disposal of US financial assets.

The UK has also signed up to the OECD's Common Reporting Standard (CRS), which requires automatic exchange of information; and, as a then EU Member State, to the EU-wide initiatives in this area, specifically the Council Directive 2011/16/EU as regards administrative cooperation in the field of taxation (Council Directive 2011/16/EU as amended by Council Directive 2014/107/EU, referred to as the DAC), which extended the cooperation between tax authorities to automatic exchange of financial account information, effectively implementing the CRS within the EU.

Each of the FATCA and CRS arrangements rely on requiring financial institutions that are treated as resident within a participating jurisdiction to undertake due diligence searches and certification procedures in order to identify assets held for individuals or entities who (or which) are resident in the partner jurisdiction(s) or for entities that have controlling persons who are resident in the partner jurisdiction.

Having done so, they are then required to share certain financial information relating to the assets identified with the relevant partner jurisdictions.

As a result, in a similar way as in relation to FATCA, financial institutions treated as resident in all jurisdictions that have signed up to the CRS and/or the DAC need to undertake due diligence procedures and those jurisdictions will automatically exchange financial information with HMRC in relation to reportable accounts and entities. Individual and entity accounts will be reportable for these purposes if they have been identified as held by UK-resident individuals or entities or by entities with UK-resident controlling persons.

The main issue to note about these arrangements is the surprising breadth of the term "financial institution". Most asset-holding structures will fall within the scope of reporting – either themselves as a financial institution, or as a "passive" non-financial entity.

Following Brexit, the UK has signed up to the OECD's Mandatory Disclosure Rules in place of the DAC regime. The Mandatory Disclosure Rules focus on arrangements that undermine CRS or obscure beneficial ownership.

12.2 What reporting requirements are imposed by domestic law in your jurisdiction in respect of structures outside your jurisdiction with which a person in your jurisdiction is involved?

As well as these international initiatives, there are a number of provisions in UK domestic law that contain reporting requirements in respect of offshore structures.

These reporting requirements, however, generally only apply to individuals who are both resident and domiciled in the UK. For example, both the settlor and any professional involved in the creation of an offshore trust by a UK-domiciled individual are required to report the establishment of the trust to the UK tax authorities.

The general scheme of the UK tax legislation is not to require the disclosure of any assets held outside the UK and any income or gains that are not remitted to the UK where a non-UK domiciliary is concerned, provided that person has made an election to be taxed on the remittance basis.

Income that is attributed to a UK-resident individual under the anti-avoidance provisions mentioned in question 2.5 above must be reported on that individual's tax return although, in the case of a non-domiciliary who has elected to be taxed on the remittance basis, only if it has a UK source or if it has been remitted to the UK.

Similarly, capital gains that are attributed to a UK-resident beneficiary of an offshore trust must be reported on that person's UK tax return but, in the case of a non-domiciliary who has elected to be taxed on the remittance basis, only if remitted to the UK.

Overseas trustees who have inheritance tax liabilities either as a result of holding UK assets or because the settlor was UK-domiciled are required to submit inheritance tax returns when chargeable events occur (for example, on the 10-year anniversary of a trust).

Trustees of offshore trusts with UK beneficiaries that receive UK source income are required to submit UK tax returns in respect of that UK source income.

12.3 Are there any public registers of owners/beneficial owners/trustees/board members of, or of other persons with significant control or influence over companies, foundations or trusts established or resident in your jurisdiction?

In the UK, all company directors must be registered at Companies House under the Companies Act 2006. This information is available to the general public.

In addition, the UK has created a public beneficial ownership register for companies and LLPs. Companies have been required to maintain a "persons with significant control" (PSC) register since 30 June 2016.

The PSC register is available to the general public. The information on the register includes the beneficial owner's name, month and year of birth, nationality, country of residence and the nature and extent of the person's beneficial ownership. An individual who ultimately owns or controls a legal entity through direct or indirect ownership of more than 25% of the shares or voting rights will be a beneficial owner. A shareholding or an ownership of more than 25% in the corporate entity held by another corporate entity, which is under the control of an individual, or by multiple corporate entities, which are under the control of that same individual, will be an indication of indirect ownership.

Where a beneficial interest is held through a trust arrangement, the trustee(s) or any natural persons exercising significant influence or control over the activities of the trust will have to be disclosed as a beneficial owner of the company. Crucially, beneficiaries, and in many cases settlors, would not normally be included on the PSC register owing to the fact they will not generally be able to exercise significant control over a trust.

The UK also has a register of beneficial ownership of trusts. All trusts that are resident in the UK must be included on the register. In addition, any non-UK trust that has a UK tax liability (for example, because it owns UK assets or receives UK source income) or that acquires UK real estate must be registered. Non-UK trusts that engage certain UK service providers (such as financial institutions, accountants, lawyers, etc.) and that have at least one trustee who is UK-resident also have to be registered on the UK trust register.

As is the case in the EU, access to the UK trusts register is available to anybody with a "legitimate interest". This is relatively narrowly defined by reference to the person's involvement in combatting money laundering or terrorist financing. Where a trust that appears on the UK trust register holds a controlling interest (more than 50%) in a non-EU company, the information about the trust is also available to the general public.

12.4 Are there any public registers of beneficial owners of, or of other persons with significant control or influence over, real estate located in your jurisdiction?

Any non-UK entity that holds UK land must register on a register of overseas entities maintained by Companies House. Details of the beneficial owners of the overseas entity must be provided. If a beneficial owner is a trustee, details relating to the trust must also be provided. The beneficial ownership information (other than information about a trust) is available to the public. The overseas entity cannot acquire land in the UK nor deal with land already owned without being registered.

Legislation is under discussion which might result in a register of beneficial owners of land in the UK and/or those who have significant influence and control over land in the UK. Some of these proposals would apply to whole of the UK, whilst others would be limited to England & Wales. Scotland already had a register of people who influence or control decisions relating to land in Scotland.

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