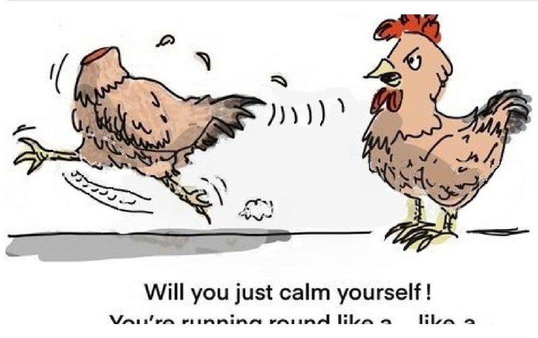
Search
Home My Network Jobs Messaging Notifications Me For Business Try Premium for CHF0
Edit article View stats View post



UK non-dom IHT trust protection in the crapper. Lawyers instigating panic and grifters promote new residence or PPLI crap. Calm down, easy to plan.

Mark Morris
CRS and CARF expert. No, truly.

April 21, 2024

Dreadful news on Inhertiance Tax (IHT) finally released by Labour who are guaranteed to be the next Government in 2025

STEP 1: IHT trust protection dissapears like magic

- Currently, non-doms are not liable on foreign income and gains if not remitted back to the UK. (sure, it costs an arm & leg to have that remittance right)
- Currently, a person's estate liable to the 40% IHT pummeling is determined by their domicile according to the weird UK law.
- A domiciled or deemed domiciled person in the UK is subject to IHT on their worldwide assets, whereas non-doms are subject to IHT on UK situs assets only.

Oh crap, IHT for all now in scope after 10 years plus a 10-year tail to boot

- From 6 April 2025, the existing remittance basis rules will be replaced by a foreign income and gains (FIG) regime.
- The FIG regime will apply to individuals who become UK tax resident after a period of at least 10 consecutive tax years of non-UK tax residence.
- Relevant individuals can claim relief under the FIG regime in their first four years of UK tax residency.

- Domicile will cease to be a relevant factor for IHT and a residency-based test will be introduced instead.
- Under this new test, a person would be subject to IHT once they had been resident in the UK for 10 years
- **Worse**, exposure to IHT would only be lost when the person had been resident outside the UK for a further 10 years.
- So running away is likely no benefit for the elderly. Compare the new 10-year tail with the current 3 years.

```
Disconnecting IHT from the domicile concept brings
complexity in a variety of areas of tax and succession law,
particularly new 'problems' (understatement of the year)
regarding the tax treatment of trusts.
```

Further 'problems' as the Conservative's effort in vain, to continue IHT trust protection is flushed down the loo by the Conservatives

Step 2: Cue the carnival barkers to step up to the plate

1. "In my working lifetime in the Private Wealth industry, no proposed change in legislation has led to such a huge reaction".
2. "Opportunities have been missed to create a globally competitive tax regime"
3. "Tax planning for non-UK domiciled individuals will never be the same again".
4. "With a potential Labour majority looming, wealthy 'non-domiciliaries' are about to face the biggest challenge to their status since the 1790s"
5. "Many of our non-dom clients are already packing parachutes" (ha, scare tactics was a great TV series)
6. "Labour revenue is going to collapse instead of rise as the wealthy flee like rats. How utterly counterproductive Labour's proposed policy on non-doms will be. If more than 4.5% (figure sucked out of air) of non-doms leave then the measure will lose money, not raise money" (rolls eyes at fearmongering b.s.)

> The wealthy are mobile and are going to pull up sticks after living in London for 20 years. Italy calling...sure. Don't forget, most wealthy folks who live in UK, are there because it's the UK. Alternative lifestyle in boring Sardinia, Greece (ha) or rural-like Portugal is a joke in comparison. Monaco? Ha, on top of each other 24 hours a day. RbI sales scum coming out the woodwork to push shitholes like Turkey or Dubai (incarcerate international visitors for 4 years because three poppy seeds stuck on a pullover from bagel sandwhich snacked upon departure Zurich airport, sign me up). People going to leave because their kids going to inherit less? Pull the other one.

PPLI is a solution (not really, as its really crap)

- Not to worry folks, the carnival barkers are ready ...

PPLI to the rescue! or more likely, not.

- **Carnie-1**: "Whilst the continued use of excluded property trusts is history, and the loss of IHT protection on non-UK assets along with that, it is worth exploring private placement life insurance solutions to provide partial or complete IHT protection.
- **Carnie-2**: "It is also possible to remain in the UK and implement a term life insurance policy to protect IHT *until the exposure has been removed - WTF is this bull, relying on emigration while policy in force to protect from IHT?*
- **Carnie-3**: Ahh the unparralled benefits of PPLI such as ... drum role as carnie wheels out the raggedy same-old sales schpiel... "privacy as assets owned by insurer" (scaping the barrel), "asset protection" "deferral of taxes", "estate transfer without probate" , "portability as one can to emigrate to a tax free shithole while the policy is in force and never pay UK taxes", "cash available via loans from your own policy" (hint, hint and never pay back even after death), "wide range of investments permitted" (what a load of codswallop), a 5% tax free withdrawals annually of your own contribution (wow, massive big deal)... etc.

Why do the carnies forget to mention...

- The bulk of non-dom assets outside the UK are probably chattels (villas, yachts, jets, jewellery, and other non-bankable assets)
- What about crypto?
- Annual fees well over 1.0%, including the mandatory wealth manager could wipe out your IHT savings even if you emigrate
- Strict restriction on assets allowed by the Trading and Other Income Act. You want, say, a stand-alone listed stock like BRKA, then tuff tit. Individual bonds, write that wish off, ... structured notes, bwah ha ha.
- The coup de grâce is the US Senate Committee on Feb 21, 2024 concluding PPLI is a tax con that they will make every effort to shut down

```
The Senate Chair Dem Senator, says "When you subject these
policies to even the slightest bit of scrutiny, it's clear
that this is just a tax shelter for the investments of the
rich masquerading as life insurance".
```

Click to read the 21-page report, Feb 21, 2024

Key findings:

1. The PPLI industry is now a tax shelter made up of at least $40 billion in policies held by only a few thousand wealthy Americans.
2. PPLI policies are actively promoted to ultra-wealthy as tax-free hedge and private equity fund investments.
3. PPLI policies are actively promoted as a way to transfer significant wealth to their heirs while bypassing income, gift, and estate taxes.
4. Guardrails against abuse of PPLI policies are nearly impossible to enforce due to a lack of disclosure requirements.
5. Legislation is needed to increase oversight of PPLI and curb abuse of these products as tax avoidance by the wealthiest 1%

The whopper by PPLI salesman

PPLI can be your confidant in Estate Planning.

- On your demise, the policy's death benefit is transferred to your beneficiaries, typically without any income tax implications.
- When it comes to inheritance, PPLI exhibits a unique strength. The death benefit bypasses probate, facilitating a faster distribution process.
- This ensures your loved ones receive their inheritance promptly and as per your specifications in the policy, mitigating potential disputes over your estate.

```
Aside from Conservatives explicitly saying IHT protection
by trusts is overs, appointing a beneficiary serves no
purpose towards mitigating UK inheritance tax. UK estate
duty falls, as a liability, on the estate of the deceased.
European estate planners may be more familiar with the tax-
able entity being the estate beneficiaries, in receipt. For
an individual exposed to UK Inheritance Tax the value of
the policy (or their interest in the policy), immediately
before their death is added to all other assets when
calculating the taxable estate
```

Read my previous article on other issues the estate will face if using PPLIs to avoid IHT, especially if placed into a trust. More so if the trust is located in a UK Crown Dependency or Overseas territory outside EEA, fake insurable interest, multiple lives to extend policy beyond death, etc...

Step 3: The simplest answer

Carnie, be gone

1. Trusts that are Custodial Institutions and not investment entities (validated by HMRC)

- A **non-participating jurisdiction Custodial Institutio**n holds an underlying Investment Entity (company foundation board, LP of limited partnership, shares of fiscally transparent fund, etc.) to own the assets. How do you ensure an underlying entity is a Investment Entity if most assets are non-financial assets or holding crypto where the RCASP treats all PMIEs as a Passive NFE? Possible, but you must know CRS well.

or

- A **non-participating Custodial Institution** trust settles a normal trust

2. Non-UK express co-ownership trust... read my article on a vociferous argument I had with a UK trained lawyer on whether (i) a UK trust is valid where the trustees, and settlors and beneficiaries can all be the same persons, and (ii) None of the assets or income is UK situ

Considering this type of trust arose for first time in 2020 and has had very little publicity (google it and see the dearth of info), it's unsurprising that many UK lawyers and virtually every UK trained trustee or CSP is non-comprendo on this, believing such an trust can't exist, especially a UK trust...

=======================END=======================

Mark Morris
CRS and CARF expert. No, truly.

More articles for you

Moore Stephens Says Shipping Should Not Panic In Wake Of Proposed UK Non-Dom Tax Changes
Capt. Tassos I. Kampas

UK Non-dom changes will be backdated to 5th April 2017
Mark Davies
10

Could You Be Next? 6 Ontario Residents Charged in Connection with Tax Shelters
James Bell
2

Comments
13 · 6 comments · 1 repost
Like Comment Share
Add a comment...
Most relevant

Josh Harris APFS • 2nd 5mo
Chartered Financial Planner
"It is also possible to remain in the UK and implement a term life insurance policy to protect IHT until the exposure has been removed - WTF is this bull, relying on emigration while policy in force to protect from IHT?" ...more
Like Reply · 1 Reply

Mark Morris (He/Him) Author 5mo
CRS and CARF expert. No, truly.
Josh Harris DipPFS Thanks. Will study.. believe it or not, I too am a PPLI carnie occasionally.
Like Reply

Roderick Balfour TEP • 2nd 5mo
Decades of International Private Client Experie...
Most of my ND clients and friends read the tea leaves years ago and became 'under 90 day' visitors. Keeping their short lease properties......not a lot of IHT in those.
Like · 1 Reply

James Quarmby • 1st 5mo
Founding Partner, Private Wealth, Stephenson ...
Lots of complaints about other advisors but no solution presented for non doms. How would your non U.K. custodial trust make any of these real tax issues for non doms any better ?

Messaging