RESIDENTIAL PROPERTY: IHT

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1 Introduction

This lecture considers the IHT rules for residential property to be introduced by the FA 2017. It is based on the draft clauses and HMRC's Response to Further Consultation published 5th December 2016.

2 Residence-value property

Para 1 Sch A1 IHTA provides:

> Property is not excluded property by virtue of section 6(1) or 48(3)(a) [non-UK situate property] if and to the extent that any of paragraphs 2 to 4 apply to it.

Paragraphs 2-4 apply to 5 categories of property. In my terminology:

Para	**Property**
2	Residence-value company
3	Residence-value partnership
4(1)(a)	Residence-loan
4(1)(b)	Residence-security
4(2)	Loan-value company/partnership

3 Residence-value company

Para 2 Sch A1 IHTA provides:

> 2 (1) This paragraph applies to the right or interest that a participator in a close company has in that company, if and to the extent that the value of the right or interest is directly or indirectly attributable to a UK residential property interest.

I refer to this as a **"residence-value company"**.

Does this include the interest of a loan creditor? If so, when is the value of the loan indirectly attributable to a UK residence?

3.1 *Close company terminology*

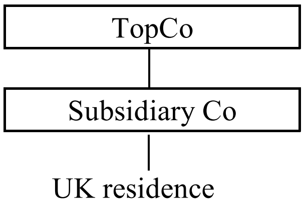
Para 9 Sch A1 IHTA provides fairly common form definitions based on s.102 IHTA:

> 9 In this Schedule-
> [1] "close company" means a company within the meaning of the Corporation Tax Acts which is (or would be if resident in the United Kingdom) a close company for the purposes of those Acts;
> [2] "participator", in relation to a close company, means any person who is (or would be if the company were resident in the United Kingdom) a participator in relation to that company within the meaning given by section 454 of the Corporation Tax Act 2010;
> [3] references to rights and interests in a close company include references to rights and interests in the assets of the company available for distribution among the participators in the event of a winding-up or in any other circumstances.

3.2 *Groups of companies*

Suppose a chain of companies, thus:

Individual or trust



TopCo (or more accurately, its shares) is non-excluded property because its value is attributable to the land. The shares in the subsidiary company are also non-excluded property, but that is only relevant if the holding company makes a transfer of value.

4 Residence-value partnership

Para 3 sch A1 IHTA provides:

> 3 (1) This paragraph applies to an interest in a partnership, if and to the extent that the value of the interest is directly or indirectly attributable to a UK residential property interest.

I refer to this as a **"residence-value partnership"**.

An interest in a partnership set up to hold a UK home is likely to be UK situate property on general principles. Perhaps HMRC took a different view; or perhaps they just wanted to put it beyond doubt.

4.1 *"Partnership"*

Para 10 Sch A1 IHTA provides a definition:

> 10 In this Schedule "partnership" means-
> (a) a partnership within the Partnerships Act 1890,
> (b) a limited partnership registered under the Limited Partnerships Act 1907,
> (c) a limited liability partnership formed under the Limited Liability Partnerships Act 2000 or the Limited Liability Partnerships Act (Northern Ireland) 2002, or
> (d) a firm or entity of a similar character to either of those mentioned in paragraph (a) or (b) formed under the law of a country or territory outside the United Kingdom.

5 Residence-loans

5.1 *"Relevant loan"*

The legislation uses the term "relevant loan".

Para 4 Sch A1 IHTA provides:

> (4) For the purposes of this paragraph a loan is a relevant loan if and to the extent that money or money's worth made available under the loan is used to finance (directly or indirectly)-
> (a) the acquisition of a UK residential property interest by an individual, a partnership or the trustees of a settlement,
> (b) the maintenance, or an enhancement, of the value of a UK residential property interest, where the UK residential property interest is the property of an individual, is partnership property or is comprised in a settlement, or
> (c) the acquisition by an individual or the trustees of a settlement
> [A] of a right or interest in a close company, or
> [B] of an interest in a partnership,
> if and to the extent that money or money's worth made available under the loan is used to finance (directly or indirectly)-
> (i) the acquisition of a UK residential property interest by the close company or

partnership, or

(ii) the maintenance, or an enhancement, of the value of a UK residential property interest, where the UK residential property interest is the property of the close company or is partnership property.

If a company borrows to acquire a property, the loan not a relevant loan.
If an individual borrows to acquire a company which holds a residence, this is not a relevant loan.

5.2 *Residence-loan*

Para 4 Sch A1 IHTA provides:

> 4 (1) This paragraph applies to-
> (a) the rights of a creditor in respect of a relevant loan

I refer to this as a **"residence-loan"**.

5.3 *Residence-value security*

Para 4 Sch A1 IHTA provides:

> 4 (1) This paragraph applies to ...
> (b) money or money's worth held or otherwise made available as security, collateral or guarantee for a relevant loan.

I refer to that as a **"residence-security"**.
"Money or money's worth" is just a long-winded way to say "property".
Collateral is just a synonym of security.

5.4 *Loan-value company/partnership*

Para 4 Sch A1 IHTA provides:

> (2) This paragraph also applies to-
> (a) the right or interest that a participator in a close company has in that company, if and to the extent that the value of that right or interest is directly or indirectly attributable to property within sub-paragraph (1)(a) or (b);
> (b) an interest in a partnership, if and to the extent that the value of that interest is directly or indirectly attributable to property within sub-paragraph (1)(a) or (b).

I refer to this as a **"loan-value company/partnership"**.
Suppose:

(1) T (an individual or trust) borrows from a 3rd party (non-close) bank to buy a residence. The loan (owned by the bank) is a relevant loan, and so not excluded property, but that raises no IHT problem. The bank shares are not residence-value property because that is an open company.
(2) T deposits money equal to the loan as security for the loan. This money is non-excluded property. But it may not matter that the money is non-excluded property, as the liability for the security may be deducted from the money in ascertaining its value for IHT.

Suppose
(1) T borrows from a 3rd party (non-close) bank to buy a residence.
(2) T charges foreign securities *above* the value of the loan as security for the loan. Strictly all the securities are non-excluded property and although the loan may be deductible, the excess is within the scope of IHT. I wonder if that is intended.

A similar issue may arises if T charges the debt on the residence and on money/securities in excess of the value of the loan. The charge should be on the money/securities in priority to the residence. Otherwise the surplus value (the value of the security above the amount of the debt) is non-excluded property.

6 De minimis rule and "indirectly attributable"

6.1 *"Qualifying interest"*

This term is used in
(1) the de minimis rule
(2) the definition of "indirectly attributable"

So I deal with both topics together.
Para 2 Sch A1 IHTA defines qualifying interest:

> (3) In this paragraph "qualifying interest" means-
> (a) a right or interest in a close company, or
> (b) an interest in a partnership.

6.2 *De minimis rule*

Para 2 Sch A1 IHTA provides a very strict de minimis rule:

> (4) For the purposes of sub-paragraph (3), disregard a qualifying interest if-
> (a) in the case of a qualifying interest which is a right or interest in a close company, its value is less than 1% of all the rights or interests in that close company;
> (b) in the case of a qualifying interest which is an interest in a partnership, its value is less than 1% of all the interests in that partnership.

Para 3 sch A1 IHTA incorporates the de minimis rule for residence-value partnerships:

> (3) Paragraph 2(3) and (4) (meaning of "qualifying interest" and disregard of minor qualifying interests) apply for the purposes of sub-paragraph (2).

Para 4 Sch A1 IHTA incorporates the de minimis rule for residence-loans and residence-securities:

> (5) Paragraph 2(3) and (4) (meaning of "qualifying interest" and disregard of minor qualifying interests) apply for the purposes of sub-paragraph (3).

6.3 *"Indirectly attributable"*

For close companies, para 2 Sch A1 IHTA provides:

> (2) For the purposes of sub-paragraph (1) the value of a right or interest in a close company is indirectly attributable to a UK residential property interest only if it is attributable to such an interest by virtue of one or more qualifying interests (which need not be owned directly by the close company).

Similarly, for partnerships, para 3 sch A1 IHTA provides:

> (2) For the purposes of sub-paragraph (1) the value of an interest in a partnership is indirectly attributable to a UK residential property interest only if it is attributable to such an interest by virtue of one or more qualifying interests (which need not be owned directly by the partnership).

Similarly, for loans, para 4 Sch A1 IHTA provides:

(3) For the purposes of sub-paragraph (2) the value of a right or interest in a close company, or an interest in a partnership, is indirectly attributable to property within sub-paragraph (1)(a) or (b) only if it is attributable to such property by virtue of one or more qualifying interests (which need not be owned directly by the close company or partnership).

7 Company/partnership liabilities

Para 2 Sch A1 IHTA concerns deduction of liabilities:

> (5) In determining the value of a right or interest in a close company for the purposes of sub-paragraph (1), liabilities of the close company are to be attributed to all of its property rateably (whether or not they would otherwise be attributed to any particular property of the company).

This is only relevant if the company holds UK residential property and other property.
The rule does not apply to a partnership.

8 Residence-proceeds

Para 5 Sch A1 IHTA provides:

> 5(1) This paragraph applies to the following property-
> (a) property which constitutes consideration in money or money's worth for the disposal of-
> (i) property to which paragraph 2 [residence-value company] or 3 [residence-value partnership] applies, or
> (ii) property falling within paragraph 4(2) [loan-value company or partnership];
> (b) any money or money's worth paid in respect of a creditor's rights falling within paragraph 4(1)(a) [residence-loan];
> (c) any property directly or indirectly representing property within paragraph (a) or (b).

I refer to that property as **"residence-proceeds"**.
The term does not include the proceeds of a sale of a residence held directly.
The term does not include residence-securities.

8.1 *Non-settled property*

Para 5 Sch A1 IHTA provides the rule:

> (2) If and to the extent that property is property to which this paragraph applies and is not relevant settled property-
> (a) it is not excluded property by virtue of section 6(1), (1A) or (2),[2] or section 48(3)(a), (3A) or (4)[3] for the two-year period, and
> (b) if it is held in a qualifying foreign currency account within the meaning of section 157 (non-residents' bank accounts), that section does not apply to it for the two-year period.

This includes property in an estate IP trust.
Para 5 Sch A1 IHTA defines the two year period:

> (3) The two-year period is the period of two years beginning with-
> (a) the date of the disposal referred to in sub-paragraph (1)(a), or

2 6(1) refers to foreign situate property; 6(1A) refers to funds; and 6(2) refers to FOTRA securities.

3 These are the settled property equivalents of the provisions in s.6.

(b) the date of the payment referred to in sub-paragraph (1)(b).

In short, residence-property[4] has a two year "tail" during which residence-proceeds remain non-excluded property. This prevents some deathbed planning.

8.2 *Settled property*

Para 5 Sch A1 IHTA provides:

> (4) If and to the extent that property is property to which this paragraph applies and is relevant settled property, section 65(7), (7A) and (8)[5] do not apply to it.
> (5) In this paragraph "relevant settled property" means property which is "relevant property" within the meaning given by section 58(1) (but ignoring section 58(1)(f)).

The intention is to impose an exit charge on residence-proceeds. There is no two year period. Suppose:

(1) A trust sells residence-property and receives UK situate residence-proceeds. There is no exit charge at that point.
(2) 5 years later the trust sells the residence-proceeds and acquires non-UK situate property. There is in principle an exit charge at that point.

8.3 *Commencement of residence-proceeds rules*

Para 7 draft sch 13 FA 2017 provides:

> 7(1) The amendments made by this section have effect in relation to times on or after 6 April 2017.
> (2) But for the purposes of paragraph 5(1) of Schedule A1 to IHTA 1984 as inserted by this Schedule-
> (a) paragraph (a) of that paragraph does not apply in relation to a disposal of property occurring before 6 April 2017, and
> (b) paragraph (b) of that paragraph does not apply in relation to a payment of money or money's worth occurring before 6 April 2017.

That is, pre-2017 disposals do not give rise to residence-proceeds. Consider disposals before 6 April 2017.

9 Spouse and other exemptions

The usual IHT exemptions apply. The 2015 IHT residential property paper provides:

> 16. It is intended that the same reliefs and charges will apply as if the property was held directly by the owner of the company. Hence a deceased individual who owned the company shares directly will have the benefit of spouse exemption if the company shares are left to a spouse.

10 Residence TAAR

Para 6 Sch A1 IHTA provides:

> 6 (1) In determining whether or to what extent property situated outside the United Kingdom

4 Except residence-securities.

5 See my *Taxation of Non-Residents and Foreign Domiciliaries* (14th edn, 2016), 68.9.1 (Relevant property becomes excluded property).

> is excluded property, no regard is to be had to any arrangements the purpose or one of the main purposes of which is to secure a tax advantage by avoiding or minimising the effect of paragraph 1 or 5.
> (2) In this paragraph-
> "tax advantage" has the meaning given in section 208 of the Finance Act 2013

This is a new style of TAAR.

Suppose a company was minded to acquire a UK residential property, but being told of the IHT consequences, decided to avoid the effect of the rule by buying a non-residential investment property. This is caught on a straight reading. No doubt HMRC would not want to catch this, and would justify its position by saying that the purpose of the company was not to avoid the paragraph. In the given example, that seems a somewhat implausible analysis of the facts.

What about a gift to a spouse or to charity, made with the purpose of qualifying for IHT spouse or charity relief? That is not affected, as the rule only applies "In determining whether or to what extent property situated outside the United Kingdom is excluded property".

11 DT override

The rule is that residence-value property and residence-proceeds are non-excluded property. However the property remains movable rather than immoveable property, so it could qualify for IHT DTA relief.

Para 7 Sch A1 IHTA provides a treaty override:

> 7(1) Nothing in any double taxation relief arrangements[6] made with the government of a territory outside the United Kingdom is to be read as preventing a person from being liable for any amount of inheritance tax by virtue of paragraph 1 [residence-value property] or 5 [residence-proceeds] in relation to any transfer of value if under the law of that territory-
> (a) no tax of a character similar to inheritance tax is charged on that transfer of value, or
> (b) a tax of a character similar to inheritance tax is charged in relation to that transfer of value at an effective rate of 0%.

11.1 *Effective rate*

Para 7 Sch A1 IHTA provides

> (2) In this paragraph...
> "effective rate" means the rate found by expressing the tax chargeable as a percentage of the amount by reference to which it is charged.

If property falls within a foreign equivalent of the nil-rate band, the effective rate will be nil. If it exceeds it slightly the effective rate will be just above nil, and the treaty override will not apply. Sometimes some planning to ensure an above nil rate may be possible.

12 Enforcement

The 2016 consultation paper provided:

> The government believes HMRC should have an expanded power to impose the IHT charge on indirectly-held UK residential property so that the property cannot be sold until any outstanding IHT charge is paid.

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6 Para (2) provides the expected definition: "In this paragraph "double taxation relief arrangements" means arrangements having effect under section 158(1)".

> In addition, a new liability will be imposed on any person who has legal ownership of the property, including (?) any directors of the company which holds that property. This will ensure that IHT is paid, though only when HMRC are aware that a charge has arisen and have taken steps to collect the liability.

There been second thoughts. The Consultation Response document provides:

> The government accepts that there might be cases where making the directors of a company liable for unpaid IHT would be impractical in some circumstances, particularly where they might not be aware that there is an IHT charge on a residential property in the UK. It therefore does not propose to proceed with this suggestion.
> The government will instead consider what alternative approaches would be appropriate for ensuring that the extended charge can be effectively enforced.

13 "Residential property interest"

The proposed rules are restricted (for now?)[7] to residential property. The 2015 IHT residential property paper provides:

> 9. The government does not intend to change the IHT position for non doms or excluded property trusts in relation to UK assets other than residential property, or for non-UK assets.[8]

We therefore need a definition of residential property. Para 8 Sch A1 IHTA provides:

> 8(1) In this Schedule "UK residential property interest" means an interest in UK land if-
> (a) the land consists of or includes a dwelling, or
> (b) the interest subsists under a contract for an off-plan purchase.

13.1 *Change of use*

The 2016 consultation paper provided:

> a property will be within the charge to IHT where it has been a dwelling at any time within the two years preceding a transfer.

This idea is withdrawn in the consultation response document, and what matters is use at the time of the transfer of value.

13.2 *Mixed residential/non-residential use*

The 2016 consultation paper provides:

> ... there will be the need for an apportionment where a property has been used for residential and for other purposes at the same time, such where it consists of a flat above a commercial premises. Provided the property has wholly or partly met the definition of a dwelling at any time in the previous two years, it will be chargeable to IHT. However, the tax liability which arises will be determined by the extent to which the property has a residential use.

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7 See my *Taxation of Non-Residents and Foreign Domiciliaries* (14th edn, 2016), 80.34.1 (Restriction to residential property).

8 The paper continues: "Nor will these reforms affect people who are domiciled in the UK." That is incorrect, as the reforms affect settlements made by foreign domiciled settlors who have later become UK domiciled.

14 Valuation

What is taxed, and valued, is the residence-value property not the land.

The 2016 consultation paper provides an example:

> In a simple example, a non-dom is the sole shareholder of an overseas company whose sole assets consist of a UK residential property. The company has no liabilities. At the individual's death, their estate will consist of the overseas shares which have an open market value of £950,000. At the same time, the UK property has an open market value of £1 million. In such a situation, the value of the estate is £950,000, and this is derived wholly from the UK residential property. This would mean that IHT would be charged on the entire estate which has an open market value of £950,000. This is broadly the treatment which would apply in the case of an individual who is domiciled in the UK.

Valuation of a residence-holding company is not straightforward. From a purchaser's viewpoint:

(1) There should be a discount on net asset value to reflect contingent liabilities of
   (a) CGT
   (b) ATED
   (c) administration costs
   (d) the risk of undisclosed corporate liabilities/due diligence costs

(2) There should be a premium to reflect SDLT and CGT advantages.

Perhaps HMRC will adopt a pragmatic practice of allowing a 5% discount from net asset value, which accords with the approach of the example. But in appropriate cases, taxpayers may argue for a greater discount.

The Consultation Response Document provides:

> The government ... recognises that more detailed rules are needed to cater for more complex structures including shared and multiple ownership. The legislation published as part of the draft Finance Bill therefore includes rules which deal with situations in which a residential property is held in more complex structures.

15 Commencement

Para 7 draft sch 13 FA 2017 provides:

> 7 (1) The amendments made by this section have effect in relation to times on or after 6 April 2017.

16 Planning: New purchase

Purchase by a company has the advantages of tax saving on a sale of the company: (a) SDLT and (b) CGT.

However, the general rule will be not to purchase by a company because of ATED and ATED-SDLT.

A corporate purchase of a property worth under £500k is outside ATED, but one needs to consider:

(1) the possibility that the property will sooner or later become worth more than £500k and fall within ATED; or that the ATED bands may be lowered again.

(2) the administrative costs.

17 De-enveloping

Where a property is held in a company, the question is whether to wind up or retain.

Advantages of retention: In return for paying ATED, you may have the advantages of being able to sell the company rather than the land:

(1) SDLT advantage of being able selling shares in the company free of SDLT. It takes between 4 and 30 years for ATED to equal the SDLT on a non-corporate sale, about 15 years on average;[9] but ATED is payable sooner and will be index-linked (at least). It will not be cost-effective to continue to pay ATED, just for the SDLT saving, unless a fairly prompt sale of the company is expected.

(2) CGT advantage of possibly being able to sell the shares without CGT. Unless CGT private residence relief would apply it is in principle better to hold in a company which could be sold free of CGT.

(3) A purchaser who will be within ATED (in short, intending to use the property as a home) may prefer to purchase the property, not the company or may want a discount to reflect the disadvantages of holding through a company. On the other hand, a purchaser for investment, who can qualify for ATED rental relief,[10] and who is prepared to do corporate due diligence, is likely to prefer to purchase the company.

18 Methods of de-enveloping

There is to be no express relief. The Consultation Response Document provides:

> The government remains unconvinced that there is any case for providing tax relief for an individual who removes a property from an overseas envelope. The provision of such a relief would have a significant fiscal cost to the Exchequer. The government does not think it would be fair or appropriate to raise taxes or cut spending to fund it.

This section considers some methods of de-enveloping where (as is usual) the house is held in a company held in a trust made by a foreign domiciled settlor. Diagrammatically:

Beneficiary

Trust

Company

UK residence

In the following discussion:
"**The house value**" is the market value of the house.
"**The house gain**" is the gain on the disposal of the house; in short, the amount by which the house has risen in value since acquisition.
"**The company share value**" is the market value of the company shares. This is likely to be less than the value of the house (the company's asset).

It is assumed that:

(1) There is at least some house gain. (At the top end of the market this may not be the case).

(2) The trust has no trust gains (other than those which accrue on disposals under the transactions discussed below) and no trust losses.

9 See my *Taxation of Non-Residents and Foreign Domiciliaries* (14th edn, 2016), 82.7 (Rates of ATED).

10 See my *Taxation of Non-Residents and Foreign Domiciliaries* (14th edn, 2016), 82.18 (ATED rental relief).

(3) The beneficiary is UK resident.
(4) The settlor was not UK domiciled when the trust was made.

SDLT issues are not discussed here; see my *Taxation of Non-Residents and Foreign Domiciliaries* (14th edn, 2016), 82.45 (SDLT issues on winding up companies holding land).

18.1 *Trustees wind up co, transfer home to beneficiary*

One straightforward proposal is:
(1) the trustees wind up the company and
(2) the trustees transfer the house to a beneficiary.[11]

The tax implications of the trustees winding up the company are:
(1) A gain (the house gain) will accrue to the company on the disposal of the house ("the company's gain"). That gain may be divided between:
    (a) A NRCGT-gain, which is taxable. In the case of a liquidation reasonably soon after 6 April 2015, this is likely to be small due to rebasing.
    (b) An ATED-gain (if any), which is taxable.
    (c) A non-ATED, non-NRCGT gain. This is not immediately taxable. It may be treated as accruing to the trustees and so a trust gain, but the s.13 motive defence may apply.
(2) A gain will accrue to the trustees on the disposal of the shares, on the liquidation.
    (a) The amount of the gain is roughly the same as the house gain but with a reduction to reflect potential liabilities of the company.
    (b) This gain will be a s.2(2) amount (trust gain).

Thus the trust gain will be roughly the house gain, or (if s.13 applies) roughly twice the house gain.

The tax implications of the trustees transferring the house to the beneficiary will be:
(1) The transfer of the house to the beneficiary will be a capital payment.
    (a) The amount of the capital payment is equal to the house value.
    (b) The capital payment will be matched to trust gains so there will be a s.87 charge.
    (c) The capital payment will not qualify for the remittance basis as the benefit is received in the UK.
(2) There may also be a trivial IHT exit charge.

The s.87 charge is the lower of the value of the house and the trust gains. Thus at least the house gain will come into charge, but if the s.13 motive defence is not available, the trust gains will be roughly twice that, and there will be a double charge.

18.2 *Trustees transfer co to beneficiary, beneficiary winds up co*

Another straightforward proposal is:
(1) The trustees transfer the shares in the company to the beneficiary.
(2) The beneficiary winds up the company.

The tax implications of the transfer of the company shares from the trust to the beneficiary will be:

11 There could be two transfers, (1) the liquidator transfers the house to the trustees (2) the trustees transfer the house to the beneficiary. In practice the trustees may direct the liquidator to transfer the house directly to the beneficiary, but that is just a matter of conveyancing.

(1) A gain will accrue to the trustees on the disposal of the shares, on the transfer ("the trustee shareholder's gain").
    (a) The amount of the trustee shareholder's gain will in principle be roughly the house gain.
    (b) The trustee shareholder's gain will be a s.2(2) amount (trust gain).
    (c) The trustee shareholder's gain will not be immediately charged to tax.
(2) The transfer of the property to the beneficiary will be a capital payment.
    (a) The amount of the capital payment will be equal to the company share value.
    (b) The capital payment will be matched to the trust gains.
    (c) The s.87 charge will in the first instance qualify for the remittance basis as the benefit is received outside the UK.
(3) There would be no IHT exit charge.

The tax implications of the beneficiary winding up the company are:
(1) A gain (equal to the house gain) will accrue to the company on the disposal of the house ("the company's gain"). That gain may be divided between:
    (a) A NRCGT-gain (in the case of a liquidation reasonably soon after 6 April 2015, this is likely to be small due to rebasing).
    (b) An ATED-gain (if any).
    (c) A non-ATED, non-NRCGT gain. It may be treated as accruing to the beneficiary, in which case it is immediately taxable (but the s.13 motive defence may apply).
(2) A gain will accrue to the individual on the disposal of the shares, on the liquidation ("the liquidation gain").
    (a) The liquidation gain will not qualify for the remittance basis as the proceeds of the liquidation are received in the UK.
    (b) The amount of the liquidation gain will in principle be small, or nil, as the shares are acquired at market value.[12]
(3) The capital payment comes into charge under the remittance basis, as the beneficiary receives the benefit (the house) in the UK.

If the trustee shareholders gain could qualify for hold-over relief, then there may be no trust gain to match to the capital payment. A disposal of excluded property does not qualify for hold-over relief, but if the shares could be first made UK situate (or if the matter waits until after 2017 when the shares cease to be UK situate property) then hold-over relief is available. There will be a small IHT exit charge.

Another option may be to transfer the property to a non-resident beneficiary, if there is someone suitable.

18.3 *Non-tax aspects of de-enveloping*

The beneficiary who acquires the property will need to review their will, as the property will pass under the will rather than under the terms of the settlement. A new UK law will may be needed for this purpose.

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12 If there is a gain, company distribution relief avoids the CGT charge (on the liquidation gain and the s.13 gain. See my *Taxation of Non-Residents and Foreign Domiciliaries* (14th edn, 2016), 59.23 (s.13 distribution relief).