



Inheritance Tax and the Spouse Exemption

The 'spouse exemption' is the cornerstone of Inheritance Tax ("IHT") planning for UK-resident married couples and civil partners. Under section 18 of the Inheritance Tax Act 1984 transfers between such spouses / civil partners - whether made during lifetime or upon death - will generally be exempt from IHT.

As we discuss below, special rules apply when one spouse or civil partner is classed as 'UK long term resident' ("LTR") and the other is not.

Key characteristics of the spouse exemption

- In almost all instances (and where each spouse / civil partner is classed as LTR), there will be no limit to the value that can be transferred tax-free between spouses / civil partners.
- So long as the individuals remain legally married or in a civil partnership, the IHT spouse exemption will be fully available even where the spouses / partners have separated.
- In the event of divorce or dissolution of partnership, the spouse exemption will no longer be available.

Which transfers will qualify?

Lifetime gifts

- The spouse exemption will apply to any outright gift, where the transferred property becomes part of and / or increases the recipient's estate.

Transfers on death

- The spouse exemption will apply to any outright gift to the surviving spouse.
- The exemption will also apply to any gift to an immediate post-death trust for the surviving spouse where that spouse has a qualifying interest in possession and is entitled to the trust income.

Long Term Residence

- The Finance Act 2025 ("FA 2025") introduced the concept of 'long term residence' which replaced the concept of 'domicile' for the purpose of determining tax exposure. As a consequence, with effect from 6 April 2025, the long term residence of each spouse / civil partner will determine the extent of the spouse exemption available.
- Where each spouse / civil partner is LTR, generally speaking there will be no limit to the value that can be transferred to the spouse / civil partner.
- In respect of transfers from an LTR to a non-LTR spouse / partner the exemption will be capped at the nil rate band ("NRB"). The NRB for the 2025/2026 tax year stands at £325k.

Long Term Residence and the Spouse Election

- In addition to introducing the concept of long-term residence, the FA 2025 provides a mechanism by which the non-LTR spouse can elect to be treated as LTR for IHT purposes (the "spouse election") and is entitled to the full spouse exemption as a consequence.
- The spouse election - which can be made during the lifetime of the LTR spouse or within two years of the death of the LTR spouse - enables the non-LTR spouse to benefit from the spouse exemption.
- It is important to note that the exercise of the spouse election will bring all the worldwide assets of the electing spouse within the scope of UK IHT.
- The exercise of the spouse election will not impact upon the electing spouse's UK income tax or CGT status.
- Any election must be made in writing to HMRC, specifying the date upon which the election is to take effect.

The rules around IHT are complex and subject to change. That being so and as there is no 'one size fits all' it is important to be in receipt of all relevant information before making any decisions in this area. Our Private Client team has deep and specialist experience in all aspects of tax and tax compliance and can guide you through the complexities and ensure that you avoid any pitfalls.

For further information



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All information is correct as of March 2026

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