

UK/US Cross-Border Planning Post-2025: Insights from a Royal Case Study



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UK/US Cross-Border Planning Post-2025: Royal Case Study and Practical Insights

Navigating tax strategies for international planning challenges

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Disclaimer

These slides are of a general nature and not a substitute for professional advice.

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Session Roadmap

- Market observations
- Scenario Introduction
- Residency rules and mistaken assumptions
- UK Inheritance Tax changes
- Trusts under the new regime
- Other considerations
- Conclusion



**Tax Talk Weekly
with special guest
Prince Harry**

Residency rules and mistaken assumptions

Residency rules, mistaken assumptions, and treaty issues

Statutory Residence Test Basics

Overview of the UK statutory residence test to determine tax residency status.

Treaty Provisions

Key treaty provisions that affect residency status and resolve dual residency conflicts between countries.



Statutory Residence Test

Automatically Non-Resident if:

UK presence < 16 days
(if UK resident in past 3 years)

UK presence < 46 days
(if non-resident in past 3 years)

Working full-time
abroad: < 91 UK days &
< 31 UK workdays

Automatically Resident if:

≥ 183 days in UK
Only home(s) in UK (\geq
30 days spent there)

Working sufficient
hours in the UK

Sufficient Ties Test:

Ties: family,
accommodation, work,
90-day tie, UK > other
countries

More days in UK =
fewer ties needed for
residency

Sufficient Ties Test: connections and days

Abolition of the remittance basis and introduction of the FIG regime

ABOLITION OF REMITTANCE BASIS

- The remittance basis was abolished effective April 2025, ending its previous tax treatment for qualifying individuals.
- Remittances of pre- 6 April 2025 foreign income and gains may still be taxable
- Transitional rules: temporary repatriation facility and rebasing

INTRODUCTION OF FOREIGN INCOME GAIN (FIG) REGIME

- A new 4-year FIG regime is introduced specifying eligibility criteria and protections for qualifying individuals.
- Eligibility: 10 consecutive years of non-tax residence
- Complete relief for non-UK income and gains, but these must be quantified and reported

Example FIG: Residence History

MEGHAN

Tax Year	Resident
2016/17	x
2017/18	✓
2018/19	✓
2019/20	✓
2020/21	✓
2021/22	x
2022/23	x
2023/24	x
2024/25	x
2025/26	x
2026/27	✓

HARRY

Tax Year	Resident
2016/17	✓
2017/18	✓
2018/19	✓
2019/20	✓
2020/21	✓
2021/22	x
2022/23	x
2023/24	x
2024/25	x
2025/26	x
2026/27	✓

UK Inheritance Tax changes

Tax Year	Meghan	Years out of previous 20 - Meghan		Harry	Years out of previous 20 - Harry																							
		2014/15	2015/16		2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	2034/35	2035/36	2036/37	2037/38	2038/39	2039/40
2014/15	0	0	0	1																								
2015/16	0	0	0	1																								
2016/17	0	0	0	1																								
2017/18	1	0	0	1																								
2018/19	1	1	1	1																								
2019/20	1	2	1	1																								
2020/21	1	3	1	1																								
2021/22	0	4	0	0																								
2022/23	0	4	0	0																								
2023/24	0	4	0	0																								
2024/25	0	4	0	0																								
2025/26	0	4	0	0																								
2026/27	1	4	0	0																								
2027/28	1	5	0	0																								
2028/29	1	6	0	0																								
2029/30	1	7	0	0																								
2030/31	1	8	0	0																								
2031/32	1	9	1	1																								
2032/33	1	10	1	1																								
2033/34	1	11	1	1																								
2034/35	1	12	1	1																								
2035/36	1	13	1	1																								
2036/37	1	14	1	1																								
2037/38	1	15	1	1																								
2038/39	1	15	1	1																								
2039/40	1	15	1	1																								
2040/41	1	15	1	1																								
2041/42	1	15	1	1																								
2042/43	1	16	1	1																								

1 = year of residence

Example IHT: Residence History

Meghan

- 4 out of 20 in 2026/27
- No tail
- IHT exposure from 6 April 2032 if continuing UK resident from 6 April 2026/27

Harry

- 15 out of 20 (but 20 out of 20 when he left in 2020/21)
- IHT exposure on return to UK in 2026/27
- The statute aligns the IHT test to the FIG test, so that 10 consecutive years of non-residence are sufficient to re-set the test
- Needs another 5 years outside the UK until 6 April 2031 to re-set the clock



Inheritance tax exposure

Long-term Residence Test

New inheritance tax rules apply a 10 out of 20-year UK tax residence test for determining long-term residence status.

IHT Tail Period

Inheritance tax liability can extend up to a 10-year tail period after residence ends. Tapered down for tax residence of less than 20 years before leaving the UK. US/UK treaty can override this.

Years of Residence

10–13 years

14–19 years

20 years

Applicable Tail Period

3 years

4–9 years

10 years

Note: Transitional provisions apply for non-domiciled individuals who are non-resident in 2025/26.

Trusts under the new regime

Trusts and Inheritance Tax

- Long-term resident (before UK domiciled) settles a discretionary trust
 - 20% UK inheritance tax charge on settlement
 - Inheritance tax charge (max 6%) on the value of the trust's assets at each 10-year anniversary of the trust
 - Exit charge when capital is appointed out of the trust and/or if settlor ceases to be long-term resident
 - Gift With Reservation of Benefit (GROB) rules apply (assets used by settlor may remain within their estate)
 - Limited grandfathering applies to trusts settled by non-doms prior to 30 October 2024.



US/UK Estate and Gift Tax Treaty



Article 4: Domicile Determination

UK: legal domicile and long-term residence

US:

- Resident (domiciliary)
- National and resident (domiciliary) at any time during the preceding three years

Treaty tie breaker 1: national of one but not the other and not tax resident in the other for 7 out of 10 tax years

Treaty tie breaker 2: similar to income tax treaty (permanent home, COVI, habitual abode, nationality and competent authorities)



Article 5: Taxing rights

To domicile country unless real estate or business assets.

Savings clause for **nationals**

Article 5(4) protects trusts that are set up when settlor was US domiciled and **non-UK national at the trust's creation**.



Article 8(5): Opting into US estate tax

UK nationals may choose to be taxed under US estate tax rules as if they were US domiciliaries or citizens, giving them access to the larger exemption.



Trusts and UK income and capital gains tax

- Trust Residence
- End of Protected Settlements
- Special Temporary Repatriation Facility Regime

Trust Residence

- Determined by the **physical residence of the trustees:**
 - If all trustees reside in the UK, the trust is considered UK resident.
 - If all trustees reside outside the UK, the trust is non-resident.
 - If there is a mix of UK and non-UK resident trustees, the trust will be UK resident provided the settlor was a long-term UK resident at the time the trust was established.



End of Protected Settlements

- The new regulations abolish 'protected settlements,' subjecting trusts fully to anti-avoidance provisions for income and capital gains tax purposes in the case of settlor-interested trusts (subject to the Foreign Income Gains (FIG) regime).
- Differences in the definition of 'settlor-interested' for income and capital gains tax:
 - Income tax: benefits can be received by the settlor, spouse, and/or minor children.
 - Capital gains tax: benefits extend to the settlor, spouse, children, and/or grandchildren of any age.

Special Temporary Repatriation Facility Regime

Capital distributions from trusts made within the three-year TRF period may qualify as TRF if the distribution corresponds to income and capital gains accrued to the trust before 6 April 2025.

Since TRF is not classified as income, inheritance tax exit charges are likely to apply to trust distributions designated under TRF that constitute relevant property.

Other considerations



UK-US Tax Mismatch

LLCs, S Corps, and Family Limited Partnerships (and others) can cause tax mismatches between UK and US tax systems due to differing classifications.

US Living Trusts

Question whether these are settlements for UK tax purposes

Investments in non-UK funds

- Gains taxed as income (up to 45%)
- losses remain capital losses

Insurance

- Gains from life insurance policies taxed even during FIG period
- Manage UK inheritance tax risk via life insurance

US LLC problem



**Limited Liability Company – UK
HM Revenue and Customs view
these as opaque**

No check-the-box option in the UK
Very limited scope to argue that they are
transparent (Anson case)



**Problem 1: LLC is a UK resident
company if it is managed and
controlled in the UK.**

Profits are subject to UK corporation tax.
Possible foreign tax credit on the US tax return
UK corporate reporting



Problem 2: Double tax

UK taxes distribution and does not give a credit
for US tax on the underlying income
US taxes underlying income without credit for
the UK tax on the distribution

Conclusion

Understanding Tax Regimes

A nuanced understanding of changing UK and US tax laws is vital for effective cross-border planning post-2025.

Strategic Planning Importance

Strategic and proactive tax planning helps optimize benefits and avoid common pitfalls in international taxation.

Practical Insights

Using practical insights enables better navigation of complex cross-border tax environments.



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Toby specialises in the field of Private Client Tax, as part of the Trust & Wealth Services department. He enjoys working closely with clients, legal advisers and Family Offices to understand their particular requirements and has a wide breadth of experience, having advised both UK and international clients.

Toby joined Rawlinson & Hunter in 2004, working initially in the Private Client department before transferring to the Firm's Cayman Islands office for several years. He returned to the UK in 2010 and became a Partner in April 2014.

Toby is a Chartered Accountant, Chartered Adviser and a member of the Society of Trust and Estate Practitioners (STEP). He is the holder of an Advanced Diploma in International Trust Management and is a member of PAIAM (Professional Advisers in the Art Market.) He was previously the representative for the City of London on the Worldwide Council of STEP and is a member of the Public Policy Committee.

Toby holds a Diploma in Organisational Leadership from the Said School of Business at the University of Oxford.



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Lisa is a specialist in US/UK tax for private clients and internationally mobile individuals. Her clients have included high-profile c-suite executives, private equity partners, entrepreneurs and large international families. She has knowledge and experience in a wide range of topics from pre-relocation planning, streamlined filing, expatriation, remittance planning to complex tax return compliance and foreign reporting.

Her particular focus and interest is in US/UK cross-border trust and estate planning. Lisa has dealt with compliance and advice for US trusts with UK beneficiaries, non-US trusts with a US owner or US beneficiaries and offshore trust/company structures.

Lisa joined Rawlinson & Hunter in 2023 from a Big Four accountancy firm. She is an Associate of the Chartered Institute of Taxation (CIOT), an affiliated member of the Society of Trust and Estate Practitioners (STEP) and an US Enrolled Agent



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