

Guides

AUGUST 2024

Preparing for the 2025 Legislative Changes: A Guide for Trustees and Corporate Service Providers

This guide is designed to support Trustees and Corporate Service Providers (CSPs) in preparing for the upcoming review of the structures they administer, ensuring effective management for UK tax purposes. It addresses the anticipated changes in legislation to be introduced from 6 April 2025, expected to be confirmed in the Autumn Budget on 30 October.



With significant changes on the horizon, it's vital to review and identify any possible changes needed to the structures you administer. This guide will provide a step-by-step approach to help you navigate the upcoming changes, ensuring compliance and help plan for the optimal tax position for your clients.



Contents

INTRODUCTION	PAGE 1
- Purpose of this Guide & Why This Matters	
GLOSSARY	PAGE 3
- Key Terms and Definitions	
OVERVIEW OF TAX TREATMENT FOR PROTECTED TRUSTS: NOW & LATER	PAGES 3-4
- Comparative Analysis of Current vs. Future Tax Treatments	
- Visual Comparisons (PDF Versions Available Upon Request)	
STEP-BY-STEP GUIDE TO PREPARING FOR THE 2025 LEGISLATIVE CHANGES	
1. Initial Domicile Review for the Settlor	PAGE 4
▪ Understanding the Importance of Domicile	
▪ Steps to Conduct a Domicile Review	
▪ Timeline	
2. Analysis of Capital and Income Pools	PAGES 4-5
▪ Importance of Accurate Capital and Income Pool Analysis	
▪ Steps for Analysis	
▪ Timeline	
3. Planning and Restructuring	PAGE 6
▪ Assessing the Impact of Legislative Changes	
▪ Consideration of Planning Options	
▪ Timeline	
4. Implementation of the Advice	PAGE 7
▪ Execution of the Chosen Strategy	
▪ Steps for Implementation	
▪ Timeline	
5. Further Considerations and Challenges	PAGE 7
▪ Dealing with Multiple Investment Portfolios	
▪ Additional Challenges	
CROSS-REFERENCING OTHER RESOURCES	PAGE 8
- FAQs for Trustees and Corporate Service Providers	
- Insight Articles on Upcoming Legislative Changes	
SUMMARY	PAGE 8
- Key Takeaways and Next Steps	
CONTACT INFORMATION	PAGE 8
- How to Reach Us for Further Assistance	

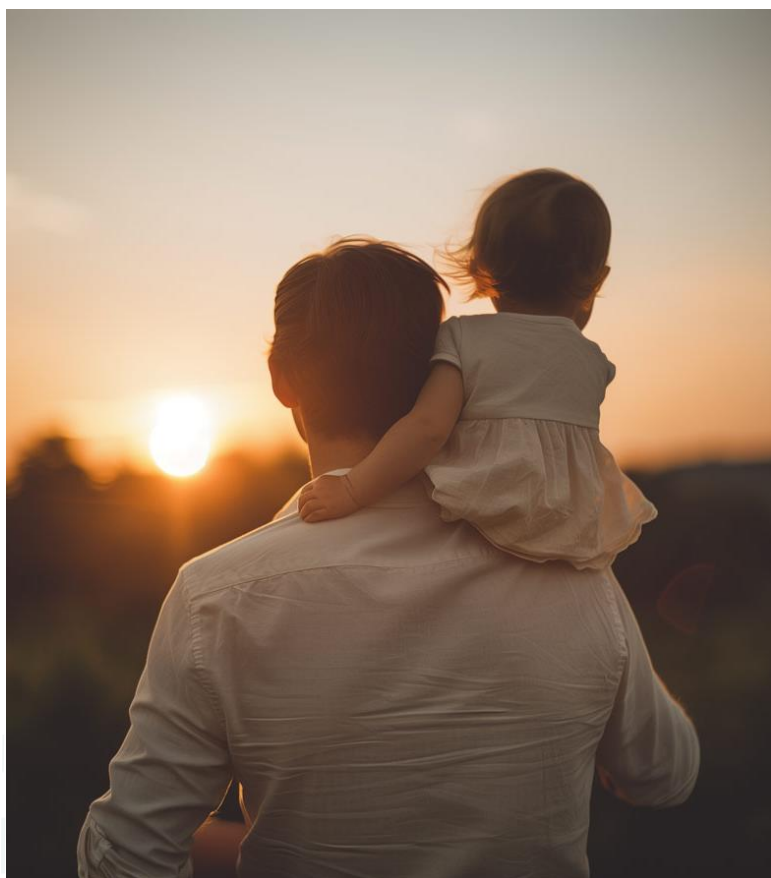


GLOSSARY

- ▶ **Settlor:** The person who creates the trust and contributes the initial assets.
- ▶ **Domicile:** The country that a person treats as their permanent home, affecting their tax liabilities.
- ▶ **Capital Gains Tax (CGT):** A tax on the profit realised from the sale of assets or investments.
- ▶ **Inheritance Tax (IHT):** A tax on the estate (property, money, and possessions) of someone who has died.
- ▶ **Motive Defence:** A legal argument used to prevent gains or income from being taxed by demonstrating the original intention behind the transaction.

Overview of Tax Treatment for Protected Trusts: Now & Later

The following page provides a concise comparison of current trust tax treatments and the anticipated changes that will take effect with the introduction of new legislation following the Autumn Budget on 30 October. The tables on the next page highlight the key differences in Capital Gains Tax (CGT), Inheritance Tax (IHT), and Income Tax treatments for trusts, both pre- and post-April 2025.



It is important for Trustees and Corporate Service Providers (CSPs) to understand these changes as they plan for future compliance and work to optimise tax efficiency within the structures they manage. We strongly recommend a thorough review of these comparisons to identify any necessary adjustments to your existing structures.

IF YOU REQUIRE A PDF VERSION OF THESE TABLES FOR DETAILED ANALYSIS OR PRESENTATION PURPOSES, PLEASE CONTACT US DIRECTLY. OUR CONTACT DETAILS CAN BE FOUND AT THE END OF THIS DOCUMENT.



Comparative Analysis of Trust Tax treatments: Current vs. Future Projections

	Pre-April 2025	Post-April 2025		
	UK Settlor can benefit (and no UK domicile of choice)	UK Settlor can benefit*	UK Settlor cannot benefit*	Settlor is non-UK resident
Capital Gains Tax (CGT)	Trust level gains are 'stockpiled' and matched with distributions or benefits provided to UK residents. Motive defence may prevent company gains from being added to trust gains pool. Assumes settlor remains non-dom and trust has protected status.	Trust level gains are attributed to settlor unless they and children and grandchildren are excluded. CGT motive defence may be available in some cases to prevent company gains being treated as trust gains, and therefore, from 6/4/25, the personal gains of the settlor. Historic stockpiled gains still available for matching to distributions or benefits provided to UK residents.		Trust level gains continue to be 'stockpiled' Motive defence may prevent company gains from being added to stockpiled pool. Treatment in first 4 years of residency TBC
Inheritance Tax (IHT)	Non-UK situs assets settled by a non-dom are completely outside IHT up to 5/4/25. But any UK assets held directly by trustees (and any interests in UK residential property held indirectly) are not excluded but instead attract: <ul style="list-style-type: none">Ten yearly charges up to 6% and exit charges in certain circumstances	Once the settlor has been UK resident for 10 years, entire trust fund expected to attract: <ul style="list-style-type: none">Ten yearly charges up to 6%40% charge upon death of settlor (if UK resident for 10 years) No spouse relief, but reliefs for business assets / debts may apply.	Where the settlor is excluded it is TBC if the 6% charges will apply. 40% charge upon death of settlor will not apply. Reliefs for business assets / debts may apply.	Position will depend on exact years of residency of settlor and detail of legislation, but expected to retain the 'pre-April 2025' treatment until settlor has been UK resident for 10 tax years.

*Generally, a settlor will be considered capable of benefitting if trust property or income will or may become, applicable for the benefit of or payable to a defined person in any circumstances whatever or if any defined person enjoys a benefit directly or indirectly from any trust property or income. Defined persons include the settlor and their spouse and also for CGT purposes it includes adult children and grandchildren who must also be excluded for exclusion to be effective for CGT purposes.



Comparative Analysis of Trust Tax treatments: Current vs. Future Projections

	Pre-April 2025	Post-April 2025		
	UK Settlor can benefit (and no UK domicile of choice)	UK Settlor can benefit*	UK Settlor cannot benefit*	Settlor is non-UK resident
Income Tax - Trustees	Trust taxable on UK income received directly if there is any UK resident who can benefit i.e. they are either: 1. entitled or may become entitled under the trust to receive some or all of the income of the trust; or 2. could receive payments of income, or could benefit from applications of income, in exercise of trustee's discretion.			
Income Tax - Settlor and Beneficiaries	Assuming there is protected trust status, protected foreign source income at trust and company levels is not taxed on the settlor personally. However, UK source income at trust level is taxable on the settlor. UK source income at company level is taxable on the settlor, but subject to the availability of the income tax motive defence. Offshore income gains at trust level are taxable on the settlor, but subject to the remittance basis if available. OIGs at company level are taxable on the settlor but subject to the availability of the income tax motive defence and the remittance basis. To the extent that income and OIGs are not treated as the income of the settlor, they are added to the income and OIG pools respectively and are available to be matched to distributions.	Settlor is taxed on all trust level income (UK and non-UK) regardless of motive defence. Motive defence could still apply to company level income or OIGs arising in the structure - where this defence holds the income and OIGs are not added to the pools. If the motive defence is not available, the settlor is also taxed on all income and OIGs at company level.	Settlor is not taxed on income or OIGs of the structure - but they are pooled and matched with distributions or benefits provided to UK residents. Motive defence no longer in point for settlor only for beneficiaries.	Settlor is not taxed on income or OIGs of the structure. Income and OIGs at trust level are pooled for matching with distributions and benefits. Income and OIGs at company level will be available for matching with distributions and benefits unless the motive defence is available. Settlor's treatment in first 4 years of residency TBC





Initial Domicile Review for the Settlor

01

1.1 Understanding the Importance of Domicile

The domicile of the settlor plays a critical role in determining tax liabilities and structuring decisions. A thorough review is essential to ascertain the correct domicile status, which can influence subsequent steps in planning.

1.2 Steps to Conduct a Domicile Review

Gathering Information: Collect all relevant data concerning the settlor's residency history, intent, and connections to the domicile of origin and domicile of choice. A bespoke question set is needed in each case.

Tax / Legal Consultation: Engage with tax/legal experts to validate the domicile status.

Implications for Tax Purposes: Analyse how the settlor's domicile affects the structure's tax position under the new legislation and the impact on any potential restructuring before 6 April 2025.

1.3 Timeline

- ▶ Early to mid-September: Initial data gathering.
 - ▶ Mid-September to end of October: Legal consultation and final determination of domicile status.
-

Analysis of Capital and Income Pools

02

2.1 Importance of Accurate Capital and Income Pool Analysis

Identifying capital and income pools within trust structures is vital. Accurate analysis will ensure proper tax treatment under the new regulations and support informed decision-making for restructuring.

2.2 Steps for Analysis

Data Collection: Review financial statements, trust accounts, and relevant documentation.

Quantification of Pools: Clearly distinguish between capital and income pools within the trust.

Assessment of Tax Impact: Consider how each pool will be taxed under the new rules and whether any planning is required to mitigate exposure; taking account of beneficiaries' objectives and tax positions.



2.3 Timeline

- ▶ Early October: Collection of data and initial review.
 - ▶ Mid-October to early November: Quantification of pools and impact analysis.
-

Planning and Restructuring

03

3.1 Assessing the Impact of Legislative Changes

Understanding the specific impact of the new legislation on your structures is crucial. This includes identifying opportunities for restructuring to optimise tax efficiency.

3.2 Consideration of Planning Options

Examples of Planning Strategies:

- ▶ Establishing new trust structures.
- ▶ Using life bonds or other financial instruments.
- ▶ Structuring UK or non-UK corporate investment vehicle – Family Investment Company (FIC).
- ▶ Adjusting investment portfolios to align with new tax rules, including rebasing of assets if appropriate.
- ▶ Reviewing the origins of the current structure to determine if income tax and CGT motive defence exemptions may be available.
- ▶ Considering exclusion of the settlor and any pre-exclusion actions.
- ▶ Potential use of the Temporary Repatriation Facility if appropriate.
- ▶ Review residency plans of the Settlor.

Scenario Analysis: Evaluate potential outcomes for different planning strategies to determine the most effective approach.

3.3 Timeline

- ▶ September to October: Tax advice and consultation with client to identify any appropriate potential planning and restructuring options.
- ▶ Early November: Legislative impact assessment.
- ▶ November onwards: Following publication of new legislation, selection and implementation of planning and restructuring.

2024/25 MAY BE THE LAST TAX YEAR FOR BENEFICIARIES TO BENEFIT FROM THE REMITTANCE BASIS. AS SUCH PRE-YEAR-END DISTRIBUTIONS SHOULD BE CONSIDERED NOW.



Implementation of the Advice

04

4.1 Execution of the Chosen Strategy

Once the planning phase is complete, the next step is implementing the chosen strategies. This may involve setting up new structures, revising existing ones, or making necessary adjustments to financial portfolios.

4.2 Steps for Implementation

Documentation: Prepare and file all required legal and financial documents.

Coordination: Work with relevant professionals, including legal, tax, and financial advisors, to ensure smooth execution.

Monitoring: Establish a process for ongoing review to ensure the structures remain compliant and effective.

4.3 Timeline

- ▶ Late November to early March: Implementation phase.
 - ▶ April 2025 onwards: Monitoring and adjustments as necessary.
-

Further Considerations and Challenges

05

5.1 Dealing with Multiple Investment Portfolios

Clients with multiple investment portfolios may face complex challenges in aligning base costs and ensuring tax efficiency across all assets.



5.2 Additional Challenges

Base Cost Considerations: Ensure that base costs are correctly calculated and reported across all portfolios.

Ongoing Compliance: Regularly review structures to remain compliant with any future legislative changes.

Cross-Border Considerations: Address issues related to cross-border investments and potential tax implications in multiple jurisdictions.



Cross-Referencing Other Resources

- ▶ **FAQ for Trustees and Corporate Service Providers** - For specific questions related to the upcoming legislative changes, refer to our detailed FAQ document, which provides answers to common queries and additional guidance.
- ▶ **Preparing Trustees for Upcoming Tax Changes: The Crucial Role of Reviewing Settlor Domicile and Protected Trust status** - Our Insight article offers an in-depth analysis of the proposed legislative changes, providing context and expert opinions on their potential impact. Be sure to review this for a broader understanding of the challenges and opportunities.

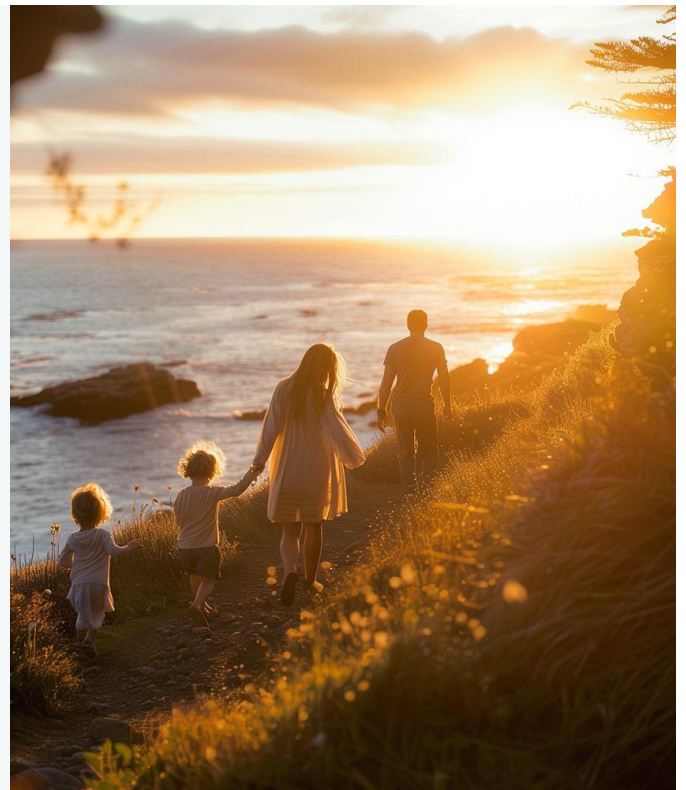
Summary

By following this guide, Trustees and Corporate Service Providers can proactively address the upcoming changes in legislation, ensuring that the structures they administer are optimally managed for tax purposes. Proper planning and timely implementation are key to navigating these changes successfully.

Prepare for 2025 with Trident Tax

At Trident Tax, we are dedicated to guiding Trustees and Corporate Service Providers through the complexities of upcoming legislative changes. Our expert team collaborates with legal, financial, and tax professionals to ensure that your trust structures are optimally positioned for compliance and efficiency.

Whether you're looking to restructure for tax advantages or safeguard assets for future generations, Trident Tax provides the tailored advice and strategic insight necessary to navigate these changes successfully. Partner with us to secure the future of the structures you manage.



TRIDENT TAX

Guiding you through tax complexities.

+44 (0)207 952 2921
admin@tridenttax.com
www.tridenttax.com

This guide is provided for informational purposes only and does not constitute financial or tax advice. It does not replace the need for professional tax advice specific to your circumstances in the UK, and the information is accurate as of the date of this publication.

Registered Office: 25 Bedford Square, London WC1B 3HH Trident Tax Limited is Registered in England No.6945474. VAT Number 977613869