UK Tax Bulletin

July 2025

FIELD COURT TAX CHAMBERS

FIELD COURT TAX CHAMBERS

Contents July 2025

FIELD COURT TAX CHAMBERS

Latest Rates of Inflation and Interest

The following are the latest rates at 31st July 2025

Current Rates	
Retail Price Index: May 2025	402.9
June 2025	404.5
Inflation Rate: June 2025	4.4%
May 2025	4.3%
Indexation factor from March 1982: Frozen at December 2017	2.501

Interest on overdue tax

Interest on all unpaid tax is charged at the same rate.

The formula is Bank base rate plus 4% which gives a rate of 8.25% which applies from 28th May 2025.

There is one exception: Quarterly instalments of corporation tax bear interest at 6.75% from 19th May 2025; interest on overpaid instalments is now 4.00%.

Repayment supplement

Interest on overpaid tax is paid at Bank base rate minus 1% which gives a rate of 3.25% from 28th May 2025.

Official rate of interest: From 6th April 2025: 3.75%

Finance Bill

Anybody hoping for some relaxation in the various measures highlighted by the Chancellor in her earlier announcements will be disappointed by the draft legislation which was published last week.

The draft legislation covers the IHT charge on pensions, the reduction of business property relief and agricultural property relief, and various other things. It is all there.

It has been suggested that there are some concessions on IHT but that is a serious game of hide and seek which is not really worth the bother.

The proposed IHT on pensions might be a bit better. Her general idea is that "unused pensions" will no longer be exempt from IHT – as they have been since the dawn of time, or at least since section 37 Finance Act 1970. They are to be chargeable to IHT at 40% - and then chargeable to income tax of up to 45% when they are paid out. Seriously? Yes, seriously. However, they propose a "relaxation" which is that IHT will not be charged on death in service benefits from registered pension schemes. It would be impolite not to be grateful - and there is still a long way to go before April 2027.

There are also the extensive new provisions about DOTAS and promoters and generally for the avoidance of the avoidance of tax. (This is a bit incongruous when you remember one of the government spokesmen saying, when the complaints came pouring in after the original announcements about IHT, that taxpayers who are affected should take expert tax advice. Well, yes of course.)

The proposed interference with legal professional privilege is bound to be seriously controversial, not least having regard to the Privy Council decision last week in *Jardine Strategic Limited v Oasis Investments II Master Fund Ltd No 2 (Bermuda) [2025] UKPC 34* they reaffirmed the House of Lords judgment in *R (Morgan Grenfell & Co Ltd) v Special Commissioner of Income Tax [2002] UKHL 21*, which described legal professional privilege as :

> "a fundamental human right long established in the common law and a necessary corollary of the right of any person to obtain skilled advice about the law."

I cannot help feeling that adding to the awesome powers already possessed by HMRC on the grounds of expedience, and undermining what the Supreme Court says is a fundamental and long established human right, can hardly be a sensible course of action – but we shall see.

It cannot be long before we have new anti-avoidance legislation, to counter attempts to avoid the anti-avoidance legislation of people seeking to avoid tax. And so on – in true ooly gooly bird fashion.

IHT: Divorce

The recent decision in the case of *Standish v Standish [2025] UKSC 26* has hit the headlines recently probably because of the size of the figures – and also possibly by reason of the tax aspects involved.

The case concerned a gift of £77m by Mr Standish to his wife which was intended to be used to create a trust for the benefit of the children. This was all part of a plan for saving IHT because the husband was about to become deemed domiciled, but his wife was not – so the creation of a trust by the wife would have been excluded property. That was the idea.

Whoops. The wife did not follow through with the settlement for the children and kept the money. In the ensuing divorce proceedings, competing claims were made about who should have the money.

Never mind all that. I am just thinking about the tax. Many people will have made gifts to their spouse in the hope or expectation that the money would be used to establish a trust for their children – but of course only after the donee spouse had taken appropriate advice and made an independent decision on the whole matter.

I can see that some people thinking of doing this will note the case of *Standish v Standish* and want to ensure that the same does not happen to them – possibly by making quite sure that the donee spouse does not have the opportunity to retain the funds for themselves.

They need to be aware that the imposition of any conditions to this effect will completely destroy the intended IHT advantages. It will bring the associated operations provisions in section 268 IHTA 1984 into play and cause the gift to be treated as made by the donor spouse.

The associated operations provisions are very wide, but HMRC accept in their IHT Manual at paragraph 14833 that they cannot generally be applied to an unconditional gift between spouses which is later used to benefit a third party. The key words here are "unconditional gift" because HMRC go on to say:

> "However, where the transfer is part of a more complex series of transactions which taken together are the way one of them makes a disposition to a third party, it may be more appropriate to use the associated operations to allocate the transfer(s) to the correct transferor".

So if, fearful of falling foul of a "Standish" situation, the gift is not genuinely unconditional – and you can be sure of some serious interrogation of the underlying facts by HMRC – then frying pans and fires will be the next thing to worry about.

Trusts: Treaty Residence

The decision of the Court of Appeal earlier this month dealing with the treaty residence of a trust – or more precisely, the place of effective management - may not be of wide interest but it does have some more general ramifications: *Haworth v HMRC [2025] EWCA Civ 822*

Very briefly (and oversimplified) a trust was about to realise a capital gain. The trust was resident in Jersey so the gain would be taxable on the UK resident settlor under section 86 TCGA 1992. So the trust became resident in Mauritius and made the gain there (which was protected by the double tax treaty between the UK and Mauritius). Providing the trust became UK resident after realising the gain but before the end of the tax year, there would be no charge on the settlor. (In case you are wondering why, this was because section 86 only applies if the trust is not resident for the *whole* of the tax year.)

I can imagine what you are thinking – but stay with me; it does get better.

There was no doubt that the Mauritian trustees were resident in Mauritius and that the trust was also resident in the UK for part of the year – and that the trustees genuinely made the decision to realise the gain. Sound pretty good, but that was not enough.

What mattered was whether the trust was resident in Mauritius under the definition in the treaty – and that involved the application of the tie breaker test, and in particular the Place of Effective Management.

The Tribunals and the Court of Appeal all decided that the POEM was in the UK. This was a scheme, devised and directed from the UK and the trustees in Mauritius "were (without impropriety) playing their parts in a script which had been written by others". It was said to be pre-ordained but strangely no reference was made to *Ramsay.* Maybe there was no need.

The corporate test of Central Control and Management and the tests for POEM are remarkably similar but the Court of Appeal were at pains to say they were not the same. One reason was that there could be CMC in two places but the POEM could only be in one place.

One curious (and it seems important) feature of the case is that the POEM is not to be determined by reference to the circumstances at the moment of disposal. However, the trust was resident in Jersey at the beginning of the year and later became resident in Mauritius and before the end of the year became resident in the UK, so one needs to ask when *was* the relevant time for the determination of its POEM?

It seems to me that the time of disposal was obviously the moment of disposal – that is when the gain was made - but because the scheme was devised in and directed from the UK, the POEM was in the UK at that moment. Presumably when the Jersey trustees were replaced by the Mauritius trustees pursuant to the plans, the POEM moved from Jersey to the UK. Maybe the POEM was in the UK the whole time – but that does not look right because if the devising of the tax scheme caused the POEM to be in the place where it was devised and directed, it could hardly have been the POEM before the tax scheme was devised.

Another curious feature is the importance of the advisers. They were situated in the UK and although the Court explained that the location of the advisers could not determine the POEM, it must surely have been a highly influential element.

In the end the Court put all the blame on the settlors who (having taken advice in the UK) then directed the whole operation. This clearly spikes any suggestion that it would all have been OK if they had been advised by foreign resident advisers. However, it places an almost impossible burden on the settlors who (with the greatest respect) were not in a position to do anything other than to suggest to the trustees of the trust (over which they presumably had no power or ability to direct) that they should do what the advisers had suggested.

I wonder what the position would have been if the Jersey trustees had merely alerted the beneficiaries to the fact that a big capital gain was likely to arise and the beneficiaries had asked them to take the necessary advice in order to do something about it. Maybe we will never know.

There could be an appeal of course – but after three adverse decisions, the Supreme Court may feel that Mr Haworth's arguments have run their course.

Crypto - Cryptic

I read a "very interesting" piece in *Taxation* last week.

It raised the question about how to deal with staking rewards from a DeFi platform and transfers to a cold wallet, moving the private key to offline storage.

I have to admit that I am not very clear about this.

A reader helpfully suggested that if the staking involved transferring the beneficial ownership of tokens it could trigger a CGT disposal before the receipt of any staking rewards.

Nope. Still a bit hazy.

I tried Google Translate but it could not identify what language was being used here – but it does sound much better if you say all these words in Italian.

Peter Vaines
Field Court Tax Chambers
31st July 2025

FIELD COURT TAX CHAMBERS

Contact

Peter Vaines
Field Court Tax Chambers
3 Field Court
Gray's Inn
London WC1R 5EF
Tel: 020 3693 3700
pv@fieldtax.com
www.fieldtax.com

Important Note