



## Excluded Property Trusts and Inheritance Tax

The benefits and flexibility delivered by trusts make them a highly attractive option for clients across the globe. Trusts provide a flexible solution for the protection and distribution of personal, family and institutional assets. Although Trusts are used in a wide variety of situations, the Excluded Property Trust is an example of a more specific application and, in this case, for UK Inheritance Tax planning.

### Background

As a general principle, UK domiciled individuals are subject to Inheritance Tax on their worldwide estate. The UK Inheritance Tax position is, however, more favourable for those individuals with UK non-domiciled status.

For those individuals who are UK non-domiciled, assets are only within scope of UK Inheritance Tax if they are UK situs assets and personally held. Assets not situated in the UK are considered to be "excluded property".

An important aspect of the UK inheritance tax regime is that an individual is deemed to be domiciled in the UK for inheritance tax purposes when they have been UK resident in 17 out of 20 years. For the long term UK non-domiciled resident the concept of "deemed domicile" is therefore a very important factor, which gives rise to a very important need to consider possible opportunities to protect assets for the future benefit of dependents.

### Features of Excluded Property Trusts

An Excluded Property Trust is an offshore Trust with favourable Inheritance Tax treatment. It would be established in Guernsey under the provisions of The Trusts (Guernsey) Law, 2007.

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Excluded Property Trusts can offer significant advantages in Inheritance Tax planning.

HMRC guidance states "that property situated abroad and held in a settlement is excluded property unless the settlor was domiciled in the UK at the time the settlement was made".

A UK non-domiciled individual may therefore wish to consider a settlement of assets into an Excluded Property Trust. The Trust would ordinarily be established prior to the settlor of the assets becoming UK "deemed domicile" for Inheritance Tax purposes.

As the settlor's domicile status is only considered at the time of the disposition of assets, it does not impact upon the Trust if they later acquire "deemed domicile" status (although both the original settlement and all further dispositions should always be made under the guidance of specific professional tax advice).

### Advantages

- Allows an individual to maintain the excluded property status of foreign assets and therefore provides a shelter from UK Inheritance Tax
- Allows wealth to be preserved for the benefit of future generations
- To the extent that the assets of the Trust do not include UK situs assets no 10 year charge to UK inheritance tax will arise.

### For further information contact

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Please note Ardel Trust Company (Guernsey) Limited are not tax advisors and it is essential for all interested parties to consult their own professional advisors on all tax and legal matters in connection with the establishment of such an arrangement. We would be delighted to make introductions to professionals familiar with the establishment of Excluded Property Trusts to assist and provide the necessary professional tax and legal support.