

# Trust considerations for international clients

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# Agenda

- Looking at nil rate bands and transferable nil rate bands
- Why use a trust?
- Overview of trusts and trust suitability
- What is residency and how is it established?
- What is domicile and how is it established?
- Excluded Property Trust



# Nil Rate Bands

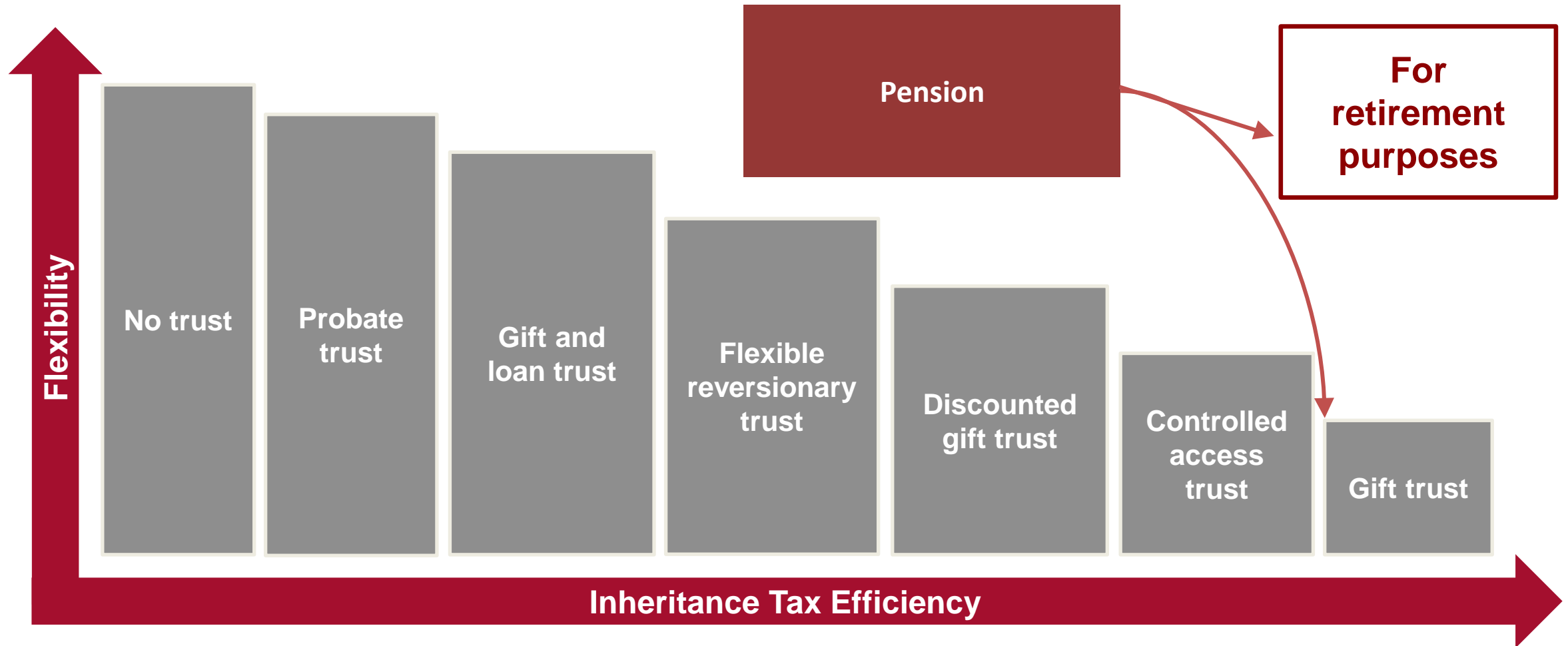
- **Standard Nil Rate Band**
  - Non-Domicile spouse/civil partner
- **Resident Nil Rate Band**
  - Qualifying criteria
  - Estates over £2m



# Why use a trust?



# Flexibility v Inheritance tax efficiency



# Residency

# Residency

- **Country where you pay tax**
  - 183 days for UK Residence
  
- **Statutory Residency Test- 5 test**
  - automatic overseas tests
  - automatic UK tests
  - sufficient ties test
  - application of the SRT to deceased persons
  - split years
  - [RDR3: Statutory Residence Test \(SRT\) notes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/rdr3-statutory-residence-test-srt-notes)

# Domicile



# Domicile of origin

- **Acquired at birth by reference to parents**
  - Father's domicile is acquired
  - Mother, if not married or father died before birth
  - Adopted children acquire from adoptive parents
- **Revived if a domicile of choice or dependency is lost.**



# Domicile of dependency

- **Children under the age of 16**
  - Domicile from the parent from whom they initially acquired their domicile of origin
  - Changes if parent acquires new domicile
  - Parents separated
- **Individuals of any age who lack sufficient mental capacity so are not regarded as having full legal capacity**
- **Women married before 1 January 1974**
  - Acquired husband's domicile on marriage
  - Domicile of dependency on 1 Jan 1974 became domicile of choice.

# Domicile of choice

## ■ Two key elements

- Physical presence in the territory concerned
  - Generally means fixing residence
- Intention to remain there permanently or indefinitely
  - In this context, to remain until the end of his/hers days
- Leaving is not sufficient, need to acquire new domicile
- Need to acquire a new domicile in order to lose UK-domicile status

## ■ Establishing non-UK domicile status

- Legal opinion
- HMRC guidance
  - <https://www.gov.uk/hmrc-internal-manuals/residence-domicile-and-remittance-basis/rdrm23080>

# There is another status of domicile ...

- **Deemed UK domicile**
- **When a non-UK domicile has been resident in UK for 15 out of previous 20 tax years**
  - Will pay UK income tax, capital gains tax and inheritance tax like a UK domicile
  - From their sixteenth year of residency
  - Will lose deemed status once non-UK resident for six consecutive years
    - Concession for IHT - deemed status is still lost after only three tax years
- **Double Taxation Treaties**
  - France, Italy, India and Pakistan
- **Planning is essential before becoming deemed UK domicile.**

# Taxation residency and domicile

# Arising and Remittance

## ■ Arising basis

- UK tax on worldwide income and gains
- Charged to tax in the year in which it arises overseas

## ■ Remittance basis

- UK tax on income and gains arising or accruing in the UK
- UK tax on any overseas income and gains when the income or gains are remitted to the UK
- Why doesn't everyone use the Remittance Basis?



# Remittance basis of taxation

- **Alternative basis of taxation in respect of foreign income and gains only**
  - Available to non-UK domiciled UK residents
- **If overseas income and gains exceed £2,000, can elect to use remittance basis**
- **Benefit**
  - Only pay UK tax on overseas income and gains remitted to the UK
    - Direct or indirect remittance
- **Remittance basis charge in lieu of tax**
  - £30,000 when UK resident for seven out of previous nine years
  - £60,000 when resident for 12 out of previous 14 years
- **Other issues**
  - No personal allowance or capital gains tax exemption.
  - [RDRM30000 - Residence, Domicile and Remittance Basis Manual - HMRC internal manual - GOV.UK \(www.gov.uk\)](#)

# Tax position - residency and domicile

Status	Income tax and capital gains tax	Inheritance tax
<b>UK resident / UK domicile</b>		
	Arising basis on worldwide income and capital gains	On worldwide assets
<b>Non-UK resident / UK domicile</b>		
	Arising basis on any UK income and capital gains	On worldwide assets
<b>UK resident / non-UK domicile</b>		
	Choice between arising and remittance bases	On any UK situs assets
<b>Non-UK resident / non-UK domicile</b>		
	Arising basis on any UK income and capital gains	On any UK situs assets



# Excluded Property Trust

# Who what and why?

- For non- domiciled individuals before acquiring UK Domicile or deemed domicile
- Assets put into the trust must be non-UK assets or excluded property
- Protects assets from UK inheritance tax.
- Settlor and spouse included as beneficiary(ies)
- Settlor must be non-UK domicile at inception
- Do not add to the settlement once client has become domiciled or deemed domiciled in the UK
  - Whole trust could lose excluded property status
- Income arising from trust, taxable if UK resident
  - No personal allowance
  - Investment Bond as asset?

# Support

- Range of support material
  - Brochures
  - Newsletters
  - Technical Eye
  - Briefing notes
  - Budget summary
  - Tech-casts
- Account Manager support
- ican Technical Services
  - [www.canadalife.co.uk/ican](http://www.canadalife.co.uk/ican)



# [ Thank you ]

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