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Expats may find their partner inherits a higher tax bill than they had bargained for

SCOTS living abroad have been advised to tread carefully when making inheritance tax calculations. While those emigrating can save considerably on IHT liabilities in taking on a new domicile, the amount of money they can transfer to a non-UK domiciled spouse is reduced significantly.

Under rules introduced in the Finance Act last month, married couples and civil partners can transfer the unused part of their IHT nil rate band – the value of their estate not liable for IHT, currently up to £312,000 – to their surviving civil partner or spouse when they die.

But for those with a foreign domicile, the spouse exemption for IHT on transfers to a non-UK domiciled spouse is just £55,000.

Although the level of the nil rate band for IHT has been gradually increased, the government has refused to consider increasing the £55,000 limit to non-UK domiciled spouses. Karen Reid, associate director of CFG Wealth Management in Glasgow, said: "It is important to remember that just because someone has left everything to the surviving spouse, it does not mean that all the transfer would have been exempt from IHT."

Reid cited the following example: Anne and Bill Jones left the UK to retire in Spain 20 years ago. Bill died three years ago and then Anne became ill, but remained in Spain until a year ago. When she became more ill, Anne returned to the UK, where she died. Given that she returned to the UK, for the purposes of IHT mitigation it was assumed that her original domicile was revived.

But it is not that straightforward. If they were both UK domiciled at the time of his death, when everything was left to Anne, there would have been no IHT due to spouse exemption. But as Anne was not domiciled in the UK, the exemption would have been only £55,000 and anything above it would have fallen within Bill's nil rate band, so either reducing or wiping out the amount of the nil rate band available to transfer.