

The Herald

Q&A

Q My parents left the UK 20 years ago to retire in Spain. They never intended to come back to the UK, however my father died three years ago and my mother returned to Scotland last year when she became terminally ill. Following her recent death, we are trying to sort out her estate. Can you advise whether the fact that my parents had retired to Spain will have any bearing on inheritance tax calculations?

A When an individual is UK domiciled all their worldwide assets are taken into account for IHT purposes. If they are non-UK domiciled only the assets situated in the UK come into the IHT net.

The downside to having a foreign domicile, however, is that the spouse exemption for IHT on transfers to the non UK domiciled spouse is limited to £55,000.

If your father had been UK domiciled and left everything to her, there would have been no IHT due on his estate as a result of the inter-spouse exemption.

If your mother had also been UK domiciled at that time, your father's full nil-rate band can now all be transferred to your mother.

Given that your mother returned to the UK, it is likely that her domicile of origin was revived. However, if at that time of your father's death your mother was not domiciled in the UK, the inter-spouse exemption is limited to only £55,000 and any bequest above this amount would have gone against your father's nil-rate band, so reducing (possibly to nil) the proportion of the residual nil-rate band available for transfer to your mother.

Although the level of the nil-rate band has been increased over the years well above inflation, the government has refused to consider increasing the limit of £55,000 to non-domiciled spouses.

That's why it is important to remember that just because someone has left everything to the surviving spouse, it does not mean all transfer would have been exempt from IHT.

Question answered by Karen Reid, associate director of Glasgow-based CFG Wealth Management.