The Finance (No.2) Act 2024 and some outstanding tax announcements

Synopsis: The Spring Finance Act 2024, the Finance (No.2) Act 2024, which was hurriedly passed into law just before Parliament was prorogued. However, there was not time for Parliament to deal with some changes announced at the Spring 2024 Budget.

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The Finance (No.2) Act 2024 was passed into law on 24 May, legislating for tax changes announced at the Spring 2024 Budget.

What has become law?

Measures in the Act include increasing the threshold for the High-Income Child Benefit Charge (HICBC) from £50,000 to £60,000, and doubling the band over which the HICBC operates to £20,000 (i.e. from £60,000 to £80,000). The result is that, from 6 April 2024, 1% of child benefit is lost for each £200 of income over £60,000.

In addition, the capital gains tax (CGT) higher rate for taxpayers who dispose of residential property fell from 28% to 24% with effect from 6 April 2024.

The CGT annual exemption was halved from £6,000 to £3,000 for the tax year beginning 6 April 2024, as this had already been set into motion in an earlier Finance Act, as was the reduction in the dividend allowance to £500 in 2024/25.

It was announced, in the 22 November 2023 Autumn Statement, that the account opening age for any adult ISA would be harmonised to 18 from April 2024 and the regulations came into force on 6 April 2024. So, the age at which a cash ISA can be held has increased from 16 to 18, except in relation to individuals who were 16 or 17 years old on 5 April 2024 (and who have not subsequently reached the age of 18) who can continue to have, apply for or transfer a single cash ISA account. The transitional arrangements end at midnight on 5 April 2026.

At 5 April 2024, if an individual was 16 or 17 and did not have an existing cash ISA, they will be eligible to apply for, and subscribe to, a single cash ISA in any tax year until their 18th birthday. Where an individual aged 16 or 17 holds an existing cash ISA, they may continue to subscribe to it or transfer it to another cash ISA after 6 April 2024.

The main rate of Class 1 National Insurance (NICs) payable by employees reduced to 8% from 6 April 2024. The main rate of Class 1 NICs applies to earnings for most employees between £12,570 and £50,270, above which Class 1 NIC is due at 2%.

For the self-employed, Class 4 NICs are payable at the main rate on self-employment profits between £12,570 and £50,270. From 6 April 2024, the main rate of Class 4 NICs fell from 9% to 6%. Class 4 NICs remain payable at 2% on profits above £50,270. Self-employed individuals have also previously had to pay

Class 2 NICs at a weekly flat rate (£3.45 per week from 6 April 2023) where their profits are greater than the Lower Profits Limit (£12,570). From 6 April 2024, payments of Class 2 NIC are no longer required, potentially saving the self-employed £179.40 over the tax year. Class 2 NIC now only remains on a voluntary basis for those earning under the Small Profits Limit of £6,725. All of these NIC changes had already been passed into law by earlier NIC Acts.

Registering a claim for Child Benefit, but then opting not to receive it, is the only way to avoid paying the HICBC and its associated administration, while preserving NICs entitlements. On 28 April 2023, the previous Government announced it would legislate to introduce a route for people to apply for NIC Credits for parents and carers for tax years where they have not claimed Child Benefit, to ensure that people do not miss out on their State Pension entitlement.

In January 2024, it published an update, saying that individuals would be able to claim this Credit from April 2026 and that eligibility for the Credit would be closely based on Child Benefit eligibility criteria. Transitional arrangements were promised, to ensure those affected since the HICBC was introduced, from January 2013, would still be able to claim. The Credit would add qualifying years of NICs where eligible, which would support future State Pension eligibility.

Going forward, applications would be available for six years following the relevant tax year. The then Government said that it would bring forward secondary legislation as soon as possible. It was becoming unclear when, or if, this change would go ahead. (Nevertheless, any parents who have not claimed Child Benefit should consider claiming it.)

However, The Social Security (State Pension Age Claimants: Closure of Tax Credits) (Amendment) Regulations 2024 are now set to come into force on 8 June 2024.

For 2023/24, up to the first £1,000 of gross discretionary trust income was generally taxed at the standard rate (unless more trusts were created by the same settlor), i.e. 20% or 8.75% as appropriate. The £1,000 standard rate band was abolished from 6 April 2024. From that date, trusts with income up to £500 will not pay tax on that income as it arises. If income exceeds £500, income tax will be due on the full amount of income.

Where a settlor has created a number of trusts, the £500 limit will be proportionately reduced for accumulation & maintenance trusts and discretionary trusts by the total number of the current trusts to a minimum of £100. Interest in possession trusts, settlor-interested trusts, vulnerable beneficiary trusts, heritage maintenance trusts and certain pension schemes will not be taken into account.

A concession that trustees will not need to notify HMRC of savings interest income, or make payments under informal arrangements, if the trust has no other income and the tax liability on the savings interest income is under £100, came to an end on 5 April 2024.

All of these trust taxation changes had already been passed into law by an earlier Finance Act.

The abolition of stamp duty land tax (SDLT) multiple dwellings relief (MDR) went ahead from 1 June 2024, having been included in the Act. Property transactions with contracts that were exchanged on or before 6 March 2024 will continue to benefit from the relief regardless of when they complete, as will any other purchases that were completed before 1 June 2024.

For transactions which are linked and include the purchase of dwellings both before and after the change, those pre and post change transactions will be treated as unlinked for the purposes of MDR. This relief has enabled purchasers of multiple properties to pay SDLT based on the average value of multiple dwellings purchased in the same transaction or in linked transactions. MDR, therefore, reduced the overall liability, by applying a lower rate to the total amount paid. (Note this does not affect the position in Scotland or Wales where devolved land transaction taxes apply.)

What future changes are now in doubt?

HICBC reform

The Spring Budget announcement of a plan to administer the HICBC on a household income-based system rather than on an individual basis, by April 2026, did not make any progress before Parliament was prorogued, so it’s unclear if this change will go ahead. (Prorogation brings to an end nearly all Parliamentary business.)

As a reminder, the charge currently applies to the partner with the higher income and has often been criticised for not being very fair – as, for example, two people earning, say, £59,000 each would not be subject to the charge compared to one person earning £80,000, with their partner not working, where the full Child Benefit would effectively be lost.

The abolition of the furnished holiday letting (FHL) regime

The announcement in the Spring Budget that the FHL regime was to be abolished from April 2025 said: “The government will abolish the Furnished Holiday Lettings tax regime, eliminating the tax advantage for landlords who let out short-term furnished holiday properties over those who let out residential properties to longer-term tenants. This will take effect from April 2025. Draft legislation will be published in due course and include an anti-forestalling rule. This will prevent the obtaining of a tax advantage through the use of unconditional contracts to obtain capital gains relief under the current FHL rules. This rule will apply from 6 March 2024.”

To qualify as a FHL, the property is let on a short-term basis and certain conditions need to be met in relation to the days the property is available and the days it is let. Historically, FHL businesses have benefitted from a number of income tax and CGT reliefs that are typically only available to trading businesses.

Currently, those who use the FHL regime can deduct the full cost of their mortgage interest payments from their rental income, so this deduction would no longer be available. Instead, this would have to be claimed as a tax reducer, at 20% of the mortgage interest costs. This would therefore exclude these costs from being eligible for higher rate tax relief. FHL property owners would also lose the right to deduct costs of fixtures and fittings from their income. Instead, relief might be available for the replacement of domestic items in line with the rules for long-term property lets.

Currently, profits from FHLs are treated as relevant earnings for pension contributions. Tax relief for personal contributions is limited to contributions of the higher of £3,600 or 100% of relevant UK earnings. FHL income would therefore no longer be considered for this purpose. The measure would also result in the loss of any potential CGT Business Asset Disposal Relief (BADR), hold over relief or roll over relief.

However, the measure was not included in the Finance (No.2) Bill (now Act) 2024 and no information was published as to what the anti-forestalling rule would be. Various professional and trade bodies made representations and there was a brief Westminster Hall debate on 1 May in which MPs highlighted issues in their own constituencies where either holiday accommodation is a key part of the local economy, or where holiday properties and second homes reduce the available residential housing stock for local people.

It is now uncertain whether the FHL regime will in fact be abolished after the General Election and, if so when and what the anti-forestalling rule will actually try to forestall.

Non-dom reforms

The announcement in the Spring Budget that the current remittance basis of taxation would be abolished for UK resident non-domiciled individuals from 6 April 2025, as would the determination of the scope of a person’s chargeability to UK inheritance tax (IHT) based on domicile, said this would be replaced with a new foreign income and gains (FIG) regime.

From 6 April 2025, individuals in their first four years of UK residence that were non-UK resident in the ten years prior to commencing UK residency could qualify for the new regime. Qualifying individuals would not pay tax on FIGs arising in the first four tax years after becoming UK tax resident and would be able to bring these funds to the UK free from any additional charges.

Under the new regime, individuals would not be required to track the movement of their FIGs through investments in the way they are required to do now under the current regime. Individuals who, on 6 April 2025, have been tax resident in the UK for less than four years (after ten years of non-UK tax residence) would be able to use this new regime for any tax year of UK residence in the remainder of those four years.

Claims to use the new four-year FIG regime would have to be made for each year to which it is to apply. If an individual chooses to be taxed under the new four- year FIG regime, they would lose entitlement to personal allowances and the CGT annual exempt amount – so in the same way as those currently claiming the remittance basis of taxation.

From 6 April 2025, an individual who has been UK resident for four years or more, would be subject to UK tax on their worldwide income and gains.

Transitional relief provisions would be effective from 6 April 2025, for some individuals that would be adversely affected by the abolishment of the non-dom regime...

- For the 2025/26 tax year, individuals who have claimed the remittance basis and are neither UK domiciled nor deemed UK domiciled on 6 April 2025 would only be subject to UK income tax on 50% of their non-UK income arising during the tax year. This would only apply for one year, so from 6 April 2026 the full amount of non-UK income would be subject to UK income tax. These individuals would also be able to elect to rebase any non-UK assets held personally on 5 April 2019 to their market value on this date. Although this rebasing would be subject to other conditions, which were not set out.
- For the 2025/26 and 2026/27 tax years, individuals who claimed the remittance basis in earlier years (whether UK deemed domiciled or not) would be able to remit personally arising non-UK income and gains protected under the remittance basis to 5 April 2025 at a flat rate of 12%. There would be some relaxation of the mixed fund ordering rules to make this simpler for individuals, but the details of this weren't published.

It is understood that individuals that have been UK tax resident for more than ten years would be subject to UK IHT on their worldwide assets, with a provision to keep the individual within the UK IHT net for ten years after leaving the UK. An individual's UK situated assets would continue to be subject to IHT regardless of residence or domicile.

Offshore trusts created by non-UK domiciled settlors

From 6 April 2025, the protection from taxation on future income and gains as they arise within trust structures (whenever established) would be removed for all current non-UK domiciled and deemed UK domiciled individuals who do not qualify for the new four-year FIG regime. FIGs arising in non-UK resident trust structures from 6 April 2025 would be taxed on the settlor or transferor (if they have been UK resident for more than four tax years) on the arising basis. This is the same basis on which trust income and gains are taxed on UK domiciled settlors or transferors under the current regime.

What this means, in practice, is that a settlor of a non-UK resident trust could have a significant UK tax liability on that trust's assets if they remain resident from 6 April 2025. The chargeability to UK IHT of non-UK assets within settlements created after 6 April 2025 would depend on whether the settlor meets the ten-year UK residence criteria or is within the ten-year tail provisions having left the UK when the assets are settled or when charges occur, such as ten-year anniversary charges or exit charges.

The treatment of non-UK assets settled into a trust by a non-UK domiciled settlor prior to April 2025 would remain excluded property. This might have presented a window of opportunity for non-UK domiciles who have currently been living in the UK for fewer than 15 years or who are planning to move to the UK in the imminent future and remain UK resident for longer than four tax years, to set up an excluded property trust, as these trusts would continue to be outside the scope of IHT.

However, the announcement of a General Election has meant that the plans for reform have effectively been abandoned as they were still at consultation stage, and the Finance (No.2) Bill (now Act) 2024 was stripped of the relevant clauses in the “wash up” in which it was hurried through the legislative process prior to the prorogation of Parliament.

Reports in the Press, prior to the General Election announcement, suggested that an incoming Labour Government would scrap two relieving elements of these Budget proposals: the first year (2025/26) temporary 50% exemption for the taxation of foreign income; and the IHT exemption for excluded property trusts settled before 6 April 2025.

It will be interesting to see what proposals we end up with, whoever wins on 4 July.

Consultation on a new UK ISA

The proposed introduction of an additional ISA, where individuals would be able to invest £5,000 per year tax-free in UK-based assets, in addition to the current £20,000 subscription limit for existing ISAs was subject to consultation with no firm timeframe for when this product would hit the market. It’s unclear if this will go ahead.