

# FINANCE ACT 2013

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## EXPLANATORY NOTES

### INTRODUCTION

#### *Section 177: Election to Be Treated as Domiciled in United Kingdom*

##### Summary

1. [Section 177](#) introduces provisions by which an individual who is, or has been, married to, or in a civil partnership with, someone who is domiciled in the UK can elect to be treated as domiciled in the UK for the purposes of inheritance tax (IHT).

##### Details of the Section

2. Subsection (2) adds a new subsection (5) to section 267 of IHTA. To apply section 267 it is necessary to determine the domicile status of an individual. New subsection (5) provides that any such determination is to be made without regard to new sections 267ZA and 267ZB (inserted by subsection (3)).
3. New subsections 267ZA(1) to 267ZA(4) provide that a person, or the personal representative for the person, may elect to be treated as domiciled in the UK for the purposes of Inheritance Tax (IHT) if they meet the required conditions.
4. New subsection 267ZA(5) specifies that the election in subsection (1) does not affect a person's domicile for the purpose of Government securities free of tax while in foreign ownership and certain other types of savings.
5. New subsection 267ZA(6) provides that an election is to be ignored when interpreting or applying Estate Duty Conventions and Double Taxation Agreements which determine the domicile of an individual.
6. New subsection 267ZA(7) explains that for the purposes of subsection 267ZA(6)(b), a qualifying double taxation relief arrangement is an arrangement which was made before this section comes into force and is specified under section 158 in an Order in Council but does not include arrangements which were subsequently specified by way of amendment to an existing Order in Council following the coming into force of the subsection.
7. New subsection 267ZA(8) provides that in determining whether or not a person is qualified to make an election, their domicile status is to be determined without regard to any deemed domicile treatment which occurs by virtue of section 267 IHTA.
8. New subsection 267ZB lays out how an election is made; the time period in which it must be made; that on the date specified in the notice the elector must have been married or in a civil partnership with their UK domiciled spouse or civil partner; that an election made under the new provisions cannot be revoked; and the circumstances under which an election will cease to have effect.

## **Background**

9. IHT charge is based on domicile status. UK-domiciles pay IHT on their worldwide assets, whereas non-domiciles only pay IHT on their UK assets
10. Transfers between spouses and civil partners, whether gifts made during a person's lifetime or transfers on the death of one of the couple, are generally exempt from IHT.
11. Where the spouse or civil partner to whom assets are transferred does not have a UK domicile, transfers are capped at £55,000. This cap is intended to address the risk that an individual whose domicile is outside of the UK, could remove assets abroad following an IHT-exempt transfer from their UK-domiciled spouse or civil partner to escape any IHT on their subsequent disposal.