Non-residents: did you know that owning certain assets can trigger inheritance and/or gift tax in some countries?

Inheritance, estate and gift taxes are a form of taxation that is levied on the transfer of wealth from one person to another. Property owners know that owning real estate in a foreign country can subject them to inheritance or gift taxes in that country. It is less commonly known, however, that owning foreign financial instruments – such as stocks, bonds, investment funds, alternative investments and other financial instruments – can also trigger tax liabilities in jurisdictions that levy taxes based on the "situs" of such assets, meaning where they are deemed to be situated for local tax purposes. The following table shows the inheritance, estate and gift tax situation in three jurisdictions: US, UK and France. However, please note this information is not limited to these countries alone and may have broader relevance. If you have any specific inquiries, we advise you to check with your tax advisor.

	US	France	UK
Who is concerned?	Non-US tax residents who are not US citizens and who hold US situs assets.	Non-French tax residents who hold French situs assets. The scope for taxation can be even broader for French resident beneficiaries (i.e. heirs and recipients of gifts).	Non-UK domiciled individuals who are not deemed domiciled and trustees of discretionary trusts who hold UK situs assets.
What assets are subject?	Under US estate tax, "US situs assets" typically include: • tangible assets • stocks • certain debts • cash deposited in the United States However, most bonds and American Depository Receipts (ADRs), for example, are not considered US situs assets. The scope of taxation for gift tax purposes for non-US residents, who are also non-US citizens are only subject to gift tax on tangible personal property and real estate situated in the US.	"French situs assets" typically include: • shares or securities registered or traded in France • cash deposited in France, (including fiduciary placements with France-domiciled financial institutions)	"UK situs assets" typically include: • shares and securities registered in the UK (principally or exclusively) • bank accounts maintained at a UK branch • simple contract debts with a UK resident debtor • interests in partnerships that conduct business in the UK Determining the situs of property for inheritance tax purposes under UK law can be complex.
Available exemptions (2024)	$60,000 exempted from estate tax. $18,000 exempted from gift tax. The above exemptions may be increased if there is an applicable double tax treaty in place.	**Married/civil partners:** inheritances are fully exempt. Gifts are taxable but benefit from a tax free exemption of €80,724. **Parents/children:** €100,000 per parent, per child . **Brothers/sisters:** €15,932 **Nieces/nephews:** €7,967 **Others:** €1,594 (only applicable for inheritance)	£325,000 per testator/donor which renews every 7 years in the case of gifts. A complete exemption between spouses or for "business property", which can include shares in AIM (Alternative Investment Market) companies in certain conditions.

	US	France	UK
Applicable tax rate (2024)	Progressive from 18% to 40% above $ 1 m (irrespective of the family relationship). Applicable on any value over and above the tax-free exemptions.	Married/civil union partners: 0% inheritances) and 5% to 45% (gifts) Parents/children: 5% to 45% Brothers/sisters: 35% to 45% Nieces/nephews: 55% Others: 60%	40% which can be reduced to 36% where sizeable amounts are left to UK registered charities. A different rate and charging regime applies for lifetime gifts and transfers into trusts with the applicable rate reducing from 40% to 0% depending on the relevant circumstances.
Filing requirements and liability	If the deceased owned US situs assets, the executor of their estate is required to file an estate tax return with the IRS. This obligation exists even if the deceased was not a US citizen or resident. The tax return must be filed within 9 months of death, unless an extension to file is granted. Penalties can apply in the event of late filing and late payment.	An estate tax return must be filed in the 12 months following the death, in cases where the deceased was tax resident abroad at the time of death. Any inheritance tax should be paid at the same time as filing the return. A gift tax return must be filed, in duplicate, by the beneficiary within one month of reporting the gift to the tax authorities. The gift tax usually has to be paid at the time of filing. Late payment and/or late filing can result in penalties and interest.	An estate tax return must be filed by the executor of a non-domiciled individual in the event that the estate included UK situs assets. The return should be filed with HMRC within 12 months of the month in which the death occurred. Any inheritance tax must be paid by the end of the 12th month after the month in which the death occurred. Interest will start to accrue after 6 months.
Relevance of tax treaties	The purpose of double tax treaties is to allocate taxing rights between the jurisdictions party to the treaty and avoid or mitigate double taxation.		
Treaties covering estate tax and gift tax (2024)	Australia, Austria, Denmark, France, Germany, Japan, and United Kingdom.	Austria, Canada, Germany, Guinea, Italy, New Caledonia, Portugal, Saint-Pierre-et-Miquelon, Sweden and the United States.	The existing treaties do not apply to gifts, but unilateral relief granted by the UK may be available.
Treaties covering only estate tax and inheritance tax (2024)	Canada, Finland, Greece, Ireland, Italy, the Netherlands, Norway, South Africa and Switzerland.	Algeria, Bahrain, Belgium, Benin, Burkina Faso, Cameroon, Canada, Central African Republic, Congo, Finland, Gabon, Ivory Coast, Kuwait, Lebanon, Mali, Mauritania, Monaco, Morocco, Niger, Oman, Portugal, Qatar, Saudi Arabia, Senegal, Spain, Togo, Tunisia, the United Arab Emirates and the United Kingdom.	France, India, Ireland, Italy, the Netherlands, Pakistan, South Africa, Sweden, Switzerland and the United States.

Being exposed to a foreign financial market does not necessarily mean owning (directly or indirectly) securities issued on that market. Therefore, it is crucial to seek careful advice when selecting investments.

The responsibility for filing the relevant returns and ensuring the tax is paid typically falls to either the executor, administrator or heirs of the deceased, depending on the relevant jurisdiction. It's important to note that inheritance tax laws and procedures can vary between jurisdictions. Therefore, it is advisable to consult with a qualified tax professional or attorney to ensure compliance with the specific requirements of the relevant jurisdiction.

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