

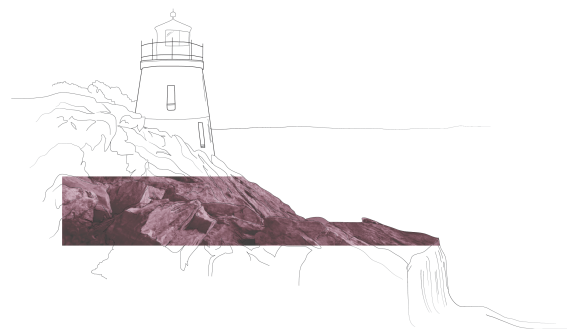
## SPECIALTY DEBTS & SITUS RULES – IS THIS A RAID?

On 23rd January 2013 HMRC announced it has changed its view about the location of specialty debts. This announcement was made without consultation and was simply marked by a change in the wording at IHTM27079, their manuals.

There are concerning technical and procedural elements here: it is acknowledged that there has not been any legal precedent or case which could have led to a change in the long accepted position here – we are, in the absence of any explanation, simply witnessing a change in HMRC's view. The lack of explanation and consultation is deeply concerning on a procedural front.

So, what have HMRC announced? They have amended the IHT manual to say that they now believe the situs of a debt is where the debtor resides, where previously it was accepted the situs was where the deed was held.

This change will have IHT implications, a knock-on effect for users of the Remittance Basis and also have major CGT implications. For example, if a non-domiciled individual made a transfer to an offshore settlement before the amendment, this will now be treated as a chargeable transfer.



The view now being taken by HMRC means that the ten year charge could be levied on the value of the specialty debts made to UK resident beneficiaries, as these loans would not be considered excluded property. This charge is currently 6% of the total trust UK asset value, over the nil rate band, which is currently £325,000.

Until the debate on these changes has taken place, trustees and beneficiaries should seek professional advice to determine whether they are affected, and if so, the potential cost and risks involved.