

Where in the world

Tax issues surrounding residence and domicile.

Since 2002 the Treasury has been saying that it is reviewing the tax rules relating to residence and domicile. Some of those rules have recently changed, and this sheet briefly explains those and the rules which remain unchanged. Firstly here are a few definitions that will help in understanding those rules.

Residence

In order to be a UK resident for tax purposes you must be present in the UK for 183 days or more in any one tax year; or make visits to the UK averaging more than 91 days per year over four years. You are considered to be present in the UK on a particular day if here at midnight.

Ordinary Residence

To be 'ordinarily resident' in the UK, you must either have been or intend to be resident in the UK for at least 3 years, so this is something of a subjective test.

Domicile

Your country of domicile is usually your father's country of birth, which is referred to as a domicile of origin. This can be altered by only by making another country your permanent home, and severing all ties with your 'homeland'.

What are the tax consequences?

If you are leaving or coming to the UK for a substantial period of time it is usual to complete certain forms for submission to HM Revenue & Customs and there are also forms that can be completed in order to obtain the Revenue's opinion as to where they consider you are domiciled. Advice should be sought specific to your circumstances. It is also advisable to seek advice if there is any possibility that you may be taxed in another country.

Income Tax Treatment

For UK domiciled individuals this is dependant on whether you are UK resident and ordinarily resident and the type of income in question. Some of your income might be taxed on a remittance basis, which means that it is only subject to UK if it is brought into the UK rather than kept offshore. In some circumstances it is possible for the tax treatment of your income to change part way through a tax year.

From 6 April 2008, a person who has been UK resident for 7 years and at the same time not UK domiciled will either have to pay UK tax on their worldwide income and gains as they arise, rather than on a remittance basis, or alternatively pay £30,000 per year to the Revenue and tax on any income or gains remitted to the UK.

Capital Gains Tax

The application of UK Capital Gains Tax usually depends on your residence and ordinary residence, domicile and whether or not it is a UK asset on which a gain arises. (See above for the changes from 6 April 2008).

Inheritance Tax

If you are domiciled in the UK then your assets are subject to UK Inheritance Tax wherever they are. If you are not UK domiciled you will usually be taxed as though you are UK domiciled in the UK if you have been resident in the UK for at least seventeen out of the last twenty tax years. There are exceptions with some countries.

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Contact details:

For more information or to discuss any specific queries please get in touch with Sarah Axe or your usual contact in the first instance.

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