

Residence and Domicile - A Summary

This is a complex and detailed area of tax. The summary and information contained in this document is a simple overview of basic principles. We set out some of the factors you may wish to consider.

Tax residence is broadly the country that the tax authorities around the world believe is the country where the tax authorities believe is effectively your home. You may spend time in other countries in the tax year, but you are generally only resident in one country at a time. There is a concept of dual residence for some unusual circumstances.

If you are tax resident in the United Kingdom, then you are liable to taxation on your worldwide income. There are double taxation agreements with individual countries which may require you to pay tax in those countries. You will not pay tax twice as you will usually be able to offset any tax you have paid in one country against tax that you have paid in another country subject to restrictions.

Domicile

Domicile is a legal concept that is relevant for tax purposes if an individual has non UK income or gains. We acquire a domicile of origin when we are born it is usually the domicile of our father if our parents are married. Until a child is 16 their domicile status is closely linked to the domicile of the person they depend on.

After this point it is possible to change our domicile. Perhaps we move to another country and wish to make that our home. The tax authorities require a very high level of proof to prove that we have indeed changed our domicile.

Deemed Domicile

If we have been living in the United Kingdom for a number of years a concept of deemed domicile arises. In essence, if you have lived in the United Kingdom as a UK tax resident for at least 15 of the last 20 tax years you will be regarded as deemed domiciled in the UK for income tax and Capital Gains Tax purposes.

If you return to the UK to become a UK resident in a tax year, having been born in the UK and had a UK domicile of origin but later emigrated and acquired a foreign domicile, you will then be regarded as being deemed domicile in the UK.

Domicile why does it matter ?

In general terms, a UK tax resident is liable to income tax on their worldwide income subject to certain specific reliefs. However, if an individual is not domiciled in the United Kingdom, they can take advantage of an option known as the remittance basis.

The remittance basis allows you to only bring into UK tax liability. Only amounts you actually remit to the United Kingdom. In effect only foreign income that you bring into the United Kingdom will be taxed.

If you don't opt for the remittance basis, then you are taxed on the arising basis. What this means in general terms, is the year that you earn the income regardless of where it is earned it will be taxed in that year. A UK tax resident who is resident but a non-domiciled person can gain a significant tax advantage by claiming this relief.

Therefore, the UK Government have introduced a charge where the Individual is claiming the remittance basis of taxation. If you have been resident for 7 of the last 9 tax years then you are liable for a tax charge of £30,000. If you have been resident for 12 of the last 14 tax years then you are liable for a tax charge of £60,000

Remittance

- *If the non domicile is claiming the remittance basis then clearly only that overseas income is taxable in the UK which is remitted.*
- *If they don't claim remittance basis then the non domicile is liable to tax on the arising basis on their worldwide income.*
- *Deemed domicile is based not on how many years claims for remittance basis you have made. It is based on the number of years you have been resident in the UK.*

Therefore, anyone claiming the remittance basis needs to keep an eye on how many years they have been resident in the UK.

Conclusions

If you are using the remittance basis of taxation you must carry out detailed calculations before each tax year ends to ensure that you are making the most tax efficient choice. You need to take separate advice for inheritance and Capitals Gains Tax.

In all matters relating to residence and domicile you must take advice before the tax year has ended. This allows us to provide you with the best options. If you seek advice after the tax year has ended, we can only advise you of the consequences of the actions you have taken.

Should you have any queries, please do not hesitate to contact us

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