

Residence and Domicile

A very short introduction

Briefing note

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This is a very simplified overview of a complex area. Always seek specific professional advice for your own circumstances.

KEY TERMS

Who is UK resident?

A person who spends:

- 183 days in the UK in any one tax year (6 April to 5 April) OR
- an average of 91 days in the UK per tax year (measured over a rolling four year period) OR
- maybe fewer than 91 days in the UK per tax year if he/she has substantial ties with UK (for example, family or business).

A person who has tried to stop being UK resident but has failed to make a “clean break” from the UK

Who is domiciled within the UK?

A person will be domiciled within the UK if

(a) they have a domicile of origin here and they have not subsequently acquired a domicile anywhere else (a person usually has a domicile of origin within the UK if their father was domiciled here when such person was born) ; or

(b) they have acquired a domicile of choice within the UK by coming to the UK to live and deciding to make it their permanent home.

(Note that to be treated as domiciled under the above rules a person must be domiciled in a particular part of the UK – England and Wales, Scotland or Northern Ireland).

Who is UK deemed domiciled (only relevant for inheritance tax)?

A person who has been UK resident in 17 out of the past 20 tax years

A person who has been UK domiciled at any time in the last three years

UK TAX EFFECT OF RESIDENCE AND DOMICILE

Who is liable to UK income tax?

A person who is UK resident and domiciled within the UK: is taxed in the UK on their worldwide income (subject to any relief under a double tax treaty or any other available relief)

A person who is UK resident and not domiciled within the UK: is EITHER taxed on both (a) UK income and (b) non-UK income brought in (“remitted”) to the UK if the person is a “remittance basis user” (which will usually involve an annual payment to the UK Revenue of £30,000 once the person has been resident within the UK for seven years) OR taxed

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on worldwide income (subject to treaty relief etc) if not a “remittance basis user”. If the person holds residential property in the UK through a “trust/company” structure then there might be a special income tax charge applicable to them by reference to their use/occupation of such property.

A person who is non-UK resident: is taxed on (some) UK source income only. Such a person can bring non-UK income into the UK freely.

Who is liable to UK capital gains tax?

A person who is UK resident and domiciled within the UK: is taxed in the UK on worldwide gains (subject to treaty relief etc)

A person who is UK resident but not domiciled within the UK: is EITHER taxed on (a) UK gains and (b) non-UK gains brought in (“remitted”) to the UK if such person is a “remittance basis user” (which usually involves an annual payment to the UK Revenue of £30,000 once the person has been resident within the UK for seven years) OR taxed on worldwide gains (subject to treaty relief etc) if not a “remittance basis user”.

A person who is non-UK resident: is not subject to capital gains tax at all (even on disposals of UK assets). Such a person can bring non-UK gains into the UK freely.

Who is liable to UK inheritance tax?

A person who is domiciled within the UK or is UK deemed domiciled: is subject to inheritance tax on all worldwide assets at a rate of 40% on death (above any available nil rate band, currently up to £325,000). Such a person can leave assets to a UK domiciled or deemed domiciled spouse free of tax. He/she cannot leave many assets free of tax to non-domiciled or non-deemed domiciled spouse (£55,000 limit on spouse exemption). It is very difficult for him/her to create most trusts without upfront 20% tax charge.

A person who is non-UK domiciled and non-UK deemed domiciled: is liable to inheritance tax only on assets located in the UK. Such a person can establish trusts of non-UK assets without inheritance tax charge. He/she can leave UK assets to his/her surviving spouse on death without inheritance tax charge.

More information

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