

Immigration

UK Taxation - Foreign Nationals and Companies

Individuals

Three concepts are relevant for determining liability to personal tax in the UK. These are residence, ordinary residence and domicile.

There are also three main taxes which are of most concern to individuals, namely income tax, capital gains tax and inheritance tax.

A. Your Status

So far as the status of a tax payer is concerned:

1. Residence

Your residence status is determined largely by the number of days you spend in the UK in each tax year (which commences 6 April). The main rules are:

- (i) If you are in the UK for more than 183 days you will be resident.
- (ii) If you are in the UK for more than 90 days a year on average over a four year period you will be resident.
- (iii) You may be resident if you are here for less than 183 days in the light of the particular facts of your personal circumstances and connection with the UK.

There are particular provisions applying to the situation where you leave the UK or arrive here, which depend on the circumstances surrounding your departure or arrival.

2. Ordinary Residence

This implies a somewhat more permanent or habitual connection with the UK than simple residence, although if you are resident on a regular basis that will point to ordinary residence as well. The pattern of your life and your intentions are as significant as the number of days you spend here in determining this question.

3. Domicile

In UK law, domicile denotes the country to which a person has a long term, permanent connection, in other words where he or she belongs. The domicile can be acquired at birth, by marriage (if before

1974) or by choice, in other words by moving permanently to another country. An existing domicile is hard to change; a move to another country must be intended to be permanent to effect a change of domicile. The question of domicile is particularly difficult to determine and professional advice is advisable.

For inheritance tax purposes, there is a concept of deemed domicile which is where a person has been resident in the UK for 17 out of the previous 20 years. Because three categories of status are involved, there is a variety of combinations of status, with differing tax treatments applying to different types of income or asset.

B. Taxation

1. Income Tax

UK source income is always taxable. Non-UK source income will be fully taxable if you are resident and ordinarily resident; not taxable at all if you are non-domiciled and not resident; and between these extremes taxation will be on the basis of remittance of funds to the UK.

2. Capital Gains Tax

All UK assets are taxable, unless you are neither resident nor ordinarily resident (regardless of domicile). Assets situated abroad are taxed similarly, except that if you are non-UK domiciled you would only be taxed on disposals to the extent that the proceeds were remitted to the UK (in other words on the remittance basis).

3. Inheritance Tax

If you are domiciled or deemed domiciled in the UK, worldwide assets are taxable. If you are neither domiciled nor deemed domiciled, then only UK situated assets are taxable. Non-domiciled persons coming to the UK have considerable opportunity to shelter assets from UK Inheritance Tax, by the use of trusts established outside the UK whilst the tax payer is still non-domiciled.

More detailed information on the concept of domicile and its importance for Inheritance Tax can be found in our Information Sheet entitled Domicile.

Companies

A company resident in the United Kingdom, or a branch or permanent establishment of an overseas registered company which is resident in the United Kingdom, is liable to tax on its chargeable profit. If the company is incorporated anywhere in the United Kingdom then it is a UK resident. A company registered outside the United Kingdom can be resident inside the United Kingdom if its central management and control are located in the United Kingdom.

Prior to relocating in the United Kingdom, individuals must adhere to very strict time limits and keep careful records of the time they spend in the United Kingdom. They should also retain supporting evidence such as hotel receipts, receipts from travel agents, airline and boat tickets.

It can also be advantageous to avoid acquiring a domicile in the United Kingdom. We will be happy to advise further on request.

It is essential that clients obtain full and relevant advice relating to their own circumstances before locating in the United Kingdom.

The law and practice in these areas is complicated, and proper professional advice is essential. These comments are intended as a summary only and should not be relied on as they stand as a basis for any particular course of action.

For further information please contact Peter Radula-Scott on Tunbridge Wells (01892) 510000 Email: peter.radula-scott@ts-p.co.uk