

Personal tax in the UK: an introduction



1. Introduction

1.1 Individuals in the UK are subject to three main categories of direct tax: income tax, capital gains tax (“CGT”) and inheritance tax (“IHT”). Application of these taxes depends on the residence and domicile of the individual, as is demonstrated in the examples below and explained more fully at paragraphs 2-6 of this note.

Example 1: a non-UK resident, non-UK domiciled individual owning UK real estate

1.2 In this case, any income (such as rent) which arises from the UK property will be subject to UK income tax. As the property is UK based, it will also form part of the individual’s estate for IHT purposes. This means that on death, the property will be subject to a 40% IHT charge.

Example 2: a non-UK resident, non-UK domiciled individual who visits the UK regularly

1.3 If the individual is non-UK domiciled and non-UK resident, they will only be taxed on any income arising in the UK. However, if, by spending too many days in the UK, they become UK resident, the individual will be taxed on their income and gains arising in the UK and on any foreign income and gains unless they elect to be taxed on the “remittance basis”; in which case only income or gain brought into the UK will be taxed.

1.4 Should the individual become UK domiciled or deemed domiciled (due to the length of time they are a UK resident), then IHT will be chargeable in relation to certain lifetime transfers (for example, into a trust) and at 40% on the individual’s worldwide estate on death.

2. Residence

2.1 Residence is a concept based on physical presence in the country. The basic position is that if you spend a total of 183 days or more in the UK during the tax year or if you spend an average of 91 days per tax year in the UK over 4 years, you will be tax resident in the UK.

2.2 However, care needs to be taken as spending less time in the UK than mentioned in 2.1 will not automatically lead to a conclusion of non-UK residence, as other factors linking the taxpayer to the UK will be considered. How often and for how long you are present in the UK, the purpose and pattern of your presence and your connections to the UK will all be relevant. Advice should be sought if you are in any doubt as to your residence position.

3. Domicile

3.1 Broadly speaking, an individual’s domicile is where he has his “permanent home” and intends to live permanently or indefinitely. Long-term residence may be a factor in determining domicile but it is not in itself sufficient.

3.2 At birth, your domicile of origin will be based on the domicile of your parents (primarily your father). This domicile of origin can be displaced by the acquisition of a domicile of dependency (if your parents acquired a new domicile whilst you were under 16) or a domicile of choice (if you reside in another country with the intention to reside there permanently and indefinitely). However, if you lose a domicile of choice by moving to a different country without forming the intention of living there permanently and indefinitely, your domicile of origin will revive if not replaced by a new domicile of choice.

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3.3 It is also important to note that you can become “deemed domiciled” in the UK if, for example, you have been resident for 17 out of the last 20 tax years.

4. Income tax

4.1 If you are resident and domiciled in the UK, you will be subject to income tax on your worldwide income as it arises.

4.2 If you are resident but not domiciled in the UK, you will be taxed on your income arising in the UK but you can elect to be taxed on the “remittance basis” in respect of foreign income, which means that you will only be taxed on the foreign income you bring into the UK. If you have been in the UK for 7 of the last 9 tax years, there is a charge for using the remittance basis of £30,000. This is due to rise to £50,000 for those who have been in the UK for 12 years or over.

4.3 If you are not UK resident, you will only be liable to income tax on any UK source income.

5. Capital gains tax

5.1 If you are resident and domiciled in the UK, you will be subject to CGT on gains realised on disposals anywhere in the world.

5.2 As for income tax, if you are non-domiciled but resident in the UK, you can elect to be taxed on the remittance basis, which will mean that you are only taxed on the gains arising from disposals when you bring those gains into the UK. All gains realised on disposals in the UK will still be subject to UK CGT.

5.3 If you are non-domiciled and non-resident, you will be outside the scope of UK CGT. This differs to income tax, which can apply to non-UK residents.

6. Inheritance Tax

6.1 IHT is charged at 40% on estates in excess of £325,000 on death and at 20% on certain lifetime gifts.

6.2 If you are UK domiciled or UK deemed domiciled, you will be liable to UK IHT on your worldwide estate. Residence is irrelevant for IHT purposes.

6.3 If you are not UK domiciled, any UK assets will be subject to IHT.

6.4 Transfers between spouses are generally free of IHT. However, there is a limit of £55,000 on transfers from a UK domiciled spouse to a non-UK domiciled spouse.

6.5 Reliefs are available to reduce IHT. The most important of these are business property relief and agricultural relief.

7. Planning

7.1 For the person investing in the UK or temporarily moving to the UK, it is possible to eliminate or significantly reduce many of these tax risks by the correct structuring.

7.2 The most effective tax planning is usually done prior to an investment being made or a move to the UK, so advice should, if possible, be sought at an early stage.

7.3 If you would like further guidance on tax planning opportunities please get in touch with one of the key contacts named on the first page.

Please note that this is only a brief summary of complex tax provisions and that you should not act on it before taking full advice.

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