

Residency and Domicile for Individuals Factsheet

Summary

The concepts of residency and domicile are crucial in determining the extent of the taxability of an individual.

Residency

A statutory definition of residency was introduced from April 2013. Essentially, an individual's residency will be determined by the number of days they spend in the UK in a tax year, with the day requirement changing according to how many connections they have with the UK, e.g. a home here, family and business commitments.

Domicile

An individual is domiciled where they consider their permanent home to be. The domicile of an individual is initially determined by that of their father, unless their parents were not married, in which case it is their mother's domicile that counts. However, an individual can obtain a 'domicile of choice' by moving to a country and making it their long-term home, whilst cutting all ties with their previous domicile.

From April 2017, an individual who does not have a UK 'domicile of choice' (i.e. they were UK domiciled at birth) will be 'deemed domiciled' if they have been UK resident for 15 of the last 20 tax years. In addition, if an individual has a domicile of origin in the UK, they will be deemed UK domiciled if they have been UK resident for one tax year.

Income tax

An individual who is resident in the UK is subject to tax on their worldwide income.

If an individual is UK resident but not UK domiciled, the remittance basis can be claimed, in which case non-UK income will only be taxed if it is remitted to the UK. If

the remittance basis is claimed, the personal allowance (and the CGT annual exemption - see below) is lost.

Note, once an individual has been UK resident for 7 of the previous 9 tax years, a charge of £30k is payable in order to use the remittance basis; once an individual is resident for 12 out of the previous 14 tax years, this charge rises to £60k, then 17 out of 20 years, the charges rises to £90k but only for 2015/16 and 2016/17.

If non-UK resident, an individual is only taxed on UK income. This will be at basic rate for savings income, with effectively no tax payable on dividends, unless the individual opts to file a tax return, thereby claiming the personal allowance and paying at the marginal rate.

CGT

As for income tax, a UK resident individual will pay CGT on all gains unless they are non-domiciled and the remittance basis is claimed, in which case only remitted proceeds from UK gains will be taxed, but the annual exemption will be lost.

For non-UK residents, CGT is not payable on gains made in the UK, unless on the disposal of a UK residential property or by a branch carrying out a trade in the UK.

Where an individual has been non-UK resident for less than five years and returns to the UK, CGT will be payable on any gains made during the period of non-UK residency, if the asset was owned before becoming non-UK resident.

IHT

An individual who is UK domiciled is subject to IHT on all of their estate. If non-UK domiciled, this is limited to UK sited assets.

Planning

There is lots of planning to be done around whether an individual wants to be UK resident or not. We can advise on how many days an individual should be in the UK to ensure they are not UK resident or the opposite dependent on their situation. The new rules are very complex and based on case law so advise should always be gathered in this area.

There is also planning available where a spouse is not domiciled in the UK for IHT purposes, which can save a significant amount of tax depending on your circumstances.