

# PARTNERS WEALTH MANAGEMENT

AN INTRODUCTION TO

## Domiciles

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Every year a significant number of individuals and families relocate abroad, whether this be leaving the UK or settling in this country. Whatever clients' reasons for moving, there are numerous things to consider particularly in relation to taxation and, therefore, your financial planning. This guide is one in a series providing an overview of key topics within this area, in this case particularly focusing on the issue of domicile status.

Incorrect understanding of your status or failure to properly arrange your finances from the outset, can have lasting adverse consequences. In addition, failure to understand the rules and correctly submit tax returns to HMRC, can result in considerable fines. For individuals not originally UK domiciled however, explicit allowances have been present in the UK tax system, aimed at attracting individuals, talent and investment into the UK.

Since 1914, the concept of domicile and the accompanying rules about offshore income and assets have been tweaked a number of times, but very much remain present in HMRC's rule book. Having a good grasp of the rules and applying careful planning and management of your finances can offer significant benefits for years and potentially generations.

### Residence versus domicile

A key consideration for any individual moving abroad relates to the difference between the terms 'residence' and 'domicile', and the impact this has on a person's potential tax liability. It is extremely important to know how the two terms differ in order to fully understand any financial obligations, as making an incorrect assumption regarding your tax status can ultimately result in severe financial consequences. However, in practice doing so is not a particularly straightforward exercise.

### What is residency?

For tax purposes, this might have a very different definition to what you might otherwise assume. In the UK, for example, you can be considered resident for tax purposes even if you have spent as little as 16 days in the country. Fortunately, a Statutory Residence Test has been introduced in the UK, in order to provide greater clarity for individuals when determining their residence status. More information on this is available in our UK Residence guide.



### What is domicile?

Domicile is a legal concept that refers to the country in which an individual has, or is presumed to have their permanent home. It is not the same as nationality, citizenship or residence, and will not necessarily be the country in which someone was born, or the country where they are currently living. An individual can change their domicile when they become an adult, but it is only possible to have one country of domicile at any one point in time. For some, ascertaining their domicile may be a straightforward process, but for those with connections to more than one country, it may be more complex and require specific advice.

### Why is domicile important?

An individual's domicile is important because it affects a number of their rights and obligations. In particular, domicile is used to determine someone's tax position including their liability to income tax, capital gains tax and inheritance tax (IHT), both in the UK and their country of residence. It also has significant ramifications in relation to the succession of assets, and could, therefore, determine how an individual's estate is passed on in the event of their death, particularly if they own property or financial assets in foreign jurisdictions.

### Domicile of origin

Everyone is automatically assigned a domicile at birth which, if their parents are married, will typically be the country their father considered to be his permanent home when the child was born. If their parents were not married, they may acquire their mother's domicile, although this can vary depending on individual circumstances. This is known as a domicile of origin and will continue unless a new domicile is acquired. Even if someone moves abroad, their domicile is unlikely to change unless specific actions are taken to do so. Until the age of 16, a child's domicile will remain dependant on their relevant parent.





## Domicile of dependence

Before the Domicile and Matrimonial Proceedings Act 1973, married women's domicile followed their husbands, however, they are now determined independently.

## Domicile of choice

After the age of 16, an individual who goes to live in a foreign country can change their domicile provided they satisfy a number of criteria and are able to provide evidence of each one. The criteria for changing to a domicile of choice are varied but, as an absolute minimum, will require someone to be physically present in that country and have a fixed and settled intention to live in the new location permanently or indefinitely. Each case is judged on its personal merit but changing domicile of origin is not easy, partly because the standard of proof that is required to establish a domicile of choice is extremely high.

## UK resident non-domiciled

An individual might therefore be UK resident for tax purposes, but not necessarily UK domiciled. If they retain a foreign domiciliary, they can elect to be taxed in the UK on a different basis, such as only being subject to tax on UK situs assets or UK derived income. Therefore, there may be benefits for those with substantial non-UK assets and in our Remittance Basis guide we look at using the remittance basis of taxation which is an option available to non-domiciled individuals.

Other benefits might include the ability to exclude foreign property from UK IHT, and the potential to utilise planning options such as an Excluded Property Trust (EPT).

## Deemed domiciled

A further complication for individuals who are long-term UK resident non-domiciles, or for British expats, relates to the concept of deemed domicile. We previously established that an individual can only hold one domicile at a time, however, UK legislation created the concept of

being 'deemed domicile'. If applied, this deems the individual to be UK domiciled for UK tax purposes. This might be the case even if the individual's true domicile remains unchanged. In other words, even if someone is not domiciled in the UK, HMRC can still treat them as UK domiciled if they fall with certain rules such as:

- you were domiciled in the UK within the last three years; or
- you were resident in the UK for at least 15 out of 20 UK tax years.

 We're here to help

Seeking expert advice is essential to maximise tax efficiency and ensure you are not inadvertently missing opportunities, or incorrectly reporting your circumstances. We are on-hand with the knowledge and experience to help clients with a range of international and multi-jurisdictional needs. To discuss your circumstances, contact Head of International, Nathan Prior, on 020 7444 4053, or by email, [nprior@partnerswealthmanagement.co.uk](mailto:nprior@partnerswealthmanagement.co.uk).



## Latest update

We recommend that your personal circumstances and planning is regularly reviewed as rules do change over time. The latest significant changes were announced in 2015 and came into effect on 6 April 2017. Possibly the most significant was the reduction of years needed to trigger the 'deemed domicile' rules from 17 out of 20, down to just 15 out of 20. Not only does that mean you become deemed domicile quicker, it also means that it takes more than five years to lose this status.

The other notable changes were that returning expats with a UK domicile of origin can no longer benefit from non-domicile rules and become UK domiciled immediately on return to the UK,

even if they had acquired an alternative domicile of choice.

This means that for some, the advice they took some years ago when leaving the UK may no longer be effective or valid and needs to be reviewed.

The other item that families should be aware of is the change to treatment of UK residential property, which is now always subject to inheritance tax, even if owned by a non-UK domiciled individual. Additionally, transferring the property to a company or trust is also unlikely to shield the property from IHT rules and so structures holding UK residential property should also be reviewed to ensure they achieve the desired outcome.

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