

PARTNERS WEALTH MANAGEMENT

AN INTRODUCTION TO

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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.

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 individuals 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, please contact us on 020 7444 4030 or email info@partnerswealthmanagement.co.uk



Latest update

We recommend that your personal circumstances and planning is regularly reviewed as rules do change over time. In October 2024, the Chancellor confirmed in the Autumn Budget that the government will be abolishing the tax rules for non-UK domiciled individuals, replacing them with a residence-based regime from 6 April 2025. The new regime moves away from the sometimes vague concept of domicile to the more direct determination of residence to determine UK tax status. Part of the changes mean new UK residents will not pay tax on foreign income and gains for four years, but thereafter will pay the same tax on their foreign income and gains, regardless of their domicile status. The new

regime includes other significant changes affecting trusts and Inheritance Tax that will require a detailed review for both existing and future UK residents.

This guide is based on the current rules applicable until April 2025. We will publish new guides reflecting the incoming rules in due course. In the meantime, please contact us if you are a “non-domicile” and/or a former remittance basis user.

It is important that if you have questions regarding the new rules, or if you have historical offshore income and gains, you come and talk to us.

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