

Moving to the United Kingdom – UK tax issues

We have helped to advise individuals moving to the UK, including those moving to the UK from Hong Kong. Anyone looking to relocate or invest in the UK needs to have a clear understanding of the UK tax system and should consider pre-arrival tax planning a priority. Rooks Rider Solicitors LLP provides specialist UK tax advice.

WHAT IS THE SIGNIFICANCE OF RESIDENCE AND DOMICILE?

Your residence and domicile status will ultimately determine how much UK tax you pay. Your residence status will affect how you are treated when it comes to Income Tax and Capital Gains Tax (“CGT”), whilst generally your domicile determines your exposure to Inheritance Tax (“IHT”). If you are not domiciled in the UK, you may be able to avoid Income Tax and CGT on your overseas assets. Generally, and in its simplest form, residence relates to where you live but residence for tax purposes will depend on a number of factors; including the number of days you spend in the UK. Determining domicile can be complex. Domicile usually (but not always) relates to where you were born. This is known as your Domicile of Origin. However, you may establish a domicile of choice if you move to a country where you have decided to settle permanently. There is also the concept of deemed domicile whereby individuals who have been UK resident for at least 15 out of the previous 20 tax years are deemed domiciled. This is discussed in more detail below, but specialist advice is always needed.

WHY IS MY RESIDENCE STATUS IMPORTANT FOR UK TAX PURPOSES?

Your residence status defines how much UK Income Tax and CGT you pay. Generally, non-UK residents are only liable to UK tax on income from UK assets but would not usually be subject to CGT; even if they sell a UK asset. (The main exception to this would be on the sale of an interest in UK Real Estate).

WHEN WILL I BE SEEN AS A UK TAX RESIDENT?

Residence is determined by working through the Statutory Residence Test or SRT – a framework put in place for HMRC to work out if you qualify for non-resident status. The SRT lays out the necessary rules which must be followed to determine your residence status. You should keep good records of how long you spend in the UK and overseas to help with any tax planning.

IS UK RESIDENCE BASED ON THE NUMBER OF DAYS I SPEND IN THE UK?

The number of days you spend in the UK is an important factor but other issues, such as where you work, whether you have a home in the UK and whether your family live in the UK are also relevant. Essentially the SRT divides taxpayers into three separate possible categories, each with their own rules:

- (1) those considered automatically non-resident;
- (2) those considered automatically resident; or
- (3) those who need to review ties with the UK and the amount of time in the country.

WHAT ARE THE TYPES OF UK TAX ISSUES I SHOULD WATCH FOR WITH HMRC?

It is important to know the date you became UK tax resident for tax reasons, and this date may be different from your actual date of moving, so it will be important to be aware of any consequences arising.

Due to the fact that you will usually be considered UK tax resident for the full UK Tax Year the sale of an asset before you arrive could be subject to CGT. There are also wide ranging rules which affect all interests in UK Real Estate. Moving to the UK will not necessarily affect your liability to IHT. All UK assets (including indirect interests in UK residential property) are subject to IHT, even if you are non-UK resident. If you become domiciled or deemed domiciled in the UK your worldwide assets will be subject to IHT.

WHAT IS SPLIT YEAR TREATMENT AND SHOULD I CLAIM IT?

The UK Tax Year runs from 6th April to 5th April and if you are UK resident under the SRT you will usually be considered resident for the whole tax year. Helpfully, when returning to or leaving the UK you may be able to split the tax year into two parts. This allows you to split the tax year into two separate parts – one when you are UK resident and one when you are non-resident, so in this way you are allowed to maintain a UK non-resident status until the date you arrive in the UK rather than simply becoming UK resident at the start of the tax year in which you arrive to the UK. There are eight different situations or cases, each with their own specific criteria which are allowed, so seeking specific advice is always advisable.

IS THERE ANYTHING I SHOULD BE AWARE OF IF I BUY PROPERTY IN THE UK?

A non-UK resident purchasing residential property in the UK is subject to a 2% surcharge on Stamp Duty Land Tax (“**SDLT**”) from 1 April 2021. This additional 2% can be reclaimed if you subsequently spend sufficient days in the UK to qualify as being UK resident. There is also 3% SDLT surcharge for the acquisition of second homes or investment properties. The rules are complex and advice should be sought on your circumstances.

WHAT ABOUT UK TAX FILING REQUIREMENTS?

It will be important to ensure you complete and file a UK tax return every year declaring any UK tax liabilities you may have. The UK tax system is complex if you are non-UK domiciled in the UK and have foreign income and gains. In this situation an individual is taxed either on the “arising basis” or the “remittance basis”. It is possible to change between the arising and remittance basis of taxation each tax year. This is explained briefly below.

WHAT IS THE ARISING BASIS?

An individual who is resident and domiciled (or deemed domiciled) in the UK will pay UK tax on the arising basis. This means they will pay UK tax on their worldwide income and gains regardless of whether they bring the income or gains to the UK.

An individual who is resident and not domiciled in the UK will have the choice of being taxed on the arising basis or remittance basis of taxation.

If you have foreign income and gains the arising basis of taxation can be complicated because you report your worldwide income and gains in the UK, but may need to claim a credit for taxes paid outside of the UK. However, by paying tax on the arising basis you may be entitled to benefit from the Income Tax personal allowance and the CGT annual exemption.

WHAT IS THE REMITTANCE BASIS?

An individual who is resident but not domiciled in the UK (nor deemed domiciled) may be able to choose the Remittance Basis of taxation to exclude their foreign income and gains from the scope of UK taxation.

By using the Remittance Basis of taxation, you pay UK tax on UK sourced income and gains, but only pay UK tax on foreign income and gains if they are brought (remitted) to the UK. There may, however, be a cost to claiming the Remittance Basis of taxation including the loss of use of the personal allowance (currently £12,570 for 2021/2022) and capital gains annual exemption (currently £12,300 for 2021/2022). Depending on the length of time an individual spends in the UK, that individual will need to pay the Remittance Basis Charge (“**RBC**”) in order to continue to enjoy using the remittance basis of taxation. The RBC is £30,000 if the individual has been resident for 7 out of the previous 9 tax years which rises to £60,000 after being resident for 12 of the previous 14 tax years. It is not possible to claim the Remittance Basis if you have been resident for 15 of the previous 20 tax years.

WHAT SHOULD I DO?

Our Wealth Planning Team can help to review all individuals considering a move to the UK. This will involve:

- advising on the SRT;
- reviewing domicile and deemed domicile status;
- the use of split year treatment (where necessary); and
- the application of double tax treaties applicable to an individual's circumstances.

In addition, UK tax advice for those choosing to relocate to the UK may include the following:

- reviewing how worldwide assets are held and providing recommendations on how to adapt these efficiently from a tax point of view;
- how to structure your affairs in a tax efficient manner, including both the arising and remittance basis of taxation and the use of trusts;

- how to fund living costs in the UK in a tax efficient manner;
- how to structure both UK and non-UK bank accounts;
- the segregating of non-UK accounts between “clean capital” and post-UK residence non-UK income and capital gains for remittance planning purposes;
- ensuring that investments or businesses are compliant with immigration status and visa requirements; and
- tax advice regarding purchasing or transferring a UK property.

For any further advice and assistance, please contact [Robert Drysdale](#) or a member of our [Wealth Planning](#) team:



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