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Living abroad - the main tax rules

Key Guide

Planning to leave the UK

While the thought of going abroad to work or retire may be exciting, the months prior to departure may be highly stressful. Finding somewhere to live in your chosen country, arranging the necessary visas and booking a suitable removal firm are just some of the issues you are likely to have to deal with.

Nevertheless, during this mad rush, it is vital that you pay adequate attention to financial planning. In particular, the tax consequences of leaving the UK are quite complex, so it is essential that you seek professional advice.

Your residence status will be the main factor in determining your continuing liability to UK tax. Previously, it could be quite difficult to become non-UK resident for tax purposes, but a set of statutory tests now make it much easier to establish your residence status.

It is worth gaining a basic understanding of these concepts if you are thinking of leaving the UK to live abroad or if you have been abroad and are now returning to the UK. For both situations you can minimise the amount of UK tax that you will have to pay if you plan well ahead.

Residence status

Action point

If you are relocating within Europe, then the UK's EU exit decision will have added a considerable amount of uncertainty to your planning. You will need to carefully consider how the eventual EU exit might affect you.

There are three aspects to the statutory residence tests, with the starting point being whether you are automatically non-resident or automatically resident. If not, then your residence status will be determined by how closely you are still linked to the UK.

Automatically non-resident in the UK

There are some situations where you will automatically be treated as non-resident in the UK, and you then do not need to consider any of the other tests. The most relevant tests if you are leaving the UK are:

- Where you stay in the UK for fewer than 16 days during the tax year. This will be the case if you are retiring abroad and do not make any return visits.
- Where you leave the UK to work full-time abroad. This can be on an employed or self-employed basis, with full-time defined as working an average of more than 35 hours each week. You are allowed to visit the UK for up to 90 days each year, of which 30 can be days where you are working. A working day is defined as one where you work more than three hours.

Automatically resident in the UK

These tests will be more relevant when you are returning to the UK, but you could find yourself in the position where you have moved abroad but are still treated as resident in the UK. The most relevant tests for being automatically treated as resident in the UK are:

- Where you stay in the UK for 183 days or more during the tax year.
- Where your only home is in the UK – very broadly, you must have that home for a period of more than 90 days and must live there for 30 days during the tax year.

If you leave the UK to live abroad, then the second test is unlikely to be relevant because you will almost certainly have an overseas home as well as any UK home.

Sufficient UK ties

If neither of the automatic tests apply, then your residence status for a particular tax year will be determined by what is known as the 'sufficient UK ties' test. This test will typically be applied where you have retired abroad, but your return visits to the UK mean that you are not treated automatically as non-resident.

The more days that you spend in the UK during a tax year, the fewer number of UK ties you are permitted before being treated as resident. If you are leaving the UK to live abroad, then the following ties are relevant:

- Do you have a spouse, civil partner or minor children in the UK?
- Do you have accommodation in the UK which is made use of during the tax year?
- Will you work in the UK for 40 days or more during the tax year?
- Were you in the UK for more than 90 days during either of the two previous tax years?
- Will you spend more time in the UK than in any other country during the tax year?

The answer to the fourth UK tie (the 90-day test) will almost certainly be 'yes' when you are leaving the UK, but you should have some control over whether or not the other ties apply. When you return to the UK after living abroad then the fifth tie (more time in the UK than in any other country) can be ignored.

Action point

Your residence status must be determined separately for each tax year. Even if you are treated as remaining resident in the UK after going abroad, you may be able to take appropriate measures to change your status for subsequent years.

To ascertain your residence status for a particular tax year, you need to compare the number of days you spend in the UK during that tax year with how many UK ties you are permitted before being treated as resident. The relationship between days and ties is set out in the table below.

Days in the UK in the tax year	When leaving the UK	When returning to the UK
16 to 45 days	Resident if 4 UK ties or more	Non-resident
46 to 90 days	Resident if 3 UK ties or more	Resident if 4 UK ties
91 to 120 days	Resident if 2 UK ties or more	Resident if 3 UK ties or more
121 to 182 days	Resident if 1 UK tie or more	Resident if 2 UK tie or more

WARNING: *This is just a very simplified explanation to give you some idea of how residence status is determined, but be aware that most of the residence tests are subject to very detailed rules.*

Residence planning

With careful planning you can become non-resident when you move abroad. If you have UK ties, such as a house in the UK, then it is easy to establish how many days you can safely stay in the UK each tax year. If you need to be in the UK for a set number of days each year, then you will know if you have to reduce your number of UK ties – maybe selling your UK house or reducing the amount of time you work here.

Permitted days in the UK

You should not assume that you can spend the same amount of time in the UK every tax year.

You might be in the position that you can stay here for up to 120 days during a particular tax year. However, a stay of more than 90 days could trigger the 90-day UK tie, meaning that for the next tax year your permitted number of days in the UK would be less.

Minimising the number of working days

You will also need to be careful when it comes to days working in the UK given the three-hour definition of a working day.

The number of working days could be kept to a minimum if your work is condensed into full days rather than you working half-days of just over three hours each. Alternatively, it might be possible to keep the amount of work done each day to below the three-hour limit.

Consider each tax year separately

An important point to remember is that there is no averaging between tax years – each year has to be considered entirely separately.

If your number of UK ties means you can stay in the UK for up to 90 days each year, then spending 95 days here during one tax year and then 85 days the next would make you resident for the first year. Delaying five days of visits so that you spend 90 days in the UK each tax year would mean non-residence status for both years.

A day in the UK is any day where you are here at midnight. However, days spent in the UK for exceptional circumstances beyond your control, such as where you have to extend a visit due to serious illness, do not normally count.

How to notify HMRC

Action point

Even if you stop paying UK tax, it can be worth continuing to pay national insurance contributions to ensure that you are entitled to the new state pension at retirement age. You need 35 years of contributions to qualify for full pension entitlement.

You will have to notify HMRC of your residence status, and this will normally be done as part of your tax return submission.

For the tax year of leaving the UK, you might be due a tax refund, especially if you were employed here. This is because you will have an unused portion of your personal allowance and income tax bands between the time your employment ceased and the end of the tax year. If a tax return is not completed, then it will be necessary to submit form P85 ('Leaving the UK – getting your tax right') either online or by post to HMRC.

Income tax

If you remain UK resident despite going abroad, then you will pay income tax on all of your income whether it arises in the UK or overseas. If you are employed, you will therefore pay tax on your remuneration regardless of where your duties are carried out.

The general rule if you become non-resident is that you will pay tax on your UK income but will not be liable to UK tax on your overseas income. So if you are employed, you will not pay UK tax in respect of remuneration for duties performed abroad. Earnings for duties performed in the UK will remain taxable unless they are only incidental to the overseas duties. Other points to consider if you become non-resident include:

- Tax may be deducted at source from your UK property income.

- You will still be entitled to the personal allowance.
- As a non-resident, your UK income tax liability will be subject to an upper limit. The calculation is complex, but the broad effect is that no tax is charged on your UK bank and building society interest or UK state pension provided the personal allowance is disregarded. This limit may be of particular benefit if you are retiring abroad.

It is possible that some of your income could be taxable in the UK and also taxable in the country that you have moved to. However, the worst case scenario is that you will effectively end up paying just the higher of the UK tax or the tax charged abroad.

Capital gains tax

If you are UK resident, you will pay UK capital gains tax (CGT) on gains from disposing of your assets wherever they are situated in the world.

The tax treatment does not change if you are only temporarily non-resident – essentially where you are away for a period of five years or less. However, if you are non-resident for longer than this, such as when you are retiring abroad, then the general principle is that you are not liable to UK CGT even in respect of assets situated in the UK. Any UK residential property that you retain remains liable to UK CGT despite you being non-UK resident, although only gains accruing since 6 April 2015 (when this rule was introduced) are taxed when the property is sold. The availability of principal residence relief is also restricted, so if you are non-UK resident it will not normally be possible to exempt a UK property from CGT by claiming that it is your main residence.

Be warned that even where UK assets are exempt from CGT, tax may be payable in your new country of residence, and this could be higher than the CGT that would have been paid in the UK.

Action point

Take local advice when moving abroad about the tax rules that will apply in the country where you will be living.

Inheritance tax

Unlike income tax and CGT, the determining factor with inheritance tax (IHT) is your domicile.

Your domicile is basically the country that is regarded as your natural or permanent home. You can only have one domicile, which is normally, but not always, the country of your birth. You can change your domicile, but usually with some difficulty. And even if you do manage to change your UK domicile, for IHT purposes you will be deemed to still be UK domiciled for a further three calendar years.

- You are likely to retain your UK domicile for your whole life, even if you live abroad for long periods.
- If you are domiciled in the UK then you will be liable to IHT on gifts of assets wherever those assets are situated.
- Many countries charge IHT (or its equivalent) based on residence; so when you die your estate may be liable to tax both in the UK and also abroad. There is tax relief from the double charge, but if you are retiring abroad you might think about changing your domicile status.
- If you do change your domicile status, then you should be careful if you are married or in a civil partnership. If both of you are UK domiciled, then gifts

between you are exempt from IHT. But if one of you is non-UK domiciled, then the exemption is limited to a lifetime total of £325,000. There is an election which allows the non-domiciled spouse or partner to be treated as UK domiciled just for IHT purposes, so it is possible to avoid the restriction – but making the election does have other IHT implications.

If you own property abroad it can be a good idea to have one will to deal with your UK assets and another to deal with the assets situated abroad. If you do not make a new overseas will, then any assets that you have abroad may end up being passed according to the inheritance laws of the country in which you are living. But be careful, as the last thing you want is for the new overseas will to result in your existing UK will being revoked.

Action point

Do you need to make an overseas will? If you own property abroad it can be a good idea to have one will to deal with your UK assets and another to deal with the assets situated abroad.

What about your UK property?

If you are a UK homeowner, you must decide what to do with your property before going abroad. Even if you could afford to, simply leaving it empty could be in breach of your mortgage agreement and may invalidate your household insurance. Also, council tax is likely to still be payable despite your property being empty. Even worse, the rate of council tax payable once a property has been empty for two years could be increased to 150%. Each council can set its own charges and discounts, so you need to check what applies to your property.

If you decide to sell your property then you should allow plenty of time to do so – although if the sale has not been completed before you leave, you can give power of attorney to your solicitor or to a relative or friend.

If you decide to rent the property, then you will normally still be liable for income tax if the rent (minus certain allowable deductions) exceeds your personal allowance (when combined with other UK source income). Your letting agent will normally be required to deduct tax at source and pay it to HMRC unless HMRC agrees otherwise.

Banking, savings and investments

Even if you are moving abroad permanently, until you are well settled in your new homeland you should consider keeping a UK bank account open and keep at least one credit card, because in some countries it can be difficult to borrow before you have an established credit history there. Anyone who will be returning to the UK at some point in the future should definitely keep their UK bank accounts open. This is because you will not be able to open a new account without a UK address. Some UK pension schemes will only make payments into a UK bank account, so you should plan for this if your pension is going to commence after you leave. However, the state pension can be paid into either a UK bank account or an account in the country where you are living.

You will almost certainly want to open a local currency bank account in the country that you move to, but you might also decide to set up an account in a well-regulated offshore centre. The latter should provide 24-hour internet banking, multi-currency facilities and mortgages.

Moving deposit accounts offshore will often not provide any advantage. This is because UK bank and building societies now pay interest gross, and the tax-free personal savings allowance (£1,000 for basic rate taxpayers and £500 for higher rate

taxpayers) will mean that there is normally no tax on savings income regardless of the basis of taxation.

You can retain any existing individual savings accounts (ISAs) if you become non-resident, but will not be able to make any further investment. It is also possible that despite being exempt in the UK, the income from ISAs might be taxable in the country that you move to.

Becoming an expatriate will also provide you with access to a range of tax-efficient financial planning opportunities such as offshore pensions and investment bonds. But these should be considered in conjunction with professional advice to ensure that you pay due attention to currency and taxation issues, and achieve an appropriate level of risk, diversification and flexibility.

If you are returning to the UK, then you should take advice regarding the disposal of investments prior to your return. Depending on your circumstances, and in particular, the amount of time you have been away, considerable tax savings might be possible.

Insurance

If you have individual life assurance, critical illness cover or income protection insurance, it is essential that you establish whether it will remain valid overseas. Your insurer may decide to remove your cover or increase your premium if it feels that your move makes you an increased risk.

Action point

If you are returning to the UK, then you should take advice regarding the disposal of investments prior to your return. Depending on your circumstances, and in particular, the amount of time you have been away, considerable tax savings might be possible.

Similarly, if you are going to be working overseas, you should check with your employer whether you will be covered for death in service and whether you have private medical insurance.

If you are not covered for private medical insurance via the workplace, then you may wish to consider taking out an individual international private medical insurance policy. Much will depend on local state medical facilities, because in some countries these are of a much higher standard and are far more accessible to expatriates than in others.

How we can help

Moving abroad is a particularly complicated area where specialist help is essential.

You will need the right advice about your potential liability to tax and the most appropriate ways to minimise the tax impact. If necessary, we can liaise with any accountant or tax specialist that you might use in the country that you move to.

We can also help you with investment and tax planning advice if you are about to become non-resident for tax purposes, or are thinking of returning to the UK.

This publication is for general information only and is not intended to be advice to any specific person. You are recommended to seek competent professional advice before taking or refraining from taking any action on the basis of the contents of this publication. The FCA does not regulate tax planning and some forms of inheritance tax planning and offshore investments. This publication represents our understanding of law and HM Revenue & Customs practice as at 26 April 2017.

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