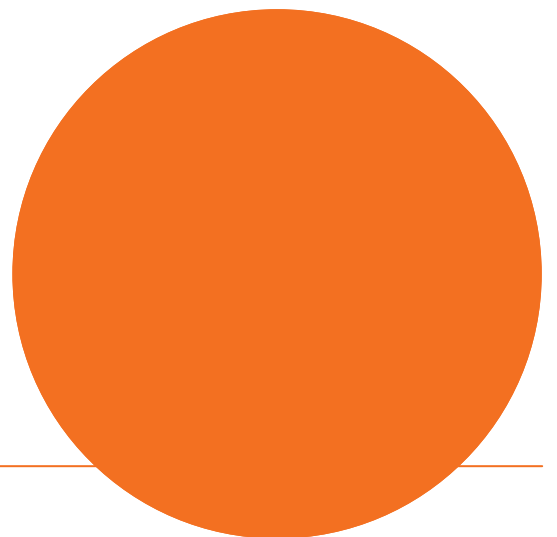


# Residence and Domicile

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An Introduction



# An Introduction to Residence and Domicile

## Residence

The rules relating to tax residence are complicated, combining statute, common law and HMRC (Inland Revenue) practice. The general rule is that you are classed as a UK resident if you are in the UK for more than 183 days in a tax year, or if you are here for more than 90 days on average over four or more tax years. However, in practice, there is much more to it than this.

Ordinary residence is another concept again. A person is regarded as ordinarily resident in the UK if this is his normal place of residence. HMRC generally take the view that a person who usually lives in the UK and goes abroad for a long holiday (not setting foot in the UK during a tax year) will nevertheless still be ordinarily resident in the UK.

These two concepts need to be considered in conjunction with your domicile status to understand your UK tax exposure on your worldwide income and capital gains.

## Domicile

There are many factors which affect domicile, but broadly speaking you are domiciled in the country where you have your permanent home. It is distinct from nationality or residence and you can only have one domicile at any given time.

A “domicile of origin” is acquired at birth, normally from your father. However, it is possible to acquire a “domicile of choice” from the age of 16. This broadly involves leaving the current country of domicile to settle in another country and requires strong proof of having moved to the other country permanently or indefinitely.

## Why is residence and domicile important?

Your liability to income tax and capital gains tax (CGT) depends on whether you are resident, ordinarily resident and domiciled in the UK. If you are resident in the UK you will be liable to income tax on your worldwide income. However, if you are a non-UK resident, you would only be liable to income tax on income generated in the UK. If you are resident in the UK but domiciled abroad, you may be able to organise your affairs so you do not pay tax in the UK on income and capital gains from another jurisdiction.

## Domicile for Inheritance Tax

Your domicile status can affect how much inheritance tax you pay in the UK. If you are domiciled in the UK you will pay inheritance tax (IHT) on your worldwide assets. A non UK domiciled person is also liable to IHT, but only on assets in the UK.

There is a separate rule which applies for IHT purposes only. If you have lived in the UK for more than 16 tax years (at least 17 out of the last 20), you will be deemed to be domiciled in the UK even though you may claim to be domiciled for income and capital gains tax purposes in another country.

## The Future

On 17 June 2011, the Government published two consultation documents dealing with a proposed statutory residence test and a proposed exemption for non domiciliaries who invest in the UK. Consequently, we are likely to see changes in these areas.

## How can we help you?

- If you are planning on leaving the UK, we can help you to understand the impact it will have on how you are taxed here.
- We can advise you about your domicile position and the merits of claiming not to be domiciled here.
- HMRC will not generally provide a ruling about a tax payer's domicile status. We can provide you with an opinion about the likelihood of a non domicile claim being successful.
- If you are planning to come to the UK to take up residence, there are a number of planning opportunities available to you. We can help you to understand the steps you need to take to benefit from these.
- Domicile is relevant to your inheritance tax planning. If you have been here for less than 16 tax years (out of the last 20) we can help you to organise your affairs so that you minimise your exposure to IHT in the future, particularly once you have lived here for more than 16 tax years.
- If you are resident in the UK but not domiciled here, there can be merit in organising your banking and investment arrangements to keep income and capital separate. This can put you in the best possible position to mitigate UK taxes. We can recommend how to best structure your affairs.
- The creation of offshore trusts can provide tax advantages for individuals who are not resident and/or not domiciled in the UK. We can advise about all aspects of this type of planning and help you to establish tax efficient structures.

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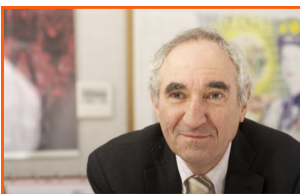
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  - relationship breakdown (divorce/civil partnerships dissolution and financial settlement)
- our specialist children's unit dealing with residence and contact, adoption and surrogacy, international child abduction and children disputes
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