



tax | coming to the united kingdom

team



Anne Gregory-Jones
Tax Partner
020 7969 5520
agregory-jones@haysmacintyre.com



Nigel Landsman
Partner
020 7969 5549
nlandsman@haysmacintyre.com



Graham Elliott
VAT Partner
020 7969 5610
gelliott@haysmacintyre.com

If you are contemplating coming to the United Kingdom for any significant period of time, or even permanently, how you will be dealt with by the United Kingdom tax authorities can be a matter of particular concern.

There are a number of matters to consider, not least whether you will be treated as resident, ordinarily resident or even domiciled. These three areas of classification can lead to dramatically different UK tax burdens. Overleaf we examine the meaning of these three concepts and consider what steps need to be considered to take best advantage of your particular circumstances.

The rules governing domicile and residence are to change with effect from 6 April 2008. These notes reflect the changes as at January 2008. Further changes may result from consultations currently taking place.

resident in the UK

To be treated as resident in the UK, one of two tests will generally apply to you:

- If you are physically present for 183 days or more in the tax year
- If you visit the UK on a regular basis and over four years you average a physical presence in the UK of 91 days or more a year, then residence will apply from the fifth year. However, your intentions or plans could make residence apply from an earlier date.

In establishing how many days you are physically present in the UK, days of arrival into and departure from the UK will be taken into account with effect from 6 April 2008.

The main benefit of being resident in the UK is that you are entitled to the full array of tax allowances and exemptions against any income earned or derived in the UK. These may include double taxation treaty benefits if you receive foreign income or gains.

It is important to be aware that many of the rules governing change of residence are based on Inland Revenue practice and concession. In general, concessions should not be relied upon for any purposes which might be regarded by the Inland Revenue as constituting 'tax avoidance'.

haysmacintyre t 020 7969 5500
Fairfax House f 020 7969 5600
15 Fulwood Place
London e marketing@haysmacintyre.com
WC1V 6any w www.haysmacintyre.com

ordinarily resident in the UK

To be treated as ordinarily resident in the UK, you will normally have to be regarded as resident in the UK from year to year but your intentions or plans could make you ordinarily resident from an earlier date. Formulating your plans carefully may enable you to maximise the period during which you remain not ordinarily resident.

The main benefit of being not ordinarily resident (as well as non-resident) means that (except for UK business assets) you will be outside the scope of charge to capital gains tax.

domiciled in the UK

Your domicile is the country where you can be said to have your permanent home and intend to reside permanently. You can have only one operative domicile at any one time.

Your domicile is usually acquired as a domicile of origin when you are born and is normally that of your father. If, however, you leave your domicile of origin and set up home permanently in another country with the intention of remaining there permanently, then the domicile of origin can be displaced by a domicile of choice in the new country.

Living in a new country for a long time is not necessarily sufficient to displace the domicile of origin. Various tests would have to be applied to confirm the displacement of your original domicile.

The benefits of retaining a non-UK domicile are significant in both income tax and capital gains tax situations where income or capital gains tax arise outside the UK. Generally speaking, in your first 7 years of residence you would be taxed in the UK only to the extent that such offshore income or gains were brought into ("remitted to") the UK.

short term visits to the UK

If you only visit the UK for less than six months and then depart, you will not be regarded as resident in the UK. Repeated visits to this country may change your residence status, as seen above, and for taxation purposes you may even be resident in two countries simultaneously. Consider carefully the timing of visits to this country.

Short-term assignments are generally covered in double taxation treaties and you may remain taxable only in your own home country.

haysmacintyre t 020 7969 5500
Fairfax House f 020 7969 5600
15 Fulwood Place
London e marketing@haysmacintyre.com
WC1V 6any w www.haysmacintyre.com

the basis of taxation

UK resident individuals will be liable to tax on all UK source income and gains. For non UK domiciliaries their offshore income and gains will only be liable to UK tax if remitted to the UK, the 'remittance basis'.

Until 6 April 2008, the remittance basis will apply to non domiciliaries regardless of how long they have been resident in the UK. From 6 April 2008, however, the remittance basis will only apply for the first 7 years of residence. Thereafter non domiciliaries will be taxable on their worldwide income and gains unless they elect to pay a charge of £30,000 per annum.

The election for the remittance basis will be made annually thereby giving some planning opportunities. However, those taxed on the remittance basis will not be entitled to any personal allowances or certain other reliefs.

capital gains tax planning

Some jurisdictions do not charge tax on capital gains, the UK, however, does so. The taxable gain may differ from your commercial gain and from the amount which would be taxable in your home country.

From 6 April 2008, the rate of capital gains tax for individuals and trusts will be reduced from 40% to 18%. At the same time previous reliefs, such as taper reliefs and indexation will no longer be available. If you are coming to the UK you will need to consider the following possible steps:

- ascertain precisely how the UK computational rules will apply to your existing assets
- realise potential UK capital gains before becoming resident in the UK
- defer making potential UK capital losses until resident in the UK
- do not remit capital gains to the UK if taxed on the remittance basis
- review any foreign currencies you hold in bank accounts which are not needed for personal expenditure. These are chargeable assets for capital gains tax purposes and changing currencies can trigger a capital gain
- take steps to control the manner and timing of disposal of assets, as this could enable you to save capital gains tax.

income tax planning

Consideration should be given to the following possible steps:

- if non-UK domiciled, and taxed on the remittance basis, remit capital rather than income to this country. Arrange separate bank accounts offshore, one to hold capital and one for income. Then remit to the UK first from the account holding capital.

haysmacintyre t 020 7969 5500
Fairfax House f 020 7969 5600
15 Fulwood Place
London e marketing@haysmacintyre.com
WC1V 6any w www.haysmacintyre.com

- consider remitting foreign pensions - they are only taxable in this country to the extent of 90 per cent of what is received.
- concessionally, income tax may not be chargeable if a lump sum retirement benefit is received from an overseas pension scheme or provident fund. The level of relief would depend upon the extent of your service outside the UK.
- before becoming resident, close all interest-bearing accounts and terminate sources of income, so as to ensure that you are not taxed in the UK on income received prior to your arrival.
- if you suffer tax on your income in a second country as well as in the UK, careful selection of income for remittance here may enable you to save tax by maximising your double taxation relief.
- income tax will be chargeable on income arising (if you are domiciled in the UK).

employment income

It may be beneficial for separate contracts of employment to be drawn up for a foreign domiciliary, resident in the UK, who is working not only in the UK but also outside the UK. One contract should govern the UK duties and the other non-UK duties. This will only be effective if the duties of the two employments are in fact separable and the remuneration fairly reflects the duties performed.

For the first 7 years of residence, a foreign domiciliary is assessable on a remittance basis in respect of emoluments which are paid to him by a non-UK resident employer for work done outside the UK. By having two contracts of employment, it may be possible to maintain that the emoluments for the duties performed abroad are not taxable in the UK unless remitted.

inheritance tax planning

Whilst you may be domiciled in a country outside the UK, the general law for UK inheritance tax is that, if you were resident for 17 out of the last 20 years or domiciled at any time in the last three years, you will be deemed domiciled in this country. This means that lifetime gifts or assets passing on death (either under a will or under intestacy) may be chargeable to inheritance tax in certain circumstances. If you are likely to acquire deemed UK domicile for inheritance tax purposes, consider gifting assets or becoming non-resident before the time limit.

By gifting assets free of inheritance tax, considerable advantage can be achieved over UK persons who have less freedom to make gifts without inheritance tax implications.

The rules on inheritance tax are unaffected by other changes in April 2008.

reciprocal social security provisions

haysmacintyre t 020 7969 5500
Fairfax House f 020 7969 5600
15 Fulwood Place
London e marketing@haysmacintyre.com
WC1V 6any w www.haysmacintyre.com

Consider reciprocal social security agreements between the UK and the country you have come from. Exemptions can sometimes be obtained from making UK social security contributions, if contributions are continued in your home country.

The rate of social security contributions in this country can compare favourably or unfavourably with other countries. A comparison of the rates and reciprocal arrangements may bring savings.

However, a full comparison involves considering the potential benefits (if any) attributable to the making of contributions in each country.

exercise of share options

Ensure that the exercise of non-UK share options are made prior to arrival in the UK, unless it can be shown that such options were granted whilst you were non-resident and not ordinarily resident and that the granting of the share options was as a result of duties undertaken outside the UK.

The exercise of share options is normally taxable, but, by ensuring that a separate contract of employment relating to overseas duties exists, any share options relating to that separate contract will not be taxable.

For more information, please contact your usual engagement partner.

about haysmacintyre

haysmacintyre, Chartered Accountants and tax advisers, comprises 24 partners and 150 staff based in Holborn, London. It provides high quality auditing and assurance, business and personal taxation, corporate finance, financial planning and other business support services.

Around 40% of the firm's business is within the corporate sector – small and medium sized enterprises, many of which are in the property, media and entertainment, technology, sports and business services sectors. The firm acts for a number of listed companies and assists new companies raise initial funds on the capital markets and through private equity. 25% of the firm's business is for charitable and not for profit organisations and the remainder is for professional practices and private individuals – whether senior executives, entrepreneurs or those with significant land or wealth at home or overseas.

haysmacintyre is a founding member of MSI Global Alliance (MSI), an international alliance of independent legal and accounting firms, with 250 members in 100 countries. Further information is available at www.haysmacintyre.com



Disclaimer: This datasheet has been produced by the partners of haysmacintyre and is for private circulation only. Whilst every care has been taken in preparation of this document, it may contain errors for which we cannot be held responsible. In the case of a specific problem, it is recommended that professional advice be sought. The material contained in this datasheet may not be reproduced in whole or in part by any means, without prior permission from haysmacintyre.