

## Are you domiciled or resident?

Tax is a major consideration to anyone investing in UK property. For those considering a purchase of a property there needs to be careful consideration of the purpose the property is to be put to. Perhaps the property is going to be a main home, a holiday home or an investment to let out. The UK tax implications will vary depending upon the use to which the property is put and the Domicile and Residence status of the purchaser.



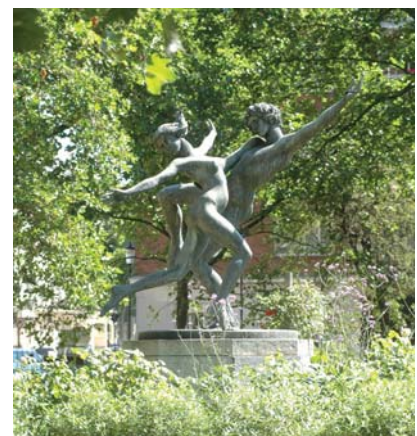
### Domicile

The concept of domicile for UK tax purposes is to identify the legal jurisdiction to which a person is attached; a person must be domiciled somewhere and cannot be domiciled in more than one country at the same time.

The concept is not an easy one. A person is domiciled in the country that he regards as his homeland. This is not a question of time. A person could in theory be a resident of the UK for 30 years or more but will not become domiciled (at least for Income Tax and Capital Gains Tax) in the UK if he or she never has the intention to remain here permanently or indefinitely.

It is not easy to change one's domicile. A person is born with a domicile of origin. This is not necessarily the country in which that person was actually born. It is the country in which the person's father was domiciled at the time that the person was born. It is possible to change that domicile

to a new domicile of choice by going to another country with the intention of remaining there permanently or indefinitely. This requires two things, a physical move to another country (or remaining in the country of birth if the domicile of origin was elsewhere), and an intention that the move to (or stay in) the new country should be permanent. It is hard to prove intention, which is why it can be difficult to establish a change of domicile. This burden of proof applies equally to HM Revenue & Customs.



“It is possible to change domicile.”

# “Professional advice should be sought to fully consider tax implications.”

## Residence

A person is normally regarded as resident in the UK if they are physically present in the UK for 183 days or more during a tax year (6 April to 5 April) or for more than an average of 90 days per annum.

## Letting

Non resident landlords will need to register under the Non Resident Landlord Scheme in order to prevent their agent or tenant having to deduct basic rate income tax at source from rental income. Non resident individuals will have to pay income tax at 22% (or 40%) on the rental profit after expenses. Allowable expenses include the interest on any mortgage and accordingly taxable profit can be minimal where there is high borrowing. All citizens of the European Union or Commonwealth countries will be entitled to receive the first £5,035 (2006/07) of income free of tax. The 40% higher rate of tax, potentially assessable on individuals, can be avoided by using an offshore company structure.

## Selling

On any sale investors would hope to receive a capital gain and accordingly,



it is possible that Capital Gains Tax (CGT) may be payable. However, CGT is not assessable on individuals who are Not Resident or Ordinarily Resident in the UK and retain this status for at least 5 years. Those who are “temporarily non resident” or seek to go non resident should take advice. Also, if the property was the vendor’s only or main residence (ie, their home) no CGT should be payable even if they are UK resident at the time of sale.

## Death

Those not domiciled in the UK are chargeable to UK Inheritance Tax (IHT) on UK situated assets only. This will include UK land and property owned personally. Care should also be taken for those who have been resident in the UK for more than 17 out of the

previous 20 tax years (15 years and 2 days in some cases) as they will be “deemed” to be domiciled for IHT purposes. This problem can be circumvented by acquiring the UK property through an overseas company. It is also advisable to consider settling the shares in an offshore trust before becoming domiciled in the UK. Professional advice should be sought to fully consider the IHT, CGT and Income Tax implications of such a structure.

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