



Introduction

An individual who is considering a move from Ireland in order to work overseas will need to take into account a number of factors, including the impact of their move upon their tax position.

One aspect is the taxation regime of the country to which the Irish expatriate is moving. The tax regimes of countries around the world vary considerably. Generally most countries will levy a tax on at least any employment income earned in the country. Others will tax the worldwide income or capital gains of an individual, in addition, perhaps, to raising an inheritance/estate tax on the worldwide wealth of an individual if they should die whilst living in the overseas country. The exact tax regime applied will depend upon the country in question as well as the personal circumstances of an Irish expatriate, for example the length of time they have lived in the country and/or whether they have purchased a permanent place of residence in the country. The Association of International Life Offices tax guides provide an overview of the tax regime in a number of popular destinations for expatriates.

An Irish expatriate's liability to Irish taxes will depend upon their residence, ordinary residence and domicile status. An individual who is both resident and domiciled in Ireland for example, is liable to Irish income tax on their worldwide income and Irish capital gains tax on their worldwide gains. An individual may also be liable to inheritance tax/gift tax (Capital Acquisition Tax). For Irish tax purposes residence and domicile are generally defined as follows.

Residence

An individual's residence status for Irish tax purposes is determined by the number of days he/she is present in Ireland during any given tax year. An individual's residence status in other countries is irrelevant to determining Irish tax residency. In order to be classified as tax resident in Ireland an individual must satisfy either of the following circumstances:

- Spend 183 days or more in Ireland for any purpose in that tax year; or
- Spend 280 days or more in Ireland for any purpose over a period of two consecutive tax years; they will be regarded as resident in Ireland for the second tax year, provided they spend more than 30 days in Ireland during each tax year.

A person is present in Ireland during a given day if they are in Ireland at midnight. Therefore, days of arrival are included and days of departure are excluded.

Ordinary Residence

The term ordinarily resident refers to an individual's pattern of residence over a number of years and is distinct from residence. An individual will become ordinarily resident when he/she has been resident for three consecutive tax years, that is, at the beginning of the fourth tax year of residence. Once acquired, the status of being ordinarily resident is retained until the individual has been non-resident for three consecutive tax years.

An individual who is non-resident for a particular tax year but who is ordinarily resident and domiciled may be chargeable to tax in the same manner as a resident individual but subject to certain exemptions.

Domicile

Domicile is a concept of general law. It may be broadly interpreted as meaning residence in a particular country with the intention of residing permanently in that country. Every individual acquires a domicile of origin at birth. A domicile of origin will remain with an individual until such time as a new domicile of choice is acquired. However, before a domicile of origin can be changed there has to be clear evidence that the individual has the positive intention of becoming a permanent resident in another country and has abandoned the idea of ever returning to live in their country of birth and severed connections with that country.

Expatriates who remain resident

If an individual's overseas posting is not of sufficient length (that is, the individual will continue to spend 183 days in Ireland in a tax year or 280 days spanning 2 tax years), they will not break residence with Ireland. They will therefore continue to be taxed on worldwide income, if they are of Irish domicile. Furthermore as a resident individual they will continue to be entitled to full tax credits.

Individuals need to be careful as their income could be liable for taxation in both Ireland and the country in which they are working. However, if tax is charged in a country with which Ireland has a double taxation agreement, relief is available as specified in the relevant agreement. This relief is normally provided by either exempting the income from tax in one of the countries or by giving a tax credit in one of the countries. Ireland has concluded over 40 double taxation agreements with other countries in order to provide relief where income is taxable in both countries.

The Irish Revenue also provides certain 'reliefs' to individuals who work abroad without losing their residence status. These are the Cross Border Workers Relief and Seafarers Relief.

The Cross Border Workers Relief is available to individuals who are resident in Ireland but who work outside Ireland. In order to qualify for the relief, the individual must hold an employment outside Ireland for a continuous period of 13 weeks in a country with which Ireland has a tax treaty. Income from that employment, the duties of which must be performed wholly outside Ireland, must be fully taxed in the other country and the foreign tax paid. The individual must also be present in Ireland for at least one day a week during the period of the qualifying employment. Individuals who qualify for this relief will only pay Irish income tax on sources of income other than the foreign employment.





Expatriates acquiring non-resident status

For Individuals who break residence with Ireland in a particular tax year it is not only important to establish potential tax liabilities in the country to which an individual is moving but it is also important to know whether there is a continuing liability to Irish tax.

Income Tax

An individual who is ordinarily resident in Ireland will remain so until the end of the third consecutive tax year in which they are not resident. Individuals who are ordinarily resident and Irish domiciled are taxable in Ireland as if they were still resident there. However, income arising from the following sources is excluded from the charge to Irish tax:

- A trade or profession which is not carried on in Ireland.
- An office or employment all of the duties of which are performed outside Ireland.
- Other foreign sources which do not exceed €3,810 per year.

An individual who is neither resident nor ordinarily resident will normally only be liable to Irish income tax on Irish sourced income and foreign employment income the duties of which are performed in Ireland. In addition, a non-resident individual is generally not entitled to personal tax credits and reliefs.

In relation to options granted to employees whilst resident in Ireland, a charge to Irish income tax may arise even where the options are exercised after the individual becomes non-resident for Irish tax purposes. Subject to the terms of the relevant Double Taxation Treaty the charge to Irish income tax may be limited to the proportion of the option gain which relates to Irish workdays over the total vesting period.

Split year treatment in year of departure

When an individual leaves Ireland, split year relief applies to the taxation of employment income earned after departure from Ireland. The effect of this relief is that the individual will not be taxable on employment earnings arising **after** the date of his departure from Ireland if:

- He is resident in Ireland in the tax year in which he leaves Ireland; and
- Satisfies the Inspector of Taxes that he is leaving Ireland other than for a "temporary" purpose; and
- Will not be resident in Ireland in the tax year following his departure.

Similar rules apply to the taxation of employment income earned in the tax year in which an individual returns to Ireland. An individual will not be taxable on employment earnings arising **before** his date of his arrival if:

- The individual is resident in Ireland in the tax year in which he arrives in Ireland; and
- The individual satisfies the Inspector of Taxes that he will be resident in Ireland in the following tax year.

It is important to note that the "split" year treatment does not apply to non-employment income, such as investment income or income from self-employment. Split year treatment does not apply to income from an Irish directorship which remains chargeable to tax in Ireland irrespective of residence.

Taxation of interest

Interest paid by Irish banks, building societies and similar financial institutions to non resident individuals who complete the appropriate declaration form may be received without deduction of Deposit Interest Retention Tax (DIRT).

Capital gains tax

An individual who is not resident but is ordinarily resident and domiciled in Ireland remains subject to Irish capital gains tax on worldwide disposals.

An individual who is neither resident nor ordinarily resident in Ireland is liable to capital gains tax on chargeable gains arising on the disposal of specified Irish assets:

- Land and buildings in Ireland.
- Minerals in Ireland or any rights, interests or other assets in relation to mining or minerals or the searching for minerals.
- Assets situated in Ireland which, at or before the time when the chargeable gains accrued, were used for the purposes of a trade carried on by the individual in Ireland.
- Unquoted shares deriving their value or the greater part of their value directly or indirectly from land or minerals.

Gains on the disposal of such assets are chargeable irrespective of the residence, ordinary residence or domicile of the individual making the disposal.

The capital gains tax rate is 20%. Certain reliefs and exemptions from capital gains tax are available, such as the exemption in respect of the gain arising on the disposal of an individual's principal private residence.



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Inheritance/Gift Tax

Capital Acquisitions Tax (CAT) is a tax charged on gifts and inheritances. The taxes apply when a person becomes beneficially entitled to property, either by way of a gift or on a death, for less than full consideration.

Following major changes introduced by the Finance Act 2000, the charge to Capital Acquisition Tax on gifts or inheritances is residence based and will generally arise on the entire property received where the donor or the beneficiary is resident or ordinarily resident in Ireland irrespective of domicile. If neither the donor nor the beneficiary is resident or ordinarily resident in Ireland the charge is only in respect of the property which is situated in Ireland. The tax is generally the liability of the beneficiary and self-assessment rules apply.

The recipient of the assets is classified into one of three categories depending on their relationship with the donor.

The rate of tax is currently 20%.

Interaction of Irish and foreign taxes

If an individual ceases to be resident in Ireland for tax purposes it is likely that they will become resident in another jurisdiction and therefore liable to tax in that jurisdiction.

However where an individual is considered resident in both Ireland and the other country under domestic rules, a liability to tax in both countries may arise. There may be a double tax agreement between Ireland and the other country concerned, and this will determine the country of residence for treaty purposes and also which country has the right to tax the individual's income and potentially capital gains.

Social Security Contributions

Social security contributions are in the first instance payable in the country in which the duties of an employment are performed.

Expatriate Financial Planning

As a whole, the Irish tax regime is less onerous for non-Irish residents, compared to the regime for individuals who are Irish resident or ordinarily resident. Whilst the Irish tax regime for an expatriate can be complicated and the tax regime of the country to which an individual is moving also needs to be considered an expatriate should take care to plan when they move from Ireland.

In addition, if you are or are about to become an expatriate you should review your finances with a suitably qualified financial advisor. In particular, if you are about to leave Ireland, you should plan and review your finances before making the move. You may wish to consider offshore investments, including offshore life products, in order to manage your tax liability and/or control when tax charges are made, as well as considering options available to you for estate planning.

Whilst the specific benefits of an offshore life product will depend upon your individual circumstances they do offer a number of potential benefits:

- Investments in an offshore life product can grow virtually free of tax throughout the time the product is held, suffering only a small amount of irrecoverable withholding tax on investment funds located in certain countries.
- They allow you, in general, to manage when you take benefits and potentially to defer the benefits to a period that may be more advantageous to you from a taxation perspective.
- Offshore products often feature a strong range of the life company's own individual offshore funds and managed offshore funds specifically tailored to fit with the spread in clients' attitudes to risk. Offshore products also offer access to household name fund managers, including many international and specialist fund managers.
- An offshore product has the flexibility to adapt to changes in your individual circumstances, including changes in your residency status.
- Most companies offering offshore life products are subsidiaries of global financial services companies.
- The offshore life companies are regulated in first class jurisdictions which benefit from strong regulatory controls.

Your independent financial adviser can help you ensure that you maximise the financial benefits of your expatriate status and help you to assess if offshore life products are right for your individual circumstances.

This document has been prepared on behalf of the members of the Association of International Life Offices ("AILO") and relies on information and technical analysis provided by third party professionally qualified tax advisers. Whilst AILO has used its best endeavours in selecting its advisers to ensure the accuracy of the information contained in this document, AILO and its tax advisors cannot be held responsible for any errors and omissions.

This document is aimed primarily at Irish expatriates living, working or retiring abroad. This document has been prepared for general information purposes only. The information contained in this document is a summary of the law relating to taxation that is generally applicable in Ireland and is intended for guidance only. The information contained in this document reflects the law as at July 2007. Tax legislation is complex and subject to frequent change. This document cannot be relied upon as a specific analysis of the current law as it applies to each individual. Individuals should seek detailed tax advice from a suitably qualified professional adviser before making any decision in relation to his or her tax planning.

The information contained in this document does not and is not intended to amount to investment advice and anyone reading it should consult their professional adviser before making an investment into any investment product of a type mentioned in this document.