The Expatriate Financial Guide for UK Expatriates Retiring Overseas to The Republic

Introduction

An individual who is considering a move from the UK to retire 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 UK expatriate is moving. The tax regimes of countries around the world vary considerably. Generally, most countries will levy a tax on any 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 that country. The exact tax regime applied will depend upon the country in question, as well as the personal circumstances of the UK expatriate, for example what length of time they have lived in the country and/or whether they have purchased a permanent place of residence in the country.

A UK expatriate's continuing liability to UK taxes will depend upon their residence, ordinary residence and domicile status. An individual who is both resident and domiciled in the UK is liable to income and capital gains tax on their worldwide income and gains, as well as inheritance tax on worldwide assets (as a consequence of their UK domicile). For UK tax purposes residence and domicile are generally defined as follows.

Residence
In order to be tax resident in the UK an individual must be physically present in the UK at some time during a tax year. An individual's residence status in other countries is irrelevant in determining UK tax residency. An individual will be classified as tax resident in the UK if he/she meets one of the following criteria:

- If an individual is physically present in the UK for at least 183 days in the current tax year they will be classed as resident.
- If an individual visits the UK, for any reason, in four consecutive tax years and the visits average more than 91 days per year they will be classed as resident from the start of the fifth year. Alternatively if an individual arrives in the UK with the intention of spending more than 91 days per year in the country they will be treated as resident from their day of arrival.
- If an individual intends to work in the in the UK for two years or more they will be classed as resident from the day of arrival in the UK.
- The individual was UK resident for the previous tax year and has not terminated UK residence.

From April 2008 any day in which an individual is present in the UK at midnight will count towards determining residence.

Whilst an individual's tax residency elsewhere is irrelevant in determining UK tax residency, if an individual is also classed as resident in another country, the terms of a tax treaty in place between the UK and that other country may determine where and how the individual is taxed.

Ordinary Residence

The definition of ordinary residence considers the longer-term, compared to residence as above. Ordinary residence considers an individual's 'habitual' or usual place of residence rather than an individual's residence in a particular tax year. Depending upon an individual's circumstances, a UK expatriate may still be ordinarily resident in the UK, even if they are no longer resident.

H M Revenue & Customs (HMRC) will normally look at ordinary residence over a three year period and once an individual has been non-resident for three complete tax years they will generally be considered to be not ordinarily resident in the UK.

Domicile

Domicile is a concept of general law. An individual's domicile indicates the country which an individual considers to be their permanent home. Under UK law every individual has a country of domicile and this will impact upon their liability to certain taxes, such as inheritance tax. Domicile is different from residence and rarely changes. An individual usually acquires their father's domicile at birth and then retains this for life, unless they sever their ties with their original country of domicile and establish a permanent home in another country.

Most UK expatriates moving overseas are usually UK domiciled and will retain the UK as their domicile. However, if an individual is moving overseas permanently, it is possible for them to acquire a new domicile in the country to which they have moved and established a new permanent place of residence.

If a UK expatriate, who has acquired non-UK domicile, moves between foreign countries it is possible that their domicile will revert back to the UK until domicile is established in the country to which they have moved. The tax effect of changing domicile should also be considered in the adopted country of residence.

If an individual leaves the UK to retire in an overseas country, and will not be working in the country, they may still be able to become non-resident or not ordinarily resident in the UK if they intend to leave permanently, or spend at least three complete tax years outside the UK. For an individual to claim that they are no longer resident and ordinarily resident, HMRC may ask for some evidence that the individual has left the UK permanently, or intends to live outside the UK for three years or more. This evidence might be, for example, steps to acquire accommodation abroad to live in as a permanent home.

If an individual cannot provide any evidence they will be treated as remaining resident and ordinarily resident in the UK, but this status can be reviewed if:

- The absence actually covers three years from departure, or
- Evidence becomes available to show that the individual has left the UK permanently, and
- Provided that, in all cases, visits to the UK since leaving have totalled less than 183 days in any tax year and have averaged less than 91 days a tax year over a four year period.

Normally, an individual will be either resident or non-resident for a whole tax year, but HMRC allows, by concession, tax years to be split in the years of arrival and departure in some circumstances, hence an individual may only be treated as resident for a part tax year.

Expatriates not acquiring non-resident status

If a UK domiciled individual's move overseas is not of sufficient length to allow them to acquire non-resident status they will continue to be treated as a UK tax resident and hence will continue to be taxed in the UK on worldwide income and capital gains.

In addition, an individual may acquire a tax liability in the country to which they have moved. However, an individual may avoid having to pay tax twice, depending upon any taxation treaties in place between the UK and the other country.

Expatriates acquiring non-resident status

Income Tax

If an individual acquires non-resident status, they will no longer be taxable in the UK on worldwide income. On becoming non-resident, a UK expatriate may still be able to claim a UK personal tax allowance against which to offset any taxable UK source income. A non-resident individual will only be liable to UK tax on income arising in the UK. Hence, a retiree will be liable to UK tax on their pension, which will normally be paid to the individual net of UK income tax. Some pensions may be exempt of UK tax, for example pension payments from pension schemes set up for overseas employees of UK employers. Additionally, if there is a tax treaty between the UK and the country to which the individual has moved, pension payments may be exempt from UK tax.

The UK state pension is liable to UK tax regardless of the individual's residence status. Typically, an individual's UK personal allowance will be set against their state pension and hence an individual may not actually be required to pay any UK tax. However, an individual's personal allowance may not then be available to offset against any other UK source income.

Generally, a UK expatriate not resident in the UK will be liable to UK income tax on investment income arising in the UK, including interest income, dividends and rental income.
Interest income received in the UK would normally have UK tax deducted at source at a rate of 20%. An individual may apply to have such income paid gross, provided he or she is not ordinarily resident in the UK. Such income would be taken into account when calculating an individual's tax liability.
Dividends from UK companies will always be paid with an attaching notional tax credit. Such a tax credit may be used to meet all or part of an individual's tax liability. It is not possible to reclaim the tax credit.

Any profit arising from renting out a UK property will be liable to UK tax. In determining such a profit, a number of expenses are usually deductible from rental income, for example maintenance costs, management fees and mortgage interest in respect of any loans used for 'rental activity' such as purchasing the property. Generally, basic rate tax will be withheld from any net profit by the expatriate landlord's letting agent and will be remitted to HMRC. However, if a letting agent is not used the onus to withhold tax falls upon the tenant, although HMRC will usually waive this requirement if the landlord makes a formal request to receive the rents gross and undertakes to settle any UK tax liabilities.

On becoming non-resident, a UK expatriate may still be able to claim a UK personal tax allowance against which to offset any taxable UK source income.

Capital Gains Tax

A UK expatriate may still remain liable to UK tax on capital gains even after that individual is classed as non UK resident for income tax purposes. Such an individual may also be liable to UK tax on realised capital gains even if the asset is sold whilst the individual is non resident in the UK.

An individual's liability to UK capital gains tax will depend upon a number of factors, including, the type of asset sold and the length of time that individual has spent or intends to spend overseas.
An individual will be subject to capital gains tax in the UK even though they are not resident in the UK, in the following circumstances:

- The individual realises a capital gain and at some point after realising that gain and before the end of the tax year in which it was realised, the individual becomes resident in the UK:
- The individual ceases residence in the UK and at some point after ceasing residence and before the end of the tax year in which the individual ceased residence, the individual realises a capital gain.
- The individual ceases residence in the UK after having been resident for at least four of the previous seven years of assessment. Whilst not resident in the UK, the individual realises a gain on an asset held at the time the individual ceased UK residence, and the individual resumes residence in the UK having spent less than five complete tax years not resident in the UK.

There is a concession (known as the "split year treatment") that may take gains arising under the first two bullet points above outside the charge to capital gains tax. Please note, however, that HMRC may remove this concession at their discretion.

If any capital gain realised is or does become chargeable to UK tax and has also suffered foreign capital gains tax then, subject to a taxation treaty between the UK and that other country, double tax relief may be given under such a treaty or, if no tax treaty is in place, by way of unilateral relief.

If an individual sells their UK main residence, it should be fully relieved from UK capital gains tax. As a general rule, this relief is available in full if the residence is sold within three years of an individual moving overseas and providing certain criteria in respect to the occupation of the residence are met.

Inheritance Tax

An individual's liability to UK inheritance tax is dependent upon the domicile of the individual. If they are domiciled in the UK then UK inheritance tax is charged on the individual's worldwide assets, including some lifetime gifts. However, if the individual is not domiciled in the UK, generally only assets located in the UK will be subject to UK inheritance tax. Even if an individual is non-resident and not ordinarily resident in the UK they may still be UK domiciled.

If an individual is liable to foreign inheritance tax by virtue of residence, or otherwise, in that country then relief may be possible depending on any inheritance and gift tax treaties the UK has entered into. The UK has entered into around 10 such treaties.

Other Considerations

A non-UK resident individual will not be able to make any further contributions to an Individual Savings Account (ISA) whilst overseas, although they will still benefit from UK tax relief with regard to any investments already held within the ISA. Similarly, any PEP or TESSA held by the individual may continue to be held with the associated UK tax benefits. However, it is possible that such investments will give rise to a foreign tax charge in the country where the individual is resident.

A non-UK resident individual who has retired overseas while drawing a UK pension remains subject to UK tax on the income, unless they become resident in a country with a double tax treaty with the UK that contains an article on pensions. If the expatriate resides in a country with no double tax treaty with the UK, they may be subject to a higher tax rate than the top rate of tax in their country of residence. Traditionally, it has been very difficult to move a UK pension to an overseas pension without being forced to pay UK basic rate tax on the transfer, but since 6th April 2006 non-UK residents can transfer their UK pensions to Qualifying Recognised Overseas Pension Schemes (QROPS) without tax deduction and, ultimately, draw them without UK tax liability. A list of approved QROPS is published by HM Revenue & Customs on its website at www.hmrc.gov.uk.

Expatriate Financial Planning

As a whole, the UK tax regime is less onerous for non-UK residents compared with the regime for individuals who are UK resident.

Whilst the UK 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 the UK.

If you are, or are about to become, an expatriate you should review your finances with a suitably qualified and regulated financial adviser and/or tax adviser before making the move. You need to ensure that your financial planning advice considers your particular situation in both the UK and the country in which you will become resident.

You may wish to consider offshore investments, including offshore life products, which are designed to be portable and, as they are not UK-based, may have no ongoing UK income or capital gains tax liabilities after you leave the UK.

Offshore life products can be useful in managing tax liabilities and controlling when tax charges are made whether you live in the UK or have moved abroad. Offshore life products are non-income producing assets, and can be utilised to house assets outside the UK for tax purposes, while offering access to a wide range of investment funds which an investor might not otherwise be able to obtain through local investment vehicles in their adopted country.

This document is aimed primarily at British 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 the United Kingdom and is intended for guidance only. The information contained in this document reflects the law as at September 2009. 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 and regulated professional adviser in their country of origin as well as eventual residence before making any decision in relation to their 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. September 2009

You may also find that the tax treatment of income from offshore bonds is treated more favourably than alternative products available in the domestic market.

Offshore bonds also play an important part in estate planning and, when used in conjunction with a trust or fiduciary arrangement, can be used to ensure that charges to inheritance tax for your beneficiaries are minimised.

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

- Investments in an offshore life product 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. Please note that tax may need to be paid on an arising basis in the individual's country of residence.
- 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 can offer significant benefits over and above what might be available in the local domestic market, particularly in relation to product features, investment flexibility and investment choice.
- Offshore bonds often feature a 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, but also offer access to household name fund managers, including many international and specialist fund managers, which may not be available in local domestic fund and insurance markets.
- 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.

Further information about offshore life products and their use in financial planning please contact your local Blacktower Consultant or email us at info@blacktowerfm.com

This document relies on information and technical analysis provided by third party professionally qualified tax advisers. Whilst best endeavours have been used in selecting advisers to ensure the accuracy of the information contained in this document, Blacktower cannot be held responsible for any errors and omissions.

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