

## Domicile

The concept of domicile is important for income tax, capital gains tax (CGT) and inheritance tax (IHT) purposes and should be distinguished from residence, which is determined by physical presence in a particular country.

You are normally domiciled in the country that you regard as your permanent home, even though you may be living temporarily somewhere abroad. The country of domicile is often described as the country in which a person intends to die. For example, you may emigrate from the UK and live abroad for forty or fifty years, without ceasing to be UK domiciled, if the intention ultimately is to return to the UK.

### Income Tax and Capital Gains Tax

A UK domiciled individual is taxable on his worldwide income and gains when they arise. Up to 5 April 2008, a non-UK domiciled individual was normally only taxable on income and gains that are transferred to the UK. From 6th April 2008 this will only apply to an individual who has not been resident in the UK for seven out of the nine preceding years, or who decides to pay an additional charge of £30,000.

Domicile outside the UK can give rise to some planning opportunities. For example, if cash is held in a bank account outside the UK, it is advisable to have a separate account into which interest is credited. If the funds are required in the UK, these should then be transferred from the capital account and provided that capital does not contain any earlier income or gains, then it can be transferred to the UK tax-free.

From 6<sup>th</sup> April 2008 the transfer of funds has been extended to include items purchased abroad and brought to the UK (with certain limited exceptions). The rules are very complex and if you think this affects you, it would be sensible to seek advice.

### Inheritance Tax

Apart from the general concept of domicile, there is a further definition for inheritance tax purposes only. It applies to individuals who have been long-term UK residents or are recently domiciled in the UK, and therefore may be subject to IHT on their worldwide assets. It applies where you:

- a) Were UK domiciled under general law, at any time during the three years immediately preceding the relevant time

OR

- b) Were resident in the UK in at least 17 of the 20 years of income tax assessment, ending in the year of assessment in which the relevant time falls.

If you are domiciled outside the UK, even though resident and ordinarily resident here, on death, assets situated outside the UK are excluded from your estate when calculating any inheritance tax liability. It is important, therefore, that if you are a non-domiciled individual as many assets as possible are located outside the UK. A simple example where tax can be avoided is if cash is held in a bank account. If the bank account is in the UK, the cash will fall into your estate, but if you transfer it to an offshore account, then it will fall outside your estate.

It is important to establish your domicile as early as possible. In particular, it should be remembered that transfers between UK domiciled spouses are exempt from inheritance tax, but if a UK domiciled individual transfers assets to his/her non-UK domiciled spouse, the inheritance tax exemption is limited to £55,000.

DSH are on hand to offer you advice based on your particular circumstances. We will help you through the complex area of domicile and the relevant tax consequences, to ensure that you are not only following the rules, but also minimising your tax liabilities.

**For further information please contact:**

**Bob Churchill**  
**Beverley Aitken**



**01622 213745**  
**01622 213736**



**bob.churchill@dsh.co.uk**  
**beverley.aitken@dsh.co.uk**

**Or visit [www.dsh.co.uk](http://www.dsh.co.uk)**

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