

## Domicile

Many people resident in England are not domiciled in England. They enjoy tax benefits, which, in some cases, are very large. The Private Wealth Department always enquires about domicile when planning wills, or advising on tax reduction.

### The concept of domicile

Domicile is a legal concept. It means the country you regard as your natural "home"; where you intend to reside at "the end of the day", and perhaps to die and be laid to rest. You may travel the world and live in other countries over many years, but if you intend to return to your country of birth, you never abandon your domicile there. The rules for determining your domicile are not simple, and each case depends on its facts, but the following can be treated as basic guidelines:

1. You can have only one domicile at any one time.
2. You are born with a domicile usually dependent on your father's at the time of your birth.
3. If your father changes his domicile whilst you are a child, your own will probably change with his.
4. When you reached the age of 16, you were free to adopt a new domicile of choice.
5. This is not easy. It requires many positive actions on your part, for example selling and buying houses, changing nationality and the newspapers you read, moving bank accounts and so on.
6. Those outward indicators must be accompanied by a clear and evidenced change of intention as to your new permanent home.
7. Evidence of change of intention is usually missing, and it is important to avoid this mistake; swear an affidavit setting out all the facts and stating your intention unequivocally

Women who married their current husband before 1st January 1974 are a special case. They automatically acquired their new husband's domicile on marriage, and will retain it until either they actively abandon it, or they take on a new independent domicile of choice.

### Tax benefits and problems Inheritance tax ("IHT")

Inheritance tax is charged at 40% on the value of your assets. It is usually by far the biggest tax you will ever pay.

If you live here, but are non-domiciled (i.e. not domiciled in England or Wales):

1. Your assets outside the UK will be exempt from IHT.
2. Any offshore settlements you create will (unless you or your spouse is entitled to benefit under them) be outside the tax net.

*But there is a danger.* If you are the non-domiciled spouse of someone who is domiciled in England, then virtually the entire estate you inherit from him or her on death will be taxed at 40%.

However, there is a special domicile rule, which operates artificially to categorise individuals as "deemed domiciled" in England, even though their legal domicile is elsewhere. Deemed domicile for IHT purposes arises, in principle, where a person has been resident (for Income Tax purposes) in England for more than 17 of the last 20 full tax years.

A person who is deemed domiciled is treated as though he were domiciled, but only for IHT purposes; the effect is the same as set out above.

## Income tax (“IT”)

Any foreign income to which you are entitled, whilst UK resident, will be taxed only as and when you receive it here. If you leave it offshore, it won't suffer IT here.

Remuneration earned abroad from employment abroad by a non-resident employer will be taxed as it is received in the UK, but if the employer is UK resident or you do the work here, you will be taxed as the income arises.

## Capital Gains Tax (“CGT”)

Gains accruing to you from assets situated abroad will generally be taxed on you only if you receive the proceeds of disposal into the UK. But if you went non-resident less than 5 years before, the gains will be assessed on you on your return.

**For more information or advice**

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