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Proactive Tax Planning

Did You Know?

An individual's exposure to Irish tax on their income, gains, gifts or inheritance is significantly influenced by their tax residence, ordinary residence and domicile status.

Residence

The test to determine if an individual is tax resident in Ireland is based solely on physical presence during the tax year. Note that in Ireland, the tax year is the calendar year.

Tax residency is acquired in respect of a tax year where an individual spends either of the following:

1. 183 days in Ireland during that tax year or
2. aggregate 280 days in Ireland over two consecutive tax years with at least a presence of 30 days in the second tax year.

For the purpose of determining tax residence, an individual is considered present in Ireland if they spent ***any part*** of that day in Ireland.

Under the aggregation test (test #2 above), the individual is regarded as resident in the second tax year.

Ordinary Residence

An individual becomes ordinarily resident in Ireland for a tax year after he/she has been resident in the State for three consecutive tax years. Similarly, tax residence ceases at the end of the third consecutive year in which an individual is not resident. Ordinary residence, a distinct concept from residence, is defined in Irish tax law.

Ordinary residence is particularly important in determining an individual's income tax and capital gains tax liability after cessation of residence.

Domicile

There is no statutory definition of domicile. Domicile is a legal concept and can be broadly defined as a person's natural home. Every individual is born with a domicile of origin normally the domicile of his or her father. If the child is born outside marriage or after the death of his or her father, the child takes the domicile of his or her mother.

It is possible for a person to lose their domicile of origin and acquire a domicile of choice, however this is not an easy process. Likewise, it is possible for an individual to lose their domicile of choice and revive their domicile of origin.

Domicile will only change if there is an intention to live on a permanent basis in another country.

Domicile is an important concept under Irish law as it is relevant not only for tax purposes but also for determining the rules of succession.

The scope of an individual's liability to Capital Gains Tax can be summarised as follows:

RESIDENT OR ORDINARILY RESIDENT?	DOMICILED?	LIABLE TO IRISH CGT ON?
Yes	Yes	Worldwide gains
Yes	No	Irish gains and other gains to the extent that the proceeds are remitted to Ireland
No	Yes	Only on Irish specified assets
No	No	Only on Irish specified assets

The scope of an individual's liability to income tax in Ireland can be summarised as follows:

RESIDENT	ORDINARILY RESIDENT	DOMICILED	LIABLE TO IRISH INCOME TAX ON
Yes	Yes / No	Yes	Worldwide income
Yes	Yes / No	No	· Irish source income · Foreign employment income to the extent duties of the employment are performed in Ireland, and · Other foreign income to the extent that it is remitted into Ireland
No	Yes	Yes	Worldwide income with the exception of: · Income from a trade or profession, no part of which is carried out in Ireland, · Income from an employment all the duties of which, apart from incidental duties, are exercised outside Ireland, and · Other foreign income, provided that it does not exceed €3,810
	Yes	No	Irish source income and foreign income to the extent it is remitted to Ireland. Income from the following sources is not liable to Irish income tax, even if remitted to Ireland: · Income from a trade or profession, no part of which is carried out in Ireland, · Income from an employment all the duties of which, apart from incidental duties, are exercised outside Ireland, and Yes
No	No	Yes / No	Irish source income only

The scope of an individual's liability to Capital Acquisitions Tax can be summarised as follows:

Capital Acquisitions Tax (CAT) in Ireland covers the taxation of gifts and inheritances. It arises on a gift or inheritance arises on a benefit:

- from a disponer who is resident or ordinarily resident in Ireland, at the date of the disposition under which the successor (beneficiary) takes the inheritance,
- where the successor is resident or ordinarily resident in Ireland, at the date of the inheritance, or
- in respect of property situate in Ireland, at the date of the inheritance.

An individual is treated for these purposes as not being resident or ordinarily resident in Ireland if that individual is not Irish domiciled and has not been resident in Ireland for five consecutive tax years preceding the year in which the date of the inheritance falls.

Summary

Tax residence and domicile issues can be complex, but they also provide significant planning opportunities for individuals that have lived in more than one country.

It is advisable to consult a professional to ensure you are making the right choice for you.

Disclaimer: *The information provided in this document should only be used as a guide and does not constitute formal professional advice. No action or inaction should be taken on the basis of this document unless this has been the subject of independent professional advice. All information and taxation rules are subject to change without notice. No liability whatsoever is accepted for any action taken in reliance on the information in this article. We would recommend that professional advice is sought on a case by case basis. Please note that we are not legal advisers, therefore independent legal advice should be sought.*

Any questions?

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Proactive Tax Planning

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- Business Succession
- Corporate restructuring and business reorganisation
- Tax Efficient Remuneration Plans for employees
- VAT (including VAT on Property)
- Property transactions
- Gift and Inheritance tax planning
- Domicile planning and the remittance Basis of taxation for individuals moving to or from Ireland

Why Choose Us

"Our mission is to deliver ***personalised, practical tax advice*** that ***simplifies*** complex rules and ***empowers*** our clients to make ***informed choices***."

Contact Us

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Any questions?

Get in touch today!