

Criteria for residency in the uk for tax



There are many different factors which will determine, whether you are resident in the UK during a tax year. It is possible to be resident in the UK for Income Tax and Capital Gains Tax purposes under our tax rules and at the same time be considered resident in another country under that country's rules.

The criteria is all follows:

Resident

- " If you are in the UK for 183 days or more in the tax year, you will always be resident here. There are no exceptions to this. You count the total number of days you spend in the UK - it does not matter if you come and go several times during the year or if you are here for one stay of 183 days or more"
- " If you come to live in the UK permanently or to remain for three years or more you're resident from the date of arrival."
- " You're also treated as resident if you are in the UK for an average of 91 days or more in a tax year - worked out over a maximum of four consecutive tax years."

(HM Revenue & Customs, 2010)¹

Ordinarily resident

-If you're resident in the UK year after year you will normally be treated as ordinarily resident.

-You're treated as ordinarily resident in the UK from the date you arrive if it's clear that you intend to stay for at least three years.

(HM Revenue & Customs, 2010)¹

Domiciled

-Your domicile is normally acquired at birth, but this is a general law concept covering a range of factors. Your domicile is distinct from your nationality and from your place of residence. (HM Revenue & Customs, 2010)¹

Strengths and weakness of UK residency criteria

The UK residence criteria for tax purposes are so complex. There are many loopholes in the criteria, resulting tax avoidance from people who can afford to commute in and out of the UK from places like Monaco and pay very little or even no tax in UK.

In addition, the rules on residency includes the domicile rule, which has made the UK a tax haven for foreigners, causing untold tax abuse and increased division in our society.

The bases of assessment of income tax for resident, ordinarily resident and UK domiciled: –

When you are resident or domiciled in the UK you are normally taxed on the ‘ arising

basis of taxation’ and you will pay UK tax on:

Any of your income which arises in the UK e. g.,

Income from the work you do in the UK

Income from UK pensions

Income from UK investments

Any of your income which arises outside the UK e. g.,

Dividends from foreign companies

The profits of a property business (rental income)

The profits of a trade, profession or vocation which is carried out wholly outside the UK

Pensions and annuities

Interest

Royalties.

Any gains which accrue on the disposal of assets anywhere in the world.

(hmrc6, 2010)²

If you are UK domiciled you will also pay tax on all your overseas income, however you may be entitled to a ten percent deduction from the amount due on overseas pensions.

If you are not UK domiciled you will usually pay tax only on overseas income you bring into the UK. But you will pay tax on:

All your earnings if you work overseas for a UK employer

All your earnings if you do some work in the UK for an overseas employer

90 percent of a pension from the republic of Ireland- unless it's an Irish government pensions and you are a UK national

But, if you are resident in the UK and you are:

not domiciled in the UK and/or

not ordinarily resident in the UK

There are special rules which might apply to your foreign income and gains which allow you to pay UK tax only on the amount of your foreign income and gains that you, or another relevant person, bring into (or 'remit to') the UK. Even if these special rules do apply to you, you will still have to pay UK tax on any of your income and gains which arise/accrue in the UK. This method of dealing with your foreign income and/or gains is called 'the remittance basis'.

(<http://www.nidirect.gov.uk/visited> on 29/10/10)3

One tax rate for all individuals resident in the UK.

You would not be wrong in stating that "One flat tax rate would make the income tax computations simpler" as it will simplify the tax codes, reducing the burdens on individuals who have to file in tax returns.

The tax computations will be easier as everyone would fall into one Tax bracket, meaning all incomes are taxed at same percentage. There are countless loopholes and exemptions in the current Tax code that usually end up benefiting the rich, who are in the higher tax brackets. Changing these

different tax bands to one flat rate would eliminate all loopholes and deduction in the tax code making the computations simpler.

“ Setting one tax rate for individual in the UK would have a great impact on the economy and would modify the role of the government and influence Britain’s position on the international level”. This will change the tax system from progressive to a proportional one. (Robert Hall and Alvin Rabushka, 1995)5.

There are many other benefits of setting one flat Tax rate for all individuals resident in the UK such as:

The flat tax eliminates double taxation on savings and investments, since all forms of income are taxed once and people are free to choose whichever investment maximizes their profits.

The flat tax increases government revenue, as a result of a more dynamic economy and less tax evasion.

The flat tax considerably reduces the time and cost of completing tax forms. Making the tax filing much simpler and more efficient. Taxpayers will save money they currently pay for financial advice and guidance.

The flat tax offers individuals more control over their money and reduces government infringements on privacy.

(Richard murphy, guardian. co. uk, Wednesday 3 March 2010 12. 30 GMT)4