What is your Tax Status and does this matter?

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With growing number of people leaving UK, whether the older generation retiring to places such as India, or young people moving to Australia to find new fame and fortune, there may be tax planning opportunity that you can take advantage of, but:

**Are you Resident, Ordinary Resident or Domiciled?
And does this matter?**

The short answer is that your tax status of residence, ordinary residence or Domicile will affect the amount of tax you pay.

UK residents who are also UK domicile have to pay UK income and capital gain taxes on their world wide income and gains. Or simply put it another way, it does not matter where in the world the assets are located or in which country the income is earned, they will all fall into UK tax net.

From 6 April 2008, those who are UK resident, but not domiciled can claim to be subject to UK tax on the income from foreign assets when they are remitted (brought in) to UK. Alternatively, you can choose to pay £30,000 fees. This is the recent change that has caused much of the controversy and possibly the out flux of business and investment out of UK.

If you are non resident then you do not have to pay tax on your non UK income. However, you will continue to pay tax on your UK income.

If you ceased to be resident and ordinary resident, then you will be outside the scope of the UK capital Gain taxes, even on UK assets.

Thus, your tax status of residence and domicile has significant effect on the amount of tax you will pay. So can you change your status?

Non Resident?

You are considered as a resident in UK during a tax year if you spend 183days or more in the UK or if less than 183 days, but more than 90 days per year, taken as average over past 4 years.

With effect from 6 April 2008, any day when you are in UK at midnight will be counted as a day in UK for the purpose of counting the number of days spent in UK to determine the Residence status.

Thus to become non resident, you really need to establish residence overseas. Only then does the 90 day rule come into play and if the rule is satisfied then you will be considered to be non resident. If, however, you have never left UK then you will remain a UK resident, whether or not you pass the 90 day test.

Non Ordinary Resident?

Even if you qualify as non resident you may still classify as an ordinary resident, unless you go abroad with the intentions of taking permanent residence overseas. Permanent is meant to be three years or more.

If you qualify to be non ordinary resident, as well as non resident, then you do not need to pay any UK capital gain taxes on your world wide assets, including UK assets.

Non Domicile?

It is important to point out that your nationality and citizenship is not necessarily the same as your domicile. You are normally a domiciled in the country that you normally regard as your homeland, not necessarily where you happen to be temporarily living. Thus, it is possible for a person to live in UK for 40 years and yet still remain legally domiciled in another country.

You can either take up the domicile of origin. This would be your father's (or sometime mother's) domicile at the date of your birth or through choice. In order to acquire a domicile of choice, you must voluntarily make the new country your permanent residence for the rest of your days.

If you are resident/ordinarily resident, but non domiciled, you will only pay taxes on the income or proceed remitted to the UK, often known as remittance basis.

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