

## **INTERNATIONAL ASPECTS OF INHERITANCE TAX**

### **Limits of Inheritance Tax Charge**

Inheritance tax has a different basis to other taxes. A UK “domiciled” individual is liable to inheritance tax on all his worldwide assets. Individuals who are not domiciled in the UK are liable to inheritance tax on assets situated in the UK.

Domicile is a legal concept that refers to an individual’s long term base or home. A person who was not born in the UK and who is living in UK for a temporary period (even several years) , is not likely to have UK domicile. In fact, domicile in the UK can be one of three domiciles, England and Wales, Scotland and Northern Ireland. However UK inheritance tax is uniform in the three jurisdictions.

A person generally acquires the domicile of his parents. In order to lose an initial domicile, it is necessary to “put down roots” in another country; effectively have a long term intention to make the country one’s permanent home in substitution for, say, the country of birth . Domicile is often disputed by the Revenue Authorities.

A non-UK domiciled individual is only liable to inheritance tax on UK situated property. Therefore an Irish domiciled resident individual or even an Irish UK resident Irish domiciled individual will only be liable to inheritance tax on property and assets in the United Kingdom.

There are further tests of domicile for Inheritance tax purposes which are in addition to the common law rules mentioned above. UK Inheritance tax deems an individual to be domiciled in the UK at the time of a transfer if he was domiciled within the three years preceding the transfer. Also, individuals resident in the UK for income tax not less than 17 of the 20 years ending with the year of the death or transfer are deemed to be domiciled in the UK.

## **Implications for Non- UK Domiciled Individuals**

An English Grant of Probate or Administration is required to transfer assets situated in England and Wales. The Irish Grant can be re-sealed by the English Probate Office, thereby having it recognised in the UK. Alternatively there may be a separate Will dealing with their England and Wales or UK property which is admitted to probate.

Where an individual holds assets in the United Kingdom it is essential that consideration should be given to mitigating UK Inheritance Tax. UK Inheritance Tax is notoriously onerous. In the case of non-domiciled individuals (generally most Irish individuals) English Inheritance Tax will only apply to their property situate in Ireland. This will include land but could also include assets deemed to be situate in Ireland such as shares in an English registered company.

An Irish resident individual is likely to be subject to Irish Inheritance Tax on all of his worldwide assets. Therefore, an element of double taxation may arise. There is relief from double taxation to the extent that the same asset is taxed in each jurisdiction. Because English Inheritance Tax is generally more onerous the higher UK tax may be payable, albeit with a credit for the Irish Inheritance Tax on the same inheritance in the case of UK situated assets. The credit will be given by the UK where the assets are situated in Ireland.

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This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.