

## **DOMICILE INFORMATION SHEET**

Domicile is the mechanism which determines which country or jurisdiction will be relevant on the happening of certain events in a person's life, for example, whether they will be liable to UK tax, where their estate will be administered when they die, who will inherit their estate and what assets they will inherit.

English law is different from most other countries which use residency, nationality or citizenship to determine these matters.

### **Determining Domicile**

At the time we are born, we automatically acquire a domicile of origin which is based on the domicile of our parents. If our parents are married, we acquire the domicile of our father whereas if our parents are unmarried, we acquire the domicile of our mother. Domicile of origin is *not* determined by *where* a person is born.

Once we reach the age of 16, we can abandon our domicile of origin in favour of a domicile of our choice. If we later decide to abandon our domicile of choice, our domicile of origin is revived and will remain either permanently or until we acquire another domicile of choice.

### **Acquiring a Domicile of Choice**

This usually arises because a person is considering a permanent move abroad and intends that the country they are moving to becomes their domicile of choice. If the particular reason for doing this is because a person believes that they will be adopting a more benign tax regime or because property is cheaper there, they must be fully satisfied about the following factors:

- The whole of the proposed new tax regime is benign not just in relation to inheritance tax but also in relation to income tax and capital gains tax.
- Be certain that if they are purchasing a property abroad, they are sure that the property will retain its capital value.
- Be satisfied regarding pension and healthcare arrangements.
- Ensure that they have fully considered the effect of moving abroad on family and friendship relations bearing in mind that possible future visits to the UK can have consequences in relation to securing their new domicile.
- Whether they will be retaining any assets in the UK.

Whilst there is no single test for determining whether someone has acquired a domicile of choice, the Courts have taken the following factors into account in past cases:

- Buying a home in the new country.
- Establishing a business in the new country.
- Fully integrating into the new country by applying for citizenship, registering to vote and joining clubs/associations.
- Disposing of UK based assets and connections.
- Making a Will referable to the new country and acquiring a burial or cremation plot there.

It is always advisable to make a written statement setting out their intentions and also making those intentions clear to family and friends. The statement is extremely important if following death, the domicile of choice is challenged, say, by the Inland Revenue.

### **Wanting to retain domicile of origin**

It is not too difficult to choose to change back to the domicile of origin. It might be that they move back into the UK, re-establish UK based assets, purchase a burial or cremation plot here, all of which is then followed by a written statement in which they assert that they wish to establish their domicile of origin.

It can, however, happen that someone inadvertently acquires a domicile of choice even if they did not have that intention. It may be that someone spends the majority of their time abroad towards their retirement years and for practical or administrative reasons, make changes to their assets which could be construed as acquiring a domicile of choice. In such a case, advice must be sought so that their intentions regarding domicile are clear.

### **Conclusion**

- The determination of domicile is important for a number of reasons and when clients seek our advice regarding moving abroad or marrying someone from another jurisdiction, domicile must be considered as an important part of estate planning.

For further information regarding domicile, please contact::

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