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Wills & Probate for Expats

Expats and Inheritance tax.

UK Inheritance tax

British people who live or travel abroad may find inheritance tax a difficult issue as it is charged on transfers of *worldwide* assets by people domiciled in the UK, and transfers of *UK* assets by people not domiciled in the UK.

So the first question to answer is “Where am I domiciled?”

The answer may not be as clear as you think. HMRC provide a guide to work out your domicile – you can read that guidance [here](#).

You are born with a “**domicile of origin**” that being the country in which you are born, obvious so far!

As you grow older you may move abroad and if you intend to live abroad permanently you may have a “**domicile of choice**”

However, in their relentless attempts to get their hands on your money, since April 2017 the HMRC has come up with a “**deemed domicile**”.

This means that HMRC deem some individuals who are not UK domiciled as if they are domiciled in the UK for income tax and capital gains tax purposes. The UK is your deemed domicile if:

- you are domiciled outside the UK, but you were born in the UK with a UK domicile of origin; or
- you have been resident for tax purposes in the UK for at least 15 of the previous 20 tax years.

The effect of being UK resident in a tax year and deemed domiciled in the UK for income tax and capital gains tax purposes is that you are chargeable to UK tax on your *worldwide* income and gains in the same way as individuals who are actually UK resident and UK domiciled

Why is domicile important?

It is your domicile and not your country of residence which decides your liability for UK inheritance tax which is set at 40% of the value of your estate above the £325,000 allowance threshold.

Can I change my domicile?

Yes you can, and to acquire a new domicile of choice you need to be not only living in your new country of choice but intend to stay there and never return to live in the UK – you have to effectively sever your ties with the UK. Owning a property in the UK will mean that the HMRC will likely deem you domiciled in the UK. Changing your domicile can take up to 4 years to achieve due to the rule of that you are deemed domiciled in the UK if you have been a tax resident there for 15 of the past 20 years.

What if I am domiciled in Spain?

Your estate is then subject to Spanish inheritance tax which is paid before your heirs take up their inheritance. It also means that only your UK estate is subject to UK inheritance tax.

Spanish Inheritance tax

Inheritance tax is due on the acquisition of inherited assets and the obligation to pay inheritance tax falls on the individual beneficiary, rather than on the estate.

Each beneficiary must pay tax on the value of their individual acquisition (either for single assets or for a share in the estate)

If you are **resident** in Spain, either a Spanish national or an expat, you must pay inheritance tax on all inherited acquisitions, whether or not the deceased was resident in Spain or whether or not the assets are located in Spain.

Inheritance tax paid in the UK on the same asset may be deducted so that there is not double taxation.

If you are a **non resident** you will only pay for the acquisition of the assets that are located in Spain, regardless of whether the deceased was a resident there or not.

However, non-resident beneficiaries cannot claim any UK inheritance tax paid on the same asset, against the Spanish inheritance tax due.

Each autonomous region sets its own inheritance tax rates.

The rate of inheritance tax payable in Spain will depend on four things:

1. The relationship between the person who died and the beneficiaries (certain close relatives are exempt from Spanish inheritance tax).
2. The value of the gift that each beneficiary receives.
3. The individual wealth of each beneficiary.
4. Which region of Spain your property is in (each autonomous region of Spain has its own inheritance tax rules).

This often results in differing demands for inheritance tax to be paid by different beneficiaries from the same estate.

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Contact simon@diablelaw.com for a free chat.