

Buying a Home Abroad

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Comments on some of the tax issues involved.

Searching for sunnier climes may be the dream of many people, but buying a property abroad should trigger a review of your own taxation status in the UK and also how the foreign property will impact your Inheritance Tax (IHT) bill. You might think that taking money abroad and investing it in a property would be a way of “sheltering” those funds from UK Inheritance Tax. Not so, unfortunately. Inheritance Tax is charged at 40% on your worldwide assets for individuals domiciled in the UK. This means that the current open market value of your holiday home will be taken into account in determining your UK IHT liability.

In addition - wherever you buy - bear in mind that succession laws may be totally different. For example, succession laws in Spain and France differ widely from each other and from those in the UK. Procedure in the United States, whilst similar to the UK in terminology, varies from state to state. To avoid a long and complex estate administration, you should always make a Will in the country where the asset is situated, but confine the Will to those assets only. In addition, it is important that any foreign Will does not revoke your UK Will.

You might also find that the assets will be subject to tax in the foreign country as well as to UK Inheritance Tax. There are double taxation treaties in existence with many countries, which means that you will not end up paying double the tax, but each country is different and this should be checked out with your adviser.

For those people who wish to permanently move abroad, the questions of “domicile” and “residency” should be looked at closely. “Domicile” is a legal concept which determines (for England and Wales), the basis upon which you are taxed to UK Inheritance tax. If you are domiciled in England and Wales, as mentioned above, IHT is charged on your worldwide assets. The rules are complicated and it is very

difficult to shrug off a domicile of England and Wales. For example, Richard Burton, upon his death, was deemed to be domiciled in England and Wales simply because his ashes were returned to the UK! This is despite the fact that he lived for many years in Switzerland. IHT was charged accordingly on all his assets across the world.

Altering your domicile requires far more proof than simply changing your residency status. To have a domicile somewhere else you have to show that you have moved to another place permanently, or indefinitely, and cast off all your ties with your country of origin. The onus is on the tax payer to prove it, and the question usually arises following death. So it is very much more difficult for Executors to find the evidence unless the taxpayer has put in place plans for this, and taken advice.

Residency, however, is easier to switch and is about where you are actually living. This affects Capital Gains Tax and Income Tax rather than Inheritance Tax and, as long as you live outside the UK for three years and do not return for more than 90 days on average per year, you *may* become ordinarily non-resident. However the rules (as always with tax law!) are complicated and advice should be sought as to your individual position.

The moral of the story is to think very carefully about these issues and take advice from the right specialists. The effect of not having a Will relating to your overseas assets, or indeed UK assets, means that a great deal more time and money will be spent sorting it out than it will cost in professional fees.

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