

March 2009

## Expatriate Taxation

**A person's residency status is a key factor in determining their liability to income tax in Ireland.**

Recent changes in the Irish economy have seen vast numbers of individuals looking for work abroad, particularly in Australia and Canada. Moving abroad, whether as an employed or self-employed person will have an impact on a person's taxable status.

### Summary of the residency rules:

#### 1. Residence

A person is resident in Ireland where they:

- spend at least 183 days in Ireland in a single tax year or,
- 280 days in Ireland over two tax years

Finance (No.2) Act 2008 amended the position so that from the 2009 tax year onward, an individual is deemed to be present in Ireland for a day if he/she is in Ireland **at any time during that day**. The exceptions to this rule are very limited.

#### 2. Ordinary Residence

A person attains ordinary residence in the year after they have been resident in Ireland for 3 consecutive tax years. Similarly, a person becomes non-ordinarily resident in the year after they have not been resident in Ireland for 3 consecutive tax years.

#### 3. Domicile

Domicile is a complex subject. A person is generally domiciled in the place in which they intend to settle for good.

### The simplest way to look at the tax implications of a change in residency status is by way of example:

Bob and Jane are a married couple living in Waterford. They have 3 children.

Bob works for an Irish company called T-Square International Engineering Limited. Jane is a self employed florist. Bob and Jane also jointly own UK and US bank shares, a rental property in Dublin and an Irish deposit account.

They are currently Irish resident, ordinarily resident and domiciled and subject to tax on all of their Irish and worldwide income.

### 2009

In January 2009 Bob's Irish employer offers him a permanent position with the company in Canada. Bob decides to accept this. The family moves to Canada on 31st July 2009.

Jane continues her florist's trade in Canada. She leases a unit in a Canadian shopping centre and commences business in September 2009.

As the family was in Ireland for more than 183 days in 2009 they remain Irish resident for all of 2009. This has the following effect on their tax liabilities:

- Bob can elect for "split year residence relief" if he can demonstrate to the Revenue Commissioners that he intends to be non-resident in 2010. "Split year residence relief" will exempt Bob's Canadian employment income from Irish tax.

Bob's employer can then apply to Revenue to obtain a PAYE exclusion order. This is a certificate issued to an employer which authorises the employer to pay an employee without the deduction of PAYE tax. Bob may however, be subject to Canadian income tax on his income from T-Square International Limited.

- Jane must pay Irish income tax on her self-employed florist's income from Canada in 2009. She may also be liable to Canadian income tax. The Double Taxation Agreement between Ireland and Canada entitles her to a tax credit in Ireland for any Canadian income tax she pays.
- Bob and Jane continue to be liable to Irish income tax on the income from their US and UK shares, their Irish rental income and their Irish deposit interest income in 2009.

## 2010

Bob and Jane return to Ireland for a 21 day holiday in June 2010. They spend the rest of the year in Canada. As they spent less than 280 days in Ireland between 2009 and 2010 the family is now ordinarily resident and domiciled in Ireland but not resident.

They must pay tax on worldwide income with the exception of:

- Employment income or trading and professional income none of the duties of which are carried out in Ireland.
- Foreign investment income to the value of €3,810 per year.

Therefore:

- Bob will not pay Irish income tax on his employment income as all his duties are carried out in Canada.
- Jane's income as a self-employed florist in Canada will not be liable to Irish income tax
- Bob and Jane will continue to pay Irish income tax on their Irish rental and deposit interest income.
- They do not pay income tax in Ireland on their US and UK dividends if they do not exceed €3,810 in the tax year.

## 2016

Bob and Jane remain in Canada until 2016. During that time they purchase a Canadian rental property.

In early 2016 they decide to move home. Bob moves back to Ireland on 31st March 2016 (without the family) to get settled in and to find a new home.

He will be in Ireland for more than 183 days in 2016. This makes him Irish resident (but not ordinarily resident).

Prior to the Finance Bill 2010 Bob, as an Irish resident citizen who was not ordinarily resident, qualified for the remittance basis

Proposed changes contained in The Finance Bill 2010 (still to be passed) provide for the

discontinuance of the remittance basis in respect of foreign income.

If these changes do come into effect, in 2016 Bob will be taxed in Ireland on:

- His Irish employment income.
- He can however apply for "split-year residence relief" to pay Irish income tax on his employment income from his date of return only.
- His share of the couple's Irish deposit interest income and Irish rental income.
- His share of the couple's Canadian rental income and UK and US dividend income even if he does not bring the money into Ireland.

It is only **remittances of income** as opposed to **remittances of capital** which are liable to Irish income tax.

The question of whether any particular remittance is out of income or capital may not always be a straightforward one and advice should be sought in relation to same the **year before** you become resident in Ireland.

As Jane does not come home until 15th December 2016, she is non-resident for 2016. Therefore, Bob is not entitled to the married person's cut-off point and increased tax credits in Ireland.

However, the Revenue Commissioners do grant 'aggregation relief' to allow couples such as Bob and Jane to claim the married person's cut-off point and increased tax credits, subject to the couple satisfying certain conditions.

Please do not hesitate to contact our tax department if you would like further advice on any of the above points.

**Karina Janeczek**

**Tel: 01 6790800**

**Email: [kjaneczek@crowleysdfk.ie](mailto:kjaneczek@crowleysdfk.ie)**

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For more information, please contact us at: [marketing@crowleysdfk.ie](mailto:marketing@crowleysdfk.ie)

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[www.crowleysdfk.ie](http://www.crowleysdfk.ie)



16/17 College Green  
Dublin 2  
Ireland

Tel +353 1 6790800  
Fax +353 1 6790805

Fifth Floor  
5 Lapp's Quay  
Cork  
Ireland

Tel +353 21 4272900  
Fax +353 21 4277621

Washington Lodge  
Newtown  
Waterford  
Ireland

Tel +353 51 844441  
Fax +353 51 844443