

Irish Tax Incentives for Foreigners adopting Irish Tax Residence

Introduction

With improved communication systems, there is an increasing tendency for high income earners including sportsmen, entertainers, chairmen, chief executives and owners of major companies to manage their individual tax residency. This newsletter focuses on the benefits Ireland offers foreigners who become Irish resident but who spend significant periods outside of the country on international business.

Historically Ireland has a strong international reputation for maintaining relatively low corporate tax rates. The current rate of corporation tax for trading operations is 12.5%. What is lesser known is that Ireland has one of the world's most generous tax regimes for non Irish born individuals. Ireland is an attractive location by which an individual of non Irish descent can live tax-free. For such individuals, Ireland offers the facilities of an offshore low tax location whilst providing many of the benefits including double tax treaty protection of an onshore location.

i) Taxation of Non Irish Domiciliaries

There is a rebuttable presumption that individuals born to fathers of non Irish extraction are non Irish domiciliaries. Such individuals who are resident here can benefit from the Irish remittance basis system of taxation. This means that while such individuals will be chargeable to tax in Ireland on Irish source income and gains, they will only be chargeable on foreign income and gains to the extent that they are remitted to Ireland.

Where non-domiciled individuals come to Ireland and use their wealth accumulated outside of Ireland to cover their day to day living expenses, it is possible for such individuals to live in Ireland free of tax.

ii) Key Considerations for Foreigners coming to Ireland

Foreigners relocating to Ireland need to consider the steps they need to take to a) remove themselves from the tax regime of their current place of tax residence, and b) adopt Irish residence. We regularly work with overseas tax specialists to ensure that individuals moving to Ireland break their overseas tax residence and adopt Irish residence.

An individual is regarded as resident in Ireland for a tax year if:

- The individual spends more than 183 days in Ireland in the tax year;

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- Over two tax years, the individual spends more than 280 days in Ireland; or
- The individual elects to be Irish resident and satisfies the Irish Revenue he will be resident in Ireland for the following year.

Where an individual is resident in Ireland, he may nonetheless remain liable for tax in the country of origin. In many cases, Ireland's network of double tax treaties give exclusive taxing rights to Ireland when an individual can show he spends more than 183 days per annum in Ireland and/or demonstrates that his centre of economic interests is located here. Ireland's double tax treaties typically protect the tax-free income and some gains of a non-domiciliary.

Currently, Ireland has double tax treaties with the following countries:

Australia, Austria, Bahrain, Belarus, Belgium, Bulgaria, Canada, Chile, China, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mexico, Moldova, Netherlands, New Zealand, Norway, Pakistan, Poland Portugal, Portugal Protocol, Romania, Russia, Serbia, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, The Republic of Turkey, United Kingdom, United Kingdom Protocol, United States, United States Protocol, United States Competent Authority Agreement, Vietnam, Zambia.

In certain circumstances individuals can also secure a refund of tax where they exercise duties in Ireland but restrict their remittance of such income into Ireland.

Foreigners coming to live in Ireland have an initial five year window in which they remain outside the scope of the Irish gift and inheritance tax in respect of non Irish property.

iii) Need for Advance Planning

In order to avail of the remittance basis of taxation in Ireland, it is key that individuals plan for their relocation to Ireland. Individuals need to prepare a statement of affairs. We can then work, with overseas advisers, to ensure that income and gains will arise from non Irish sources. Detailed step plans and co-ordinated advice are necessary. For example, individuals need to ensure they do not inadvertently trigger income or gains tax-free in Ireland that could become taxable if they return to their country of origin within a certain period.

Conclusion

The UK income tax rate has increased to 50% and tax rates in other countries are likely to increase to fund various Government spending in the recession, internationally mobile individuals need to commence the process of analysing mechanisms by which they can minimise tax. In 2008, Ireland introduced changes to its remittance basis tax system to deem income and gains from UK situs assets to be capable of availing of the remittance basis. This gives a unique opportunity to British citizens to move to Ireland and live tax-free. Structured appropriately, Ireland offers vast opportunities for internationally mobile individuals to exploit its tax incentives for non-domiciliaries.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation

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