

GIFTS BETWEEN SPOUSES

UK INHERITANCE TAX

DOMICILE

This is a general law concept. Broadly speaking an individual is domiciled in the country which he regards as his permanent home.

Domicile is distinct from nationality or residence, and you can only have one domicile at any given time.

There are three forms of domicile:

- Domicile of Origin – At birth you acquire your father’s domicile. This is not necessarily the domicile of the country where you or he was born. A domicile of origin is retained until you acquire a different domicile – of choice or of dependency.
- Domicile of Dependency – Until you have legal capacity to change your domicile, your domicile will follow that of the person on whom you are legally dependent, i.e. generally your father. If your father’s domicile changes during your minority you automatically acquire the same domicile as him, in place of your domicile of origin.
- Domicile of Choice – A domicile of choice replaces a domicile of origin. In order to acquire a domicile of choice you must sever your ties with your country of domicile of origin and settle in another country with the clear intention of making your permanent home there. Living in a country for a long time, although important, is not enough in itself to prove you have acquired a new domicile.

DEEMED DOMICILE

In some circumstances a person, not domiciled in the UK, will be treated as domiciled in the UK for Inheritance Tax purposes. This deemed domicile rule applies if:

- “(a) He was domiciled in the UK within the 3 years immediately preceding the relevant time, or
- (b) He was resident in the UK in not less than 17 of the 20 years of assessment ending with the year of assessment in which the relevant time falls.”

Therefore if a UK domiciled person moves from the UK to the IOM on 1 January 2011 with the intention of remaining in the Isle of Man permanently and changes his domicile to a domicile of choice in the IOM from then onwards, he will be considered to be deemed UK domiciled until 6 April 2014.

SPOUSE EXEMPTION

Normally there is 100% exemption from Inheritance Tax (IHT) on assets transferred between spouses. This is the rule if both spouses are UK domiciled or both are non-UK domiciled so that gifts can be made from one spouse to the other with no IHT implications. But where the gift is from a UK domiciled or UK deemed domiciled spouse to a non-UK domiciled spouse then the inter-spouse exemption is only £55,000. Anything in excess of £55,000 will be considered to be a Potentially Exempt Transfer, and the transferor would have to survive 7 years from the date of the gift before it would be outside an IHT charge.

A person who has moved from the UK to the Isle of Man and is now domiciled in the IOM, but still within the 3 year deemed domiciled period, can nevertheless ensure that the exposure to IHT is limited. There are a couple of ways in which this could be done:

- (i) The individual could buy and hold exempt gilts or savings certificates or other specified investments during the period.
- (ii) The individual could buy exempt gilts, and then gift them.

This is because certain investment assets are specifically exempt if owned by IOM domiciled individuals. Therefore despite the deemed domicile rule, these assets would not be within a charge to IHT. All other worldwide assets would be chargeable if there is a relevant transfer during that period.

If you would like to know more then please contact

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