

PRIVATE WEALTH

Moving to the UK: A practical guide

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Introduction

The UK has always been an attractive jurisdiction for those seeking to relocate. It is, however, crucial for clients to be well prepared for their move if they are to take advantage of all of the benefits the UK has to offer. This means thinking about both immigration and tax. Preparations should include arranging their affairs in the UK and overseas efficiently and in accordance with their family circumstances and needs.

With this in mind we have created this guide summarising some of the issues that are generally relevant for clients who are looking to relocate to the UK. The guide is simply intended as a very broad summary, to help ensure that important points are not missed in the planning process. Each client will, however, need tailored advice well in advance of the move so that all of their personal circumstances are taken into account.

We have a particular specialism in advising high net worth individuals on complex issues and interactions between UK immigration and tax law. This includes advising on the UK tax implications of moving to the UK, pre-immigration tax planning, tax residence, domicile, settlement and naturalisation.

We hope you find this guide useful. If you have any queries or would like to discuss any of the areas covered by this guide please do not hesitate to get in touch. Contact details for our key specialists can be found at the back of this guide.



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Immigration

Overview

You may need a visa to enter the UK. If so, you will need to consider which visa is best suited to your needs, its requirements and the process. This will take some time to put in place.

If you enter the UK on a visa, you will need to take advice on what your ongoing obligations will be after arriving in the UK.

If you come to the UK with the intention of gaining permanent residence (i.e. settled status or Indefinite Leave to Remain) and British citizenship, you may need to plan this before you arrive to ensure that you meet the residence requirements.

We recognise that no two families are the same. It is therefore important to review the relevant options and consider the best visa routes for each family member. In many cases it will be convenient for family members to apply as dependants but in some cases it may be more advantageous for some family members to apply under a different category.

UK visa options

Some of the key UK visa categories that you may want to consider are outlined below.

Investor visa (the route is now closed to new applicants)

In order to extend an investor visa you will need to maintain at least £2million in a “qualifying investment” in the UK.

A “qualifying investment” means an investment in share capital or loan capital in certain active and trading UK registered companies, or certain pooled investment vehicles.

Family visas

The specific requirements will depend on the type of family visas, such as fiancé(e), spouse/civil partner/unmarried partner, parent, child, or adult dependent relative.

In most cases evidence will be required to satisfy conditions as to:

- accommodation;
- finances;
- proficiency in English; and
- family relationship.

Talent / entrepreneur visas

You will need an endorsement from an approved organisation to qualify for the Global Talent Visa, Start-up visa and the Innovator visa.

The Global Talent Visa is designed for those who wish to work in the UK in a “qualifying field”, which includes architecture, arts and culture, digital technology, engineering, fashion, film and television, humanities, medicine, research and science.

Entrepreneurs can apply for a UK visa under one of the following categories:

- Start-up (suitable for new entrepreneurs)

- Innovator (suitable for experienced entrepreneurs)

Ancestry Visa

This visa may be appropriate for Commonwealth citizens who have at least one grandparent who was born in the UK.

Hong Kong BN(O) visa

If you or your family member hold British national (overseas) status, then you may be eligible for a Hong Kong BN(O) visa, which allows you to live, work and study in the UK.

Work visas

You may be eligible to apply for a work visa if you can meet certain conditions as to:

- salary;
- skill level;
- education;
- offer of employment from an approved sponsor;
- proficiency in English; and
- the occupation.

Study visas

Study visas may be appropriate if you have an offer to study on a course in the UK, are proficient in English, and have sufficient funds to maintain yourself.

Long term immigration planning

As well as considering your immediate immigration requirements, it is also

important to consider your long-term goals to ensure that you can meet the requirements for settlement and British citizenship if you intend to stay in the UK for a significant period of time. It is important to understand how you can comply with the Immigration Rules and how your immigration status may interact with your tax planning.

Permanent residence in the UK

Most of the visa categories listed above can lead to settlement (also known as permanent residence, settled status or Indefinite Leave to Remain) provided that you can meet the relevant requirements (e.g. continuous residence in the UK for the required period, which is usually five years).

British nationality and citizenship

There are a number of different types of British nationality (e.g. British citizenship and British National (overseas)).

Your eligibility to British citizenship depends on when and where you were born as well as your parents' circumstances at the time when you were born.

You can also acquire British citizenship by naturalisation if you move to the UK and become settled here. We often assist our clients with the entire immigration process: from securing the initial visa to obtaining British citizenship.

Tax residence

Overview

When you enter the UK you may become UK tax resident. You will need to understand precisely from when you will be treated as UK tax resident and whether you will cease to be treated as tax resident in the country you are moving from before your move to the UK.

If you become UK tax resident, you will need to understand the legal and tax consequences of this status. If you become resident in the UK there will likely be UK tax implications for you even if you do not intend to work in the UK.

Note that, in general, you are either resident or non-resident in the UK for the entire tax year. It is, therefore, possible for you to become resident in the UK for tax purposes in the period before you actually arrive. However, "split year treatment" may apply, which means that the tax year is effectively divided into a UK part and an overseas part. This split year treatment is only available in limited situations.

The statutory residence test

Since its introduction on 6 April 2013, the statutory residence test ("SRT") determines whether an individual is resident in the UK for tax purposes in any given tax year (6 April to 5 April of the following year).

The SRT comprises a series of three tests.

The Automatic Overseas Tests

You will be automatically non-UK

resident if you meet any of the following Automatic Overseas Tests:

- You are non-UK resident in each of the previous three tax years and spend fewer than 46 days in the UK.
- You have been tax resident in the UK in at least one of the previous three tax years and spend fewer than 16 days in the UK.
- You work full-time outside the UK without significant break, spend fewer than 91 days in the UK and no more than 30 days are UK work days.

If one of the Automatic Overseas Tests applies, then there is no need to consider the tests below and you will be non-UK resident.

The Automatic Residence Tests

You will be automatically UK resident if you meet any of the following Automatic Residence Tests:

- You spend more than 182 days in the UK.
- You have a home in the UK and visit the home on at least 30 days during the tax year and during a 91 day period (at least 30 days of which must fall within the tax year) you either:
 - have no home outside of the UK; or
 - have one or more homes outside of the UK but do not visit any single one of the overseas homes on at least 30 days during the tax year.

- You work full-time in the UK and 75% or more of your work days are UK work days.

If one of the Automatic Residence Tests applies, then there is no need to consider the Sufficient Ties Test below and you will be UK resident.

The Sufficient Ties Test

If none of the Automatic Overseas Tests and the Automatic Residence Tests apply, then you should consider the Sufficient Ties Test. As someone who is moving to the UK, you will be considered as an “Arriver” under the Sufficient Ties Test and the following ties to the UK will be relevant in determining how many days you can spend in the UK without becoming tax resident:

- Family ties (e.g. spouse, unmarried partners or minor children)
- Work ties (e.g. working in the UK for at least 40 days)
- Accommodation ties (e.g. you have a place to live in the UK which is available for a continuous period of at least 91 days)
- The 90 days tie (e.g. if you have spent more than 90 days in the UK in either of the two previous tax years)

On the basis that you have not been resident in the UK for any of the previous 3 tax years then the following table sets out the number of days that you can spend in the UK without becoming UK resident depending on the number of ties you have.

No. of ties	Maximum number of days in the UK without becoming UK resident
0	182
1	182
2	120
3	90
4	45

The three tests are used to confirm whether you are either resident or non-resident in the UK for the entirety of a particular tax year. Counting the number of days during which you are present in the UK is a key component of all three tests. In many cases, day counting, combined with other factors, will determine whether you are resident in the UK. Note that an individual will generally be treated as having spent a day in the UK if he is in the UK at midnight at the end of that day.

The above is only a very basic summary of the SRT. Exactly what is meant by the various terms used (such as working full time or a UK work day) and the application of the test to an individual's specific circumstances can be complicated in practice. However, the benefit of the SRT is that it is possible to give clients clear and definitive advice on their residence position, allowing clients to plan with certainty for any periods of UK residence.

Domicile

Overview

If you move to the UK it is likely that you will become UK tax resident but it is possible that you will nevertheless be non-UK domiciled.

There are three types of domicile under general common law and it is only possible for one of these to apply at any time. These are:

- Domicile of origin
- Domicile of dependence
- Domicile of choice

Domicile determines which jurisdiction will govern an individual's personal affairs, ranging from birth (i.e. legitimacy) to death (i.e. succession) and anything in between (e.g. marriage and taxation). Domicile can also affect how you are taxed in the UK.

In addition, there is a fourth type of statutory domicile, known as "deemed" domicile. Deemed domicile is only relevant for tax purposes. Categories of deemed domicile include:

- Long-term residents (i.e. someone who has been UK resident for 15 out of the previous 20 tax years).
- Formerly domiciled residents (i.e. someone who has a UK domicile of origin and was born in the UK but who subsequently acquired a domicile of choice in another jurisdiction and then returns to live in the UK).

Impact on domicile of a move to the UK

Deemed domicile

If you were born in the UK and intend to return to live in the UK after a period of absence it is essential to confirm your domicile position before your return, particularly if you may have had a UK domicile of origin. The consequences of returning to the UK as a formerly domiciled resident are very significant and therefore advice should always be sought in advance.

Assuming you will not be a formerly domiciled resident on moving to the UK and you do not acquire an actual UK domicile (discussed below), if you remain in the UK for 15 out of 20 tax years then you will become deemed domiciled in the UK.

The deemed domicile rules are intended to remove from long term residents advantages available to individuals who are not domiciled in the UK under the general rule. The effect of the rules is that, once a person becomes deemed domiciled, he or she is effectively taxed as a UK domiciled person. However, there are planning opportunities that can be used prior to becoming deemed domiciled to reduce the impact of the change in status.

Domicile of choice

Once an individual has attained the age of legal capacity, it is possible for him or her to acquire a domicile of choice. A domicile of choice can subsequently be replaced by

a different domicile of choice or a domicile of choice can be lost (with no new domicile of choice acquired), in which case the individual's domicile of origin revives.

Two key elements are necessary for a person to acquire a domicile of choice. These are:

- physical presence in the territory concerned; and
- an intention to remain there permanently or indefinitely.

It is, therefore, possible that someone moving to the UK may acquire a domicile of choice in the UK. If, however, either one of the two elements is missing, a person will not acquire a new domicile of choice. Therefore, it is possible to live in another country for many years without acquiring a domicile of choice in that country, if the necessary intention to live there permanently or indefinitely has not been formed.

UK tax implications of your move to the UK

Overview

If you become resident in the UK for tax purposes, then the default position is that your worldwide income and gains will be subject to UK tax.

If, however, you are resident but not domiciled (or deemed domiciled) in the UK, then you can elect to be taxed under the “remittance basis” of taxation.

The remittance basis

In simple terms, being taxed under the remittance basis means that you are taxed on all of your UK income and gains but you are only taxed on your non-UK income and gains that you bring to the UK (rather than being taxed on your worldwide income and gains as it arises).

The remittance basis must be claimed by a UK resident person by filing a UK tax return and ticking the appropriate box.

For the first seven years of residence, the remittance basis can be claimed free of charge. Once the taxpayer has been resident in the UK for seven of the previous nine tax years he or she will need to pay a charge of £30,000 in order to claim the remittance basis. This charge rises to £60,000 for individuals who have been resident in the UK for twelve of the previous fourteen tax years. In addition, it is important to remember that paying the remittance basis charge does not allow the taxpayer to bring overseas income or gains to the UK, it only prevents

them from having to pay tax on overseas income and gains which are kept outside of the UK.

The remittance basis is not available for individuals who have been resident in the UK for 15 of the previous 20 tax years. At this point such individuals will become deemed domiciled in the UK.

It is possible to opt in and out of the remittance basis, so that a claim can be made in some tax years but not in others. A decision about this only has to be made after the end of the tax year

The remittance basis rules ensure that “remitting” funds to the UK extends to more than simply making direct transfers from foreign bank accounts to UK bank accounts. Broadly speaking it covers any use of non-UK funds to provide a benefit in the UK. The rules are complex and if you are considering claiming the remittance basis you should ensure that you obtain advice and are clear about what to avoid. For example, using a foreign credit card in the UK and settling the account offshore, or using offshore funds to purchase flights that take off or land in the UK would both constitute a remittance.

To make the most out of the remittance basis it is important that you put in place certain planning (see Section 6) before you become UK resident so that you can remit funds in a tax-efficient manner.

Inheritance tax

Domicile rather than residence is the main connecting factor for inheritance tax.

Those who are domiciled or deemed domiciled in the UK at the time of their death are subject to UK inheritance tax on their worldwide assets.

Those who are not domiciled or deemed domiciled in the UK at the time of their death are broadly only subject to UK inheritance tax on their UK situated assets, such as UK real estate and UK shares and bonds. There are some exceptions to this as any interests in UK real estate (including loans and collateral used in relation to UK real estate) can be within the scope of UK inheritance tax, even if held through a non-UK company.

On an individual's death inheritance tax is due at 40% over a tax-free "nil-rate band" (currently £325,000) – although there can be exemptions (such as the spouse exemption) and reliefs in certain circumstances.

Lifetime gifts can also trigger an inheritance tax liability.

Individuals who have been resident in the UK for 15 of the previous 20 tax years are treated as being "deemed domiciled" for UK inheritance tax purposes. If they remain deemed domiciled at the time of their deaths, their worldwide assets are subject to inheritance tax. However, there are a number of planning opportunities that can be explored before an individual becomes deemed domiciled to mitigate the potentially increased inheritance tax exposure.

Pre-arrival planning

Overview

You should consider how you plan to fund yourself in the UK and whether you will need to take any steps in relation to your non-UK assets prior to arriving in the UK.

Timing of move to UK

The timing of your move to the UK will obviously be driven by other factors but where possible you should review and plan your tax affairs well in advance of your move, and certainly in the tax year before you become UK resident.

If you have been UK-resident before, you may need to check if you have any unremitted relevant foreign income and/or gains before returning to the UK. If you do have any unremitted foreign income and/or gains, then you should review your options in the tax year before you arrive to the UK in order to minimise your tax liability on such unremitted foreign income and/or gains when you return to the UK.

Assets standing at a gain

Any gains realised before you become UK resident should not be chargeable to UK tax, even if you subsequently remit the proceeds to the UK. This assumes that you have not been UK resident previously and therefore you are not caught by the temporary non-residence rules.

It is, therefore, worth considering whether you presently own any assets which you can dispose of before you move to the UK so that the gain on the same escapes the

UK tax net. This will create a pot of clean capital which can be brought to the UK.

However, in order not to fall foul of the UK's "bed and breakfasting rules" it is necessary for you to ensure you do not buy the same assets back within 30 days.

Obviously, UK tax is just one of a number of considerations for you and economically it may not be worth your while disposing of an asset at a bad time for the sake of a tax saving. If you do not wish to dispose of an asset there are a number of ways of rebasing assets by means of a transfer to a connected party, such as an offshore company. Such rebasing should reduce the amount of gain which is subject to UK capital gains tax if you subsequently dispose of the asset while UK resident.

Establishing separate bank accounts

You should set up separate bank accounts in order to take full advantage of the remittance basis, for example:

Pure capital account

This account will contain funds which are not subject to further UK tax and can be used when you are in the UK.

Income account

Once you are UK tax resident, any income which you receive and which has not been taxed in the UK (including income arising on the other accounts) should be placed in this income account. You will not be able to use this account in the UK without

triggering a taxable remittance but you can use it overseas.

Gains account

Once you are UK tax resident, the entire proceeds of any disposals that you make of assets standing at a gain (and which will not be taxed in the UK) should be placed into this gains account. You will not be able to use this account in the UK without triggering a taxable remittance but you can use it overseas.

Acquisition of UK property

You will need to consider your living arrangements and decide whether you plan to purchase a property in the UK. Assets situated in the UK will potentially be subject to inheritance tax on your death.

The right planning can help mitigate your inheritance tax exposure, and most importantly avoid your estate being subject to tax in more than one jurisdiction.

If purchasing a property you should seek advice on how the purchase could be funded, and in particular, whether using debt to acquire the property would be tax efficient in the UK. In addition, if you claim the remittance basis then the funding of the purchase must be carefully planned to avoid an inadvertent remittance of foreign income or gains.

Consideration should also be given to ownership options available to you and what is best suited to your circumstances

(both for tax and estate planning purposes).

Cross-border considerations

You should consider the potential issues in all relevant jurisdictions as part of the pre-arrival planning. We are experienced in managing cross-border issues and we have a strong network of international advisers who are leading experts in their fields in their jurisdictions.

Before becoming UK resident you may wish to review any existing trust or other structures you have in place and the impact of your UK residence on them. Structures that are tax efficient in some jurisdictions may not be tax efficient in the UK.

If you are a settlor, trustee or a beneficiary of an offshore trust, then becoming UK resident could potentially bring the offshore trust within the scope of UK taxation. The relevant rules are complex and will require careful analysis in order to avoid any surprises.

Estate planning

If you have UK assets, you will need to put in place a UK Will to deal with those assets. Your UK Will should also be carefully drafted in line with any non-UK Wills to ensure they work together. If you have UK and non-UK assets you need to consider which succession law will apply to your estate and what Will/Wills you should put in place.

For additional flexibility in your succession planning, you may want to consider implementing a trust for some or all of your assets. You should seek advice on whether a structure (such as a foundation or trust) would offer you additional flexibility and tax efficiency in the UK and, if so, what form it should take.

For many, putting in place Lasting Powers of Attorney is a sensible course of action, particularly if you have assets in the UK and are outside the country regularly.

Interaction between immigration and tax

Overview

The UK has distinct immigration and tax systems which are interlinked in some aspects.

Residence

Day counting plays an important role in determining your residence, not just for tax (i.e. under the SRT) but also for immigration purposes.

When applying the SRT, you are (generally) treated as having spent a day in the UK if you are present in the UK at midnight at the end of that particular day. In contrast, for immigration purposes, which usually include a residence requirement, a part day of absence (i.e. less than 24 hours) will not count as absence from the UK.

It is possible that your tax residence and immigration residence in the UK may not align. Therefore, you should seek advice from experts who can advise on both aspects.

Citizenship and domicile

You can only have one domicile at any given time whereas it is possible to have multiple citizenships. Under English law, it is impossible not to have a domicile whereas it is possible to be “stateless” in the context of citizenship.

The Home Office may review your domicile status when assessing your naturalisation application for British citizenship.

Equally, HMRC will take into account your citizenship(s) as part of any domicile enquiry but having British citizenship does not make you UK domiciled automatically.

Double tax treaties

It is possible to be a dual resident and/or a dual national. It is important to consider any potential cross-border issues and how double tax treaties (between the UK and other jurisdictions) may apply for different purposes.

Practical tips

1

The UK has an odd tax year. It runs from 6 April to 5 April. Take tax advice well in advance – preferably before the previous 31 December.

2

There are different immigration options. Check these carefully and make sure you have the right visa.

3

Is there tax on leaving your previous country? Are there emigration formalities?

4

You may need several bank accounts outside the UK. Liaise with your bank in good time.

5

Do you have trusts, foundations or companies? These will need reviewing.

6

Are you renting or buying a property? You need to consider funding and tax options.

7

Review your business and employment arrangements.

8

Arrange schools well in advance of September.

9

Check your domicile and its implications – this is different to residence or immigration status.

10

Have you previously been UK resident (including as a student)? There may be tax or other hangovers to consider.

About us

Burges Salmon is recognised as having one of the best and largest teams dedicated to the private wealth sector in the UK.

We act on some of the highest value and most complex succession and tax planning work in private wealth globally, providing a full range of services for individuals and their families, including business-owners, entrepreneurs, landowners, trustees and family offices. We also advise financial institutions on the provision of trust and tax planning services worldwide, and have wide experience of cross-border estate and succession planning.

All our clients have a common need for specialist legal advice to mitigate tax, preserve their property and pass it on to their successors. This often involves dealing with complex multijurisdictional asset allocation but we ensure our clients achieve their objectives in managing, growing and protecting their wealth for the future.

The team has gained widespread national accreditation and was named *“Legal Team of the Year – Large Firm”* at the STEP Private Client Awards 2019/20, the third time in five years the team won this award.

“The level of technical competence of the team is outstanding. Coupled with its practical application makes it a formidable team. It is our “go to” firm of solicitors.”

Legal 500 2022

“This is a unique practice in terms of UK tax planning, international tax and estate planning and cross-border planning, and their holistic approach to business owners, dealing with their personal and business needs in a comprehensive manner.”

Legal 500 2021

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This guide gives general information only and is not intended to be an exhaustive statement of the law. Although we have taken care over the information provided, you should not rely on it as legal advice. We do not accept any liability to anyone who does rely on its content.

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