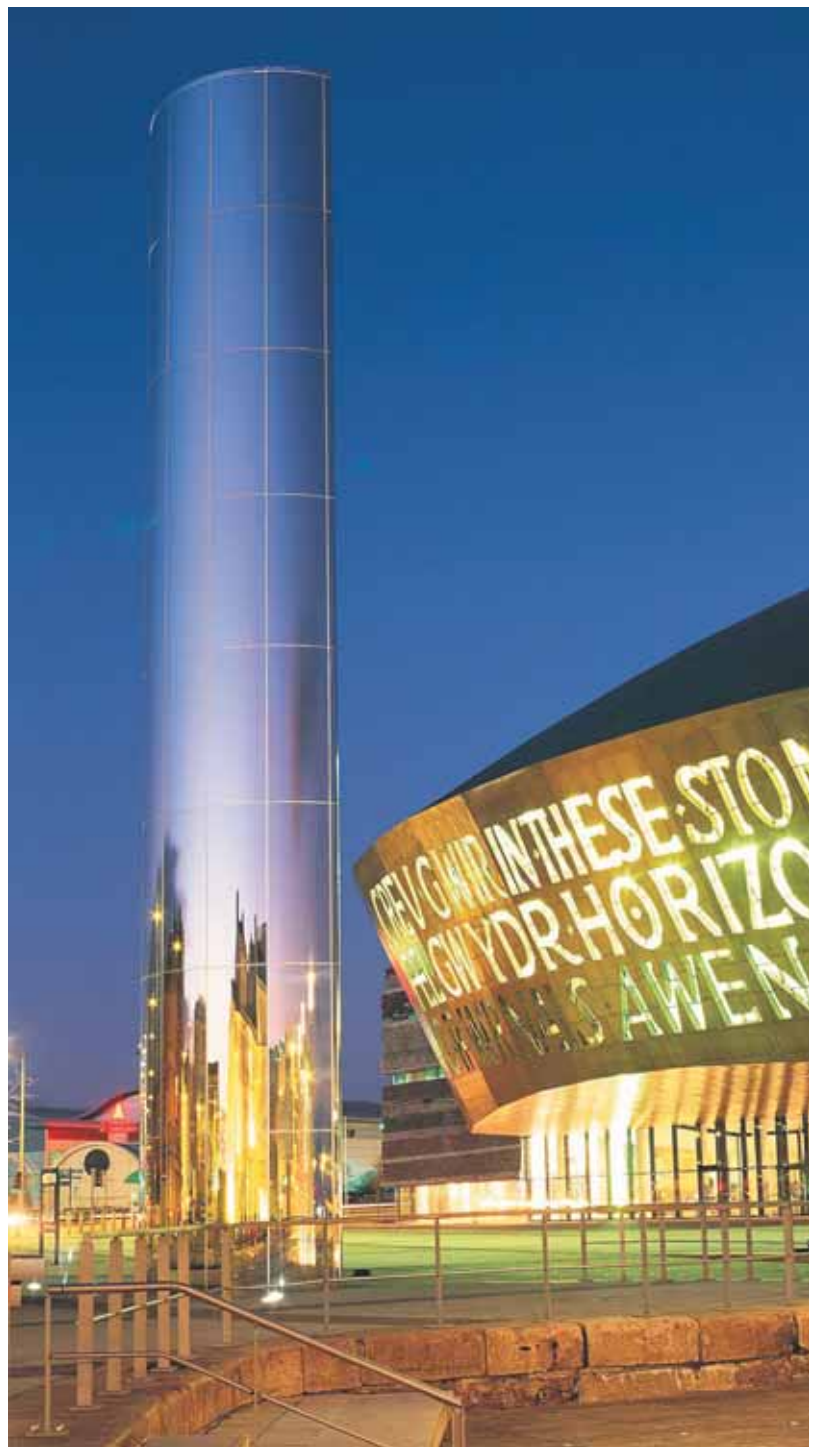


A guide to investing in Wales

Appendix 5 – Personal taxation



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The UK imposes three direct taxes on individuals: income tax, capital gains tax, and inheritance tax, and enforcement is strict. Aspects of the tax system are complex, particularly relating to capital gains tax.

1. Residency

The UK tax treatment of individuals depends on whether a person is resident, ordinarily resident and/or domiciled in the UK.

Where an individual is resident, ordinarily resident and domiciled in the UK, that person is subject to UK income tax and capital gains tax on worldwide income and gains, whether or not received in the UK, subject to the provisions of an applicable tax treaty. There is a limited exception for seafarers. As discussed below, not all UK residents are subject to worldwide taxation.

2. Taxable income and rates

Employment, trading and investment income (other than dividends) are taxable at marginal rates of up to 40%. The marginal rates of personal tax for the 2009/10 fiscal year are 20% on the first £37,400 of taxable income and 40% on taxable income exceeding this amount (32.5% on dividend income).

Gross dividends (100/90 of the net amount received) are added to income and form the top slice for tax purposes. The tax rates on dividends are 10% for income up to the basic-rate limit (£37,400 in 2009/10) and 32.5% for income exceeding that level. Dividends carry a notional 10% tax credit, which satisfies the tax due on gross dividends within the basic rate band. The effective tax rate for higher rate taxpayers against the net dividend is 25%.

Capital gains tax is payable at a rate of 18% on all disposals after 5 April 2009 after deduction of the annual capital gains allowance of £10,100. For certain business disposals, there is a special rate of 10% on the first £1 million of capital gains. This £1 million threshold is a “lifetime” limit per individual.

Various assets escape capital gains tax: gains on the sale of a principal residence, on most life-insurance policies, on national savings certificates and on bonds (in most circumstances). When the gains are reinvested, capital gains tax may be deferred for business assets, “heritage property” and farmland, subject to restrictions on the classes of assets into which funds are reinvested. Deferral for personal investments is much more restricted.

Determination of taxable income

The tax year for personal taxpayers is 6 April to 5 April.

Earned and unearned (investment) income, whether from domestic or foreign sources, are combined to arrive at taxable income. Income from employment is assessed on a current-year basis and tax and national insurance is normally withheld by the employer under the pay-as-you-earn system. Dividends and other unearned income are assessed on the year’s receipts via Self Assessment, with any additional tax due on 31 January following the end of the tax year of receipt. The timing of the taxation of income from self-employment will depend on the year-end of the business. Husbands and wives are normally taxed independently on all income, although anti-avoidance provisions may, for example, treat income arising from certain gifts as taxable to the settlor.

Employees may deduct expenses incurred wholly, exclusively and necessarily in the performance of their duties, such as for business travel (but not travel to their normal place of work) and protective clothing. Allowable deductions have been tightened in recent years. Neither national insurance contributions nor medical insurance premiums are deductible.

UK residents are entitled to personal allowances. The personal allowance deductible in calculating taxable income in 2009/10 is £6,475. Special allowances exist for persons older than age 65 and for the blind. A tax-free child benefit is also granted.

Expatriate allowances must be included in taxable income, although an exemption is available for certain subsistence expenses where the employee intends to be in the UK for two years or less.

Share-incentive, pension and certain savings schemes may confer tax advantages if they comply with the rules of HMRC. The tax deductibility of private pension contributions is limited to the lower of 100% of annual salary or £245,000 (for 2009/10), subject to certain conditions.

It is proposed that, from 6 April 2011, higher rate relief on pension contributions for individuals with annual income in excess of £150,000 will be restricted, with no higher rate relief due for individuals with income in excess of £180,000. Forestalling provisions may be introduced to limit the tax relief available for individuals with income in excess of £150,000 from 22 April 2009 and individuals should take special advice on the amount of pension relief available to them.

3. Special expatriate tax regime

As mentioned above, an individual's tax residence and domicile status is a significant factor in determining the extent to which an employee's income is taxable in the UK. However, a non-UK resident who spends time working in the UK may also be taxable in the UK on the income relating to their UK workdays.

Certain individuals living or working in the UK are not subject to UK tax on their worldwide income. For example, in terms of employment income, an individual who comes to the UK to work and becomes resident in the UK, but does not become ordinarily resident, may be subject to UK tax only on the proportion of their employment income which relates to UK duties. This is on the basis that they are able to take advantage of the "remittance basis" and do not bring the income relating to non-UK duties to the UK.

The remittance basis also applies in relation to the taxation of non-UK investment income and gains for individuals who are not domiciled in the UK. Provided therefore that a non UK domiciled individual elects for the remittance basis to apply, and does not bring their foreign investment income into the UK, then no UK tax will be chargeable on the income. The concept of domicile is further explained below.

It should be noted that a £30,000 annual charge will be levied on individuals who claim the remittance basis and have been resident in the UK for seven out of the previous nine tax years.

UK tax residence

Outlined below are the factors that affect your UK tax residence status. It is important to realise that under UK law you may be resident in the UK even if you are also resident in another country. Where this occurs, it will be necessary to review whether the UK has a double tax treaty with the individual's home location, and determine in which country the individual is considered to be "treaty resident". In most cases, it will be the country where the individual's personal and economic ties are located.

Coming to live in the UK

- *For less than two years*

If you come to live in the UK for a period expected to be less than two years and do not acquire a property (see overleaf), you will be taxed as resident but not ordinarily resident for the entire year if you spend 183 days or more in the UK in that year.

If you spend less than 183 days, you will be taxed as non-resident, which effectively means that you will only be subject to UK tax on UK sources of income, which includes the income relating to any workdays performed in the UK.

- *For between two and three years*

If you come to live in the UK for between two and three years and you do not buy a house or lease one for three years or more, you will be normally taxed as resident but not ordinarily resident from the day you arrive until the day you leave. It should be noted that the UK tax authorities are currently reviewing the conditions under which individuals are treated as ordinarily resident in the UK, with a view to placing more emphasis on where an individual's settled life appears to be.

- *For three years or more (or you come to live here and buy a house or rent for three years or more)*

You are resident and ordinarily resident from the date of arrival to the date of departure. If you originally came for less than three years, but you subsequently decide to stay for longer than that, you are resident and ordinarily resident from the beginning of the tax year in which your intention changes. Individuals who are resident and ordinarily resident in the UK are subject to tax in the UK on their worldwide employment income.

Visiting the UK (but not coming to live here)

- *For less than 183 days in the tax year (visits are not part of regular visits extending into other years)*
You will not be resident if you spend less than 183 days in the UK in the tax year.
- *Regular visits averaging 91 days or more over four or more tax years*
You are taxed as resident and ordinarily resident throughout the tax year if you have spent 91 days or more on average in the UK over the previous four tax years and visits continue in the fifth year. If you come to the UK with the intention of making average visits in excess of 91 days over four years, or that becomes your intention, you are resident from the beginning of the tax year of arrival or in which that becomes your intention.

Domicile

Your domicile is the country where you have your permanent home to which you ultimately intend to return. It is the country with which you have the closest personal, family, social and economic ties, the country where you would choose to live if work, business or other circumstances did not require you to live elsewhere for the time being, and the country in which you have realistic plans to settle permanently in the future, e.g. on retirement. You can only have one domicile at any given time.

Domicile is distinct from nationality, citizenship and residence. If you are domiciled outside the UK and come to the UK for some defined purpose – for example on assignment – you will normally remain domiciled outside the UK if you will leave the UK. You will only become UK domiciled if you intend to live here indefinitely and do not intend to return to your previous country of domicile.

Provision of Tax Free Compensation

- *Qualifying Travel & Subsistence Expenses (QTE)*. Individuals who are seconded to the UK by an overseas employer for 2 years or less may be provided with tax free travel and subsistence expenses. Such expenses include travel to the temporary workplace in the UK, accommodation and utility costs, and also the cost of food and drink.
- *Home Leave*. Employers can pay or reimburse the cost of travel between an individual's home country and the UK tax free for 5 years, if an individual is not UK domiciled. There is no limit on the number of trips an individual can make. In addition, the employer may also pay or reimburse the cost of 2 trips per annum tax free for the individual's spouse and children (subject to certain conditions being met).
- *Relocation Expenses*. Up to £8,000 of relocation expenses are exempt from UK tax when an individual undertakes a secondment to the UK. If an individual's return relocation is guaranteed in their secondment agreement, a further £8,000 may be paid tax free when an individual leaves the UK.

4. Capital taxes

In addition to capital gains tax, individuals are subject to inheritance tax (IHT). Generally this only applies upon death, to the value of the estate and gifts made within the previous seven years subject to a reduction for gifts made between four and seven years before death. IHT is payable on assets in excess of £325,000 (the 'nil rate band') at a rate of 40%. In most cases, IHT is not due at the time of a gift, provided it is a 'potentially exempt transfer', which generally includes an outright gift to another individual. The percentage of the unused nil rate band arising on first death can be transferred to the surviving spouse, increasing the exemption available on second death.

For individuals domiciled in the UK, IHT applies to worldwide assets. Although there are reliefs, for example, for certain business property, there is no exemption for a private residence. Lifetime transfers or transfers on death to the individual's spouse are exempt from IHT provided the donee spouse has a UK domicile. If the donee spouse has a non-UK domicile, the exemption only applies to the first £55,000.

Where an individual subject to IHT does not have a UK domicile, the IHT regime broadly only applies to UK situ's assets.

For IHT purposes (but not for income tax or capital gains tax) an individual will be deemed to be UK-domiciled if resident in the UK for 17 of the past 20 years.

The treatment of foreign nationals and foreign property may be affected by a relevant double-taxation agreement.

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