

IHT not me? by Fran Snoding



Getting you there.



If you regard Guernsey as your permanent home having either been born in Guernsey or having moved to the Island many years ago, you could be forgiven for thinking that inheritance taxes do not apply to you. After all Guernsey does not levy estate or gift taxes, so how could you be liable?

The danger lies in the fact that exposure to UK inheritance tax (IHT) is determined firstly by your domicile status and secondly by where your assets are situated.

The Concept of Domicile

The concept of domicile is a matter of international law and broadly refers to the country which an individual considers as his natural home. For this purpose an individual's natural home is treated as being the place where he would freely choose to live permanently regardless of any external constraints. Domicile should not be confused with tax residence - they are not necessarily the same, and the determination of an individual's domicile is far more subjective.

Importantly, it should be recognised that long term residence in a territory might not, in itself, be enough to establish a domicile of choice there, unless it can be regarded as indicative of a firm intention of living in that country permanently. Moreover, for individuals leaving the UK there is a three-year run-off period, during which they would, regardless, remain "deemed" domiciled in the UK for IHT purposes.

UK Inheritance Tax

Individuals who are domiciled in the UK are subject to IHT on their worldwide assets. Tax is charged at 40% on estates with a value in excess of (currently) £300,000.

However, an individual who is not domiciled in the UK can still find that he has a potential liability to IHT if he continues to hold UK situs assets (that is assets situated in the UK).

A potential exposure to IHT can therefore exist when an individual domiciled in Guernsey, directly owns UK assets worth in excess of £300,000. Such assets might include, for example, UK property or UK stocks and shares. It is important to be aware that assets held through nominee arrangements are considered to be directly held by the beneficial owner and therefore they still form part of the individual's estate.

With UK property and other asset values having risen significantly in recent years, the value of an individual's UK situs assets should be regularly monitored so as to ensure that any exposure to IHT is recognised at an early stage.

With careful planning there are a number of straightforward ways in which potential liabilities to IHT might be eliminated. For example, using a Guernsey company to own UK assets can take them outside the scope of IHT.

Furthermore the use of trust structures can help to keep UK assets outside the scope of IHT, not only on the death of the settlor, but for the lifetime of the trust. It is possible therefore to plan for assets to be passed down through several generations without being subject to IHT.

Future Developments:

It should be noted that when Gordon Brown was UK Chancellor, he announced that there was to be a review of the UK's rules on domicile and residence. Although no changes were made during Mr Brown's reign as Chancellor, it is always possible that Alistair Darling may revisit this area. It is always advisable therefore to keep your personal circumstances under review to ensure that you do not end up with unwanted IHT liabilities.

Anyone seeking further advice should contact either Fran Snoding or Marie Cassidy, in the first instance, or the Fortis director with whom they normally deal.

Fran Snoding Director

Fortis Reads Private Clients Limited
email: fran.snoding@gg.fortis.com