

## Changes to Guernsey residence rules

**Simon Graham believes that forthcoming changes to the Guernsey residence rules could provide an opportunity for tax planning.**

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Guernsey is shortly to introduce new legislation determining an individual's residence for tax purposes, proposals having been approved by the States of Guernsey at the end of 2004. The new legislation will come into effect from 1 January 2006 and should ease some of the problems associated with the previous rules, which often required a somewhat subjective assessment of an individual's circumstances in determining his or her residence. The new legislation aims to simplify the existing rules and provide more certainty by replacing the current subjective tests with an objective test, simply based upon the length of time spent in Guernsey or elsewhere.

An individual's tax residence status is fundamental to determining the amount of income that is charged to tax in Guernsey. The Authorities recognize three types of residence; non-resident, resident only and principally (or solely) resident.

The new legislation will not affect non-residents (broadly, individuals who spend less than 91 days per annum in Guernsey). For the resident categories however, individuals will be treated as resident in Guernsey if they spend 91 days or more on the Island during a calendar year.

Resident individuals will then be treated as solely resident if they are resident in Guernsey and not resident in another territory. To be treated as resident in another territory the same rules that apply in Guernsey are applied to the other territory i.e. they must be present in the other territory for 91 days or more during the calendar year. Alternatively, a resident individual will also be principally resident if he spends 182 days or more per year in Guernsey; or he spends 91 days or more in Guernsey in one year, having averaged 182 days or more per year on the Island over the previous four years; or he takes up permanent residence in Guernsey.

As noted above, an individual's tax residence status determines the amount of income that is charged to tax in Guernsey. Non-residents are only subject to tax on Guernsey source income other than bank interest. Individuals classed as principally resident (the vast majority of people on the Island) are liable to Guernsey income tax on their worldwide income, wherever it arises.

In contrast, individuals classed as resident only (resident but not solely or principally resident) are liable to Guernsey tax only on Guernsey source income and on overseas income to the extent that it is remitted to the Island. This intermediate tax status is clearly attractive - individuals are effectively able to control the extent of their liability to tax on their non-Guernsey source income by carefully managing their remittances of that income.



The new legislation, with its objective focus upon days of physical presence in Guernsey, will therefore enable individuals to plan and determine their residence status with greater certainty than previously. For some existing wealthy individuals who are presently regarded as principally or solely resident in Guernsey and chargeable to tax on worldwide income, the new rules may provide an opportunity to structure their assets and lifestyle in such a way as to minimize their worldwide exposure to income tax.

Equally, the new legislation could present an opportunity for non-residents (for example individuals who have a home in Guernsey, but who, in the past, have spent very little time on the Island) to move themselves “up” into the resident only category. The ability to have tax residence in Guernsey but to only pay tax on a “voluntary” or managed basis could prove attractive in some circumstances.

Obviously it will be important to fully consider the tax consequences of an individual's connection with jurisdictions outside Guernsey, but with proper planning, resident only status in Guernsey could be highly beneficial.

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Anyone seeking further advice should contact either Simon Graham or Neil Dorey or, alternatively, the MeesPierson Reads director or manager with whom you normally deal.

*This article has been prepared from details included in the Treasury and Resources Department Executive Summary of Residence for Tax Purposes and it should be noted that the new legislation has yet to be published.*