



# FIVE COMMON MISTAKES UK EXPATS MAKE ABOUT DOMICILE AND TAX

Research from Old Mutual International has uncovered some crucial misunderstandings among British expats when it comes to their domicile status and tax position. These misunderstandings could leave them and their loved ones financially exposed, and could even land them in trouble with HMRC if they are not paying the correct UK taxes.

## 1. British expats mistakenly believe they are no longer UK domiciled

British expats are likely to have a UK domicile of origin, acquired at birth. They can try to acquire a new domicile (a domicile of choice) by settling in a new country with the intention of living there permanently. However, it is very difficult for someone to lose their UK domiciled status and acquire a new one. There are no fixed rules as to what is required to do this and the burden falls on the individual to prove they have acquired a new domicile, and often this isn't finally decided by HMRC until someone passes away.

Living in another country for a long time, although an important factor does not prove a new domicile has been acquired. Among the many conditions that HMRC list, it states that all links with the UK must be severed and they must have no intention of returning to the UK.

Research\* shows 74% of UK expats who consider themselves no longer UK domiciled still hold assets in the UK, and 81% have not ruled out returning to the UK in the future. This means HMRC is likely to still consider them to be deemed UK domiciled.

## 2. British expats mistakenly believe they are only liable to UK inheritance tax (IHT) on their UK assets

As most British expats will still be deemed UK domiciled on death, it is important that they understand that this means their worldwide assets will become subject to UK IHT. A common misconception is that just UK assets are caught. This lack of knowledge could have a profound impact on beneficiaries.

Before probate can be granted, the probate fee and any inheritance tax due on an estate must be paid. With UK IHT currently set at 40%, there could be a significant bill for beneficiaries to pay before they can access their inheritance. Setting up a life insurance policy could help ensure beneficiaries have access to cash to pay the required fees. Advisers setting up policies specifically for this purpose must ensure they place the policy in trust to enable funds to be paid out instantly without the need for probate.

Research\* shows a staggering 82% of UK expats do not realise that both their UK and worldwide assets could be subject to UK IHT.

### 3. British expats mistakenly believe they are no longer subject to UK taxes when they leave the UK

All income and gains generated from UK assets or property continue to be subject to UK taxes. Some expats seem to think that just because they no longer live in the UK they don't need to declare their income or capital gains from savings and investments or property held in the UK. By not declaring the correct taxes people can find they end up being investigated by HMRC, and the sanctions for non-disclosure are getting tougher.

Research\* shows 11% of UK expats with UK property did not know that UK income tax may need to be paid if their property is rented out, and 27% were unaware that Capital Gains Tax may need to be paid if the property is sold.

### 4. British expats mistakenly believe that their spouse can sign documents on their behalf should anything happen to them

The misconception that a spouse or child or a professional will be able to manage their affairs should they become mentally incapacitated is leading people to think they don't need a Power of Attorney (POA) in place. This could result in families being left in a vulnerable position as their loved ones will not automatically be able to step in and act on their behalf. Instead, there will be a delay whilst they apply to the Court of Protection to obtain the necessary authority. This extra complication is all avoidable by completing a lasting POA form and registering it with the Court of Protection.

Research\* shows 44% of UK expats wrongly believe their spouse will be able to sign on their behalf should they become mentally incapacitated.

### 5. British expats unsure if their will is automatically recognised in the country they have moved to

It is wrong to assume a will or POA document is automatically recognised in the country in which they move to. Often overseas law is driven by where the person is habitually resident, and the laws of that country will apply. Therefore, people may require a UK will and POA for their UK assets and a separate one covering their assets in the country they live. The wills also need to acknowledge each other so as not to supersede each other.

Research\* shows 50% of UK expats do not know if a will or POA is legally recognised in the country they have moved to.

The survey shows how a lack of knowledge can lead to unexpected consequences. It is also essential advisers understand the domicile status of their clients and their plans for the future. Inheritance tax will be a concern for many UK expats and appropriate planning needs to be in place to mitigate any on-going liability.

\*Uncovered by Old Mutual International through a 2017 survey it conducted through Atomik Research. The survey targeted UK expats currently living overseas. There were 147 responses.

The information provided in this article is not intended to offer advice.

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