

# UK Domiciled vs NonDom status

As part of our fortnightly Private Wealth Planning series [Frederick Bjørn](#) addresses the concept and implications of domicile, and answers key questions on the topic

## Is Domicile the same as residency or nationality?

No - Domicile is wholly distinct from nationality/citizenship and residence.

## So what is the English law concept of Domicile?

Broadly, domicile indicates the place that is regarded as your permanent home and is often the country with which you have the closest ties. "Country" for these purposes means a territory subject to a single system of law; in a tax context, it is common to refer to someone being domiciled (or not) in the UK but strictly speaking this means being domiciled in one of the separate jurisdictions that make up the UK (i.e. England & Wales, Scotland and Northern Ireland). The same applies to the USA, where each state is a separate country for domicile purposes.

If an individual is born to married parents then they take their father's domicile at the time they are born as their common law "domicile of origin". If an individual is born to unmarried parents, they take their mother's domicile at the time they are born as their domicile of origin.

In broad terms this domicile of origin will remain with an individual unless:

- (As applicable) their father's / mother's domicile changes (if the individual is under 16 at that time, in which case they acquire that domicile as a "domicile of dependency"); or
- The individual is 16 or over and takes up residence in a new country with the intention to remain in that country permanently or indefinitely (and consequently acquires a "domicile of choice" in that country).

A domicile of origin can never be permanently extinguished meaning that if for example a domicile of choice falls away (because the individual leaves that country and doesn't intend to return there), the domicile of origin automatically 'revives'.

### Can I have more than one domicile?

No - an individual always has a domicile but can never have more than one domicile at a time (unlike residence, where it is possible to be resident in more than one jurisdiction simultaneously).

### What implications does my domicile have?

Domicile can have some surprising implications – including governing succession of assets on death and the proper forum for matrimonial disputes. However, it is perhaps most relevant to your UK tax status.

### How does my domicile impact my tax status?

- **Inheritance tax (IHT):** If you are non-UK domiciled for common law purposes (i.e. a “Non-Dom”), the default position is that only your UK situated assets fall within the inheritance tax (IHT) net; whereas if you are domiciled in the UK, your worldwide estate is subject to IHT (regardless of where you are resident); and
- **Income and capital gains tax (CGT):** The general rule is that individuals who are resident in the UK are taxed on their worldwide income and gains (‘arising basis of taxation’). However, UK resident Non-Doms can elect to take advantage of the UK’s ‘remittance basis of taxation’ for income and capital gains tax (<https://www.phb.co.uk/legal-updates/pre-arrival-tax-planning-for-non-resident-non-domiciliaries>) so that they only have to pay UK tax on offshore income and gains if they bring (remit) the income or gains to the UK.

### What does being “deemed domiciled” mean?

Statutory ‘deemed domicile’ rules treat Non-Doms who have been resident in the UK for at least 15 out of the past 20 UK tax years as though they were domiciled in the UK for UK tax purposes.

### So once I am deemed domiciled, is my actual domicile irrelevant?

No – there are still some tax advantages to being a Non-Dom despite being deemed domiciled for tax purposes, although these are mostly related to trust structures. Your actual common law domicile will also still be relevant for non-tax issues such as succession law.

### Could I develop a domicile of choice outside the UK and return to the UK as a Non Dom?

Under the common law rules – yes. However, since 2017 individuals who were born in the UK and have a UK common law domicile of origin, but who subsequently leave the UK and acquire a domicile of choice abroad, are treated as deemed domiciled in the UK during any period when they are subsequently UK tax resident (subject to a 1 year grace period). Individuals who fall within this category are known as ‘returning UK domiciliaries’.

### Can I lose my deemed domiciled status?

Yes – but at the very least you would need to be non UK resident for four complete UK tax years.

**Can I get a ruling from the UK Revenue (“HMRC”) on my domicile?**

No - it is no longer possible to obtain a lifetime ruling from HMRC.

**What should I be doing to minimise the risk of a successful challenge by HMRC?**

It is unusual for domicile to be challenged in lifetime (although certainly not unheard of). Domicile is more likely to be challenged following your death – particularly if your executors are reporting on the basis that your non-UK assets are outside the scope of IHT. It is therefore beneficial for you to have considered your domicile during your lifetime and to have written a detailed statement setting out the background to your circumstances which demonstrates and evidences your current domicile. Your executors will then be able use that domicile statement to support their claim.

**If you would like to discuss any of the issues raised, please do not hesitate to contact the author or your usual Payne Hicks Beach contact**



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