

GUERNSEY TAX RESIDENCE AND TAX CAPPING ARRANGEMENTS



Headlines

Besides the main feature of income tax at only 20%, and no capital taxes, Guernsey offers many other attractive features.

- Where a taxpayer spends under six months of the calendar tax year in the island, they can limit their Guernsey tax liability to just £40,000 per annum as a "Resident Only" taxpayer.
- Where a taxpayer is fully resident, a capping arrangement allows a taxpayer to limit their liability to £150,000 per annum on non-Guernsey income (see more below).
- No "minimum" amount of tax contribution required in order to become Guernsey resident.
- No Inheritance Tax, no Wealth Tax, no Capital Gains Tax, no Value Added Tax and no Goods & Services Tax.

Since 2006, Guernsey (including Alderney) has operated a form of statutory residence test.

Guernsey tax residence is established purely on the basis of the number of days an individual spends in Guernsey (which includes the islands of Guernsey, Alderney and Herm for tax purposes).

There are four categories of residence for Guernsey tax purposes. The new rules establish whether an individual is "non-resident", "resident only", "solely resident" or "principally resident".

"Non-Resident"

An individual who does not fall within the "resident only", "solely resident" or "principally resident" categories described in this fact sheet.

An individual who is "non-resident" is generally only liable to Guernsey income tax on Guernsey profits arising from unincorporated businesses carried on in Guernsey, income from employment in Guernsey and on Guernsey property development and rental income. Directors' fees and passive investment income including dividends are generally not taxable.

"Resident Only"

An individual is regarded as "resident only" in Guernsey for tax purposes in a calendar year if he is not solely or principally resident (see below) and:

- a) he spends 91 days or more in Guernsey during the year, and at least 91 days in one other country; or
- b) he spends 35 days or more in Guernsey in that year and, during the four preceding years, he spent 365 days or more in Guernsey.

A "resident only" individual can elect to pay a minimum annual charge, currently set at £40,000, and declare that income from Guernsey sources did not exceed £200,000 (at 20% this would generate a tax liability of £40,000). If Guernsey source income was to exceed that amount further tax would be due as appropriate, but all foreign income can be ignored. The declaration would effectively constitute the annual filing of the individual's tax return and no other return would be required from that individual. The same annual charge applies for a married couple as it does for an individual.

“Solely” or “Principally Resident”

An individual will be “solely resident” or “principally resident” in a calendar year if:

- a) he is “resident only” as above and spends less than 91 days in one other country, or
- b) he spends at least 182 days in Guernsey during the year, or
- c) he spends at least 91 days in Guernsey during the year and, during the four preceding calendar years, he has spent at least 730 days in Guernsey, or
- d) he takes up permanent residence in the Island. For this purpose, an individual will be treated as taking up permanent residence in a calendar year if he is treated as “resident only” in the year, as described above, is not resident in the prior year and is “solely resident” or “principally resident” in the following calendar year.

An individual who is “solely” or “principally resident” in Guernsey is liable to Guernsey income tax on their total worldwide income wherever it arises.

Day in Guernsey

For Guernsey tax purposes, a “day” is treated as being spent in Guernsey if an individual is in the Island at midnight. As such, days of arrival are counted but days of departure are ignored.

Tax Rates - Personal and Corporate

There is a flat rate of personal income tax for individuals of 20%.

The standard rate of tax for Guernsey resident companies is 0%. An intermediate tax rate of 10% is applied to companies carrying on activities such as regulated banking, fiduciary, insurance, fund administration and investment management. A higher tax rate of 20% is applied to companies carrying on activities such as Guernsey rental income or development businesses and large retail businesses.

Guernsey Tax Cap

A cap was first introduced in 2007. From 2023 there is a cap on foreign source income and Guernsey deposit interest of £150,000 per annum (termed the Foreign Cap). An additional cap (termed the Combined Cap) for Guernsey source income is also £150,000, but income derived from Guernsey property is outwith the

capping arrangements. An individual with a combination of foreign and Guernsey source annual income (other than Guernsey property income) totalling more than £1,500,000 can restrict their tax liability to £300,000 per annum.

It should be noted that the same limits apply to a married couple as they do for a single person.

Those applying to limit their tax liability are not required to complete a full annual tax return but to submit a very much shortened “Form A” which simply requires a box to be ticked.

New residents who purchase an Open Market property on the Island and, in the process pay a minimum of £50,000 of Document (Stamp) Duty (based on a property value of approximately £1.32 million, at current rates) within 1 year of taking up permanent residence, are able to benefit from a £50,000 tax cap on worldwide income arising in the year of arrival and the following 3 tax years.

Local residents who have previously taken advantage of the (now terminated) reciprocal agreement on the transfer of pension rights between the UK and Guernsey, or who have more recently transferred their UK pension funds into a Guernsey QROPS (Qualifying Recognised Overseas Pension Scheme), are able to take advantage of a concession published by the Guernsey Revenue Service. Under the concession, pensions arising from transferred funds will be treated as foreign source income subject to the lower cap.

Alderney

For those willing to relocate to Alderney the tax cap applicable to both Guernsey and non-Guernsey source income (other than from real estate) is reduced to £50,000 until 2025.

Guernsey Social Security

This is payable by individuals ordinarily resident in Guernsey. Rates vary from 3.6% to 11.6% depending on whether the individual is employed, non-employed or self-employed and there is an upper income limit of approximately £168,500 which applies to all classes of contribution.

Pre-arrival income and relief for overseas tax suffered

There is also an exemption from Guernsey tax for new residents in relation to the distribution of profits accumulated in a beneficially owned overseas company as at the date of arrival in Guernsey. Profits must be distributed within 2 years after the end of the year of arrival to benefit from this exemption.

Also, income which arises to an overseas company, after the arrival of the controlling beneficial owner in Guernsey, which has suffered corporation tax overseas on its profits will attract double taxation relief in Guernsey on distribution to the beneficial owner, thereby reducing the shareholder's personal liability.

Pension Funds

Transfers of pension funds from the UK into a Guernsey Retirement Annuity Trust Scheme ("RATS") are possible provided the scheme is registered with HM Revenue & Customs as a Qualifying Recognised Overseas Pension Scheme ("QROPS") and provided the member is resident in Guernsey.

The taxation treatment of a QROPS will be the same as that in the UK except that Guernsey tax rates will prevail.

Alternatively, a UK pension paid to a Guernsey resident can be paid without a liability to UK tax (assuming the recipient is non UK resident) in accordance with the Guernsey/UK Double Taxation Arrangement.

Immigration and Housing

There are two categories of housing in Guernsey, "Open Market" and "Local Market." Local market properties are generally occupied by the indigenous population and Open Market occupied by those relocating to Guernsey.

Relocating to Guernsey can be very straightforward for UK and Irish nationals. Simple rental or acquisition of an Open Market property will be sufficient to obtain a housing permit. Note that in Alderney, all residential property is available for occupation by new residents in the Island.

Housing permits are also available to occupy a Local Market property if linked with an employment in Guernsey and the skills required for that employment are in short supply amongst the local population.

With effect from 1 January 2021, the requirements for EU/EEA/Swiss passport holders move into line with those relocating from the rest of the world. The Guernsey Border Agency will be involved in assessing the housing licence application to ensure that immigration requirements are met including obtaining an entry clearance (visa) prior to arrival in Guernsey.

Contacts

If you would like further advice or information in relation to the issues outlined within this document, please do not hesitate to get in touch with your usual BDO contact or any of the individuals listed below:

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