Ceasing to be UK Tax Resident - Don't Get it Wrong!

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By **Paul Webb**, 23rd May 2024

Introduction

It is February 2026 and two people are sitting at the departure gate at Heathrow waiting for their (inevitably) delayed flight to the Bahamas. They start a conversation about why they are heading to this Caribbean island.

Person A, Mrs Sunseeker, explains to Person B that she had lived in the UK for a long time as a resident "non-dom," but that the recent changes to the tax rules for longer-term residents meant she decided to leave the UK and cease being tax resident. "My friend told me I just had to spend fewer than 90 days each year in the UK," she declares.

Fortunately for Mrs Sunseeker, Person B, Mrs Tax, is – by nominative determinism – a tax adviser and explains that the old '90 day' rule no longer applies. She suggests instead that Mrs Sunseeker takes a look at the UK Statutory Residence Test.

Background for Mrs Sunseeker

Mrs Sunseeker moved to the UK in the early 2010s, as a student. After graduating, she was offered a job in the financial services industry. She has been very successful and accumulated significant personal wealth.

In 2015, she inherited the shares of a large family business, back home in Dubai, which started to generate a regular dividend income of around £5 million a year which she has kept in her bank account in Dubai. As a UK remittance basis of taxation user, the Dubai dividends have not been taxed in the UK, as Mrs Sunseeker never remitted them into the UK.

However, with the abolition of the non-dom regime and the introduction of the new FIG regime remaining in the UK was going to be just too expensive for income and inheritance tax purposes. She has therefore decided to move to a warm country. Mrs

Sunseeker is planning to carry on working for the same employer (taking advantage the fact that her firm realises she can work remotely) and, indeed, is likely to be working very hard on the days that she returns to the UK.

She is married. Her husband is British and does not want to spend as much time outside of the UK as his wife. His only source of income is in the UK and he still enjoys his work. As he is going to stay, they will keep their home and Mrs Sunseeker will live there when she returns to visit him.

What is Mrs Sunseeker's Tax Status and Why?

While waiting for the flight, Mrs Sunseeker takes a look at the residence test rules. She realises that the first two parts of the test, the 'Automatic Tests' do not apply to her and reads on to the 'Sufficient Ties' section. Mrs Sunseeker has four such ties, or connections:

- Spent more than 90 days in the UK in both of the previous two tax years;
- Will have available accommodation in the UK;
- Has a UK tax resident spouse and will continue to do so;
- Will work in the UK for more than 40 days under the definition of the test.

What Will the Tax Impact Be?

As she has four ties, Mrs Sunseeker will be tax resident in the UK, for at least the first two years after she leaves, by spending just 16 days per year in the UK, far lower than the 90 she had anticipated.

The next time she receives her large dividend, she would still be considered UK tax resident and will suffer UK income tax. It may be even worse, if she has not paid this tax on time she would receive a late payment penalty, which is quite likely because she no longer believed she was UK tax resident and she could be liable for penalties under the 'offshore assets' rules too.

The problem would become further compounded were Mrs Sunseeker to sell her shares in the family business in Dubai for a large gain, while she believed she was not UK resident.

Other Considerations

Please note for completeness, that the UK 'split year rules' are not being considered, nor are the tax implications of Mrs Sunseeker continuing to receive a salary for work she undertakes when in the UK. Dixcart, would of course advise on these, where relevant. The Bahamas does not have a double tax treaty with the UK, and there is therefore no tie breaker clause to consider in this scenario either.

So, What Could Mrs Sunseeker Do?

Can you believe it, the flight is still delayed!

Mrs Sunseeker picks up her phone and calls Mr Sunseeker. Whilst he loves his job, he now understands that there will be a high tax cost if his wife does not properly exit UK tax residence. He packs his things and heads to the airport. While on his way, he calls his employer and resigns, and then calls an estate agent to list the home for immediate rental.

The repercussions of the two actions above, would be to reduce the number of UK ties that Mrs Sunseeker has, from four to two:

- 90 days in both of the previous two tax years; and
- Work tie (assuming she still works, when back in the UK).

Now she would be able to spend up to 90 days in the UK per year and lose her UK tax residence status.

Very lucky!

Whilst everyone else on the flight was cursing the delay, Mrs Sunseeker had struck lucky. However, had Mr and Mrs Sunseeker started to plan earlier than at the airport departure lounge, there would have been more options to consider around their employment situation and their home status, and they might have avoided having to take such extreme steps.

How Can Dixcart Help?

Dixcart'steam accountants, immigration and tax professionals would have assisted Mr and Mrs Sunseeker with:

- Pre-departure tax planning;
- Ongoing tax planning, to ensure that UK tax residence is not accidentally acquired again in the future;
- UK tax advice for both individuals in relation to their ongoing employment income, should they wish to continue to work;
- Application for Indefinite Leave to Remain before they leave the UK, so they can be sure that they can return in the future.
- Assist with UK Wills covering any UK situs assets.

Additional Information

If you require additional information on this topic, please contact your usual Dixcart adviser or speak to Paul Webb in the UK office: advice.uk@dixcart.com.

Dixcart UK, is a combined accounting, tax, private client and immigration firm. We are well placed to provide these services to international groups and families with members in the UK. The combined expertise that we provide from one building, means that we work efficiently and coordinate a variety of professional advisers, which is key for families and businesses with cross-border activities.

By working as one professional team, the information we obtain from providing a service, can be shared appropriately with other members of the team, so that you do not need to have the same conversation twice! We are ideally placed to assist in situations as detailed in the case study above. We can provide cost effective professional services for companies and individuals and also offer in-house expertise to provide assistance with more complex tax matters.