

Public consultation on tax residence rules

The Minister for Finance, Mr Michael Noonan TD, invites interested parties to make submissions on possible revisions to the current residence rules for the taxation of individuals.

In the Programme for Government, the Government indicated that, as part of its fiscal policy, it would ensure that tax exiles make a fair contribution to the Exchequer. In Budget 2012 the Minister abolished the “citizenship” condition for payment of the Domicile Levy to ensure that “tax exiles” could not avoid the levy by renouncing their citizenship. He also said that he intended to keep the contentious issue of the tax treatment of tax exiles under constant review. The Programme for Government update in March 2012 confirmed the commitment to undertake a consultation process on residence issues in 2012 to inform preparation for further changes in 2013.

Tax Residence

In line with the position prevailing in many other countries, individuals who are tax resident in the State are taxable here on their worldwide income, gains, gifts and inheritances; whilst individuals who are not resident here for tax purposes are taxable on Irish source income and gains, on income from employments where the duties are carried out in the State, and on gifts and inheritances of Irish situated property. .

In Ireland, an individual’s residence status for tax purposes for a tax year is determined by reference only to a “day counting” test of the number of days that an individual is present in the State for that tax year (183 days in a tax year or 280 days between the year in question and the preceding year).

In addition to the residence rules, the Domicile Levy was introduced in recent years with the aim of ensuring that individuals with strong links with Ireland made a minimum tax contribution. The levy, as introduced, applied to Irish citizens who were Irish domiciled, with Irish located assets worth in excess of €5 m, Irish income in excess of €1 m in a tax year, and an Irish income tax liability below €200,000. The levy is €200,000, but any Irish income tax paid in respect of the tax year can be credited against the levy liability. From 1 January 2012, the levy no longer applies solely to Irish citizens.

Commission on Taxation

The Commission on Taxation in its 2009 Report¹ considered that residence rules for tax purposes should contain a number of features:

- Be equitable in that they allow for the application of taxation fairly to taxpayers in a variety of circumstances;
- Be easily understood;
- Be based on objective and clearly defined criteria so as to provide certainty and avoid manipulation;
- Be framed so as to protect Ireland’s taxing rights.

¹ A copy of the report of the Commission on Taxation can be accessed through the Tax Policy section of the Department of Finance website at <http://www.commissionontaxation.ie/Report.asp>

The Commission recommended that the 183/280 days test for determining the tax residence of an individual should be supplemented by additional criteria, which should include a permanent home test and a test based on an individual's centre of vital interests.

These additional criteria are used in a range of other jurisdictions. A "citizenship" test is also used in a very limited number of jurisdictions.

Views sought

The issues on which the Minister would welcome views include:

- Whether or not, and how, the current day counting rules should be amended;
- Whether or not, and how, the day counting rules should be supplemented with other rules;
- The appropriateness of citizenship as a basis for taxation;
- Whether or not, and how, the conditions for and/or the range of application of the Domicile Levy should be changed;
- Whether or not the Domicile Levy should continue in place if the rules for determining residence were modified.

Any proposals should have due regard to

- The need to ensure that Exchequer tax yields are not undermined;
- The continued promotion of Ireland as a location for inward investment;
- Their ease of administration;
- Their implications for arrangements in place under double taxation agreements with other jurisdictions.

Submissions received will be published on the Department's website following the conclusion of the consultation process. Submissions may be e-mailed to: residence.consultation@finance.gov.ie, or posted to

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All submissions should be received, at the latest, by 1 August 2012.