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How to Avoid Tax on Foreign Property

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About the Author

Carl Bayley is the author of a series of tax guides designed specifically for the layman. Carl's particular speciality is his ability to take the weird, complex and inexplicable world of taxation and set it out in the kind of clear, straightforward language that taxpayers themselves can understand. As he often says himself, "my job is to translate 'tax' into English".

Carl enjoys his role as a tax author, as he explains: "Writing these guides gives me the opportunity to use the skills and knowledge learned over more than twenty years in the tax profession for the benefit of a wider audience. The most satisfying part of my success as an author is the chance to give the average person the same standard of advice as the 'big guys' at a price which everyone can afford."

Carl takes the same approach when speaking on taxation, a role he frequently undertakes with great enthusiasm, including his highly acclaimed series of seminars at the London Homebuyer and Property Investor Shows and his annual 'Budget Breakfast' for the Institute of Chartered Accountants.

In addition to being a recognised author and speaker on the subject, Carl has often spoken on property taxation on radio and television. Most recently, he was featured on BBC Radio 2's Jeremy Vine Show.

Carl began his career as a Chartered Accountant in 1983 with one of the 'Big 4' accountancy firms. After qualifying as a double prize-winner, he immediately began specialising in taxation.

After honing his skills with several major international firms, Carl began the new millennium by launching his own tax and accounting practice, Bayley Miller Limited, through which he provides advice on a wide variety of taxation issues, especially property taxation, Inheritance Tax planning and tax planning for small and medium-sized businesses.

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Introduction

By the author

It is now almost six years since I wrote the first edition of *'How To Avoid Property Tax'* in response to the huge demand for advice on all aspects of property taxation.

In the period since that time, the demand for property tax advice has continued to grow, both in volume and sophistication. Property investors are ever more eager to understand the tax environment in which they operate for themselves, rather than simply rely on accountants and lawyers to tell them what to do.

The investments themselves are growing more sophisticated too. The last few years have seen thousands of investors branching out into different types of property, different investment structures and, of course, different geographical markets.

One thing which has been most notable, in particular, in the last few years is the huge surge in property investments abroad by UK residents.

These more recent investors are not the first group to set their sights on overseas property however.

A 'place in the sun' has long been the ambition of many UK residents fed up with too many cold grey winters and short wet summers. As we see a general increase in disposable income in the UK, more and more people are realising this dream and claiming their own stake in the sunshine – their own 'home from home' abroad.

In this book, I aim to bring together all of the taxation issues facing both the foreign property investor and the overseas holiday home owner, including the tax issues arising here in the UK and those arising in the country where the property is located. In the course of examining these various taxation matters, we will additionally come across many legal and practical aspects of foreign property ownership and I will cover these also where appropriate.

Many of the issues which we will explore are the same for both investors and holiday home owners. After all, most holiday home owners see their overseas property as a long-term capital investment and many look to rental income to offset their running costs or even turn a small profit. The two groups inevitably tend to blur into one another and, in this guide, we will cater for the entire spectrum from the investor with no personal interest in their new Bulgarian apartment block to the proud new owner of a dream second home in the South of France.

This guide can easily be viewed as falling into three main parts.

In Chapters 1 to 11 we will be looking at the UK taxation consequences of buying property abroad. The principles outlined in this part of the guide are relevant to any UK resident owning foreign property and will hold equally true whether you buy a house in Aachen or a flat in Zyyi. Wherever your foreign property may be, it is important to understand how you will be treated back here in the UK and this first part of the guide therefore provides invaluable information for all foreign property investors and holiday home owners.

In Chapters 12 to 14 we look at some of the general principles of property taxation and law which you are likely to encounter abroad. Whilst every country's tax and legal system is unique, there are also many similarities and general concepts which are adopted by many countries. This part of the guide serves as a useful overview of foreign property taxation and its impact on a UK resident investor, as well as an introduction to what follows in the third section when we focus on some specific countries.

Within this second part of the guide we will also take a look at the European Union's effect on property taxation within its borders. One of the EU's long-term goals is the harmonisation of taxation regimes across Europe and, whilst our friends in Brussels are still a long way from achieving this seemingly impossible feat (a fact which many will no doubt applaud), there is already some degree of commonality amongst the 27 member states, especially when it comes to VAT.

Finally, in Chapters 15 to 21 we look at the taxation and legal systems applying to property in seven of the most popular destination countries for UK investors and holiday home buyers. Each chapter includes a detailed description of that country's legal

and tax system as it relates to property and, in particular, to UK residents owning property in that country. This last part of the guide also includes advice on the best way to structure property investments in the relevant country and on the interaction between the local tax system and our own. Common pitfalls and popular tax-saving measures are pointed out where they arise.

Whilst this guide includes seven chapters describing the local property tax systems in some selected popular overseas destination countries, it is worth remembering that the major tax burden for most UK residents purchasing overseas property will be their UK tax liabilities.

Hence, even if your chosen destination country is not one of the popular locations included in the final part of this guide, it will still remain vitally important for you to obtain a good grasp of the UK taxation principles covered in Chapters 1 to 11.

In fact, by combining the UK tax aspects covered in the first part of the guide with the general principles covered in Chapters 12 to 14, I believe that every overseas property investor and foreign holiday home owner should benefit from this guide whether their chosen destination country is included or not.

Throughout the entire guide there are plenty of '**Tax Tips**' to help you minimise or delay your tax bills, as well as '**Wealth Warnings**' designed to keep you away from some of the more treacherous pitfalls awaiting the unwary taxpayer and '**Practical Pointers**' which will make the whole process of meeting your obligations as a taxpayer, both here and abroad, as painless as possible.

Taken as a whole, this guide will provide you with an invaluable insight into all of the taxation implications of buying, letting or selling property abroad. Whether you are an investor seeking out the rewards of exciting new property markets, or just looking for your own little piece of paradise, my ambition in this guide is to provide the tool which you need to enable you to enjoy as much benefit from your foreign property investment as legally possible.

Finally, I would just like to thank you for buying this guide and wish you every success with your overseas property.

Chapter 1

Background

1.1 DOUBLE TROUBLE

A popular national radio show recently ran a segment on the top ten most common taxation myths. Way up there on the list was the myth that foreign property is not liable to UK tax.

Not only is this completely false, but HM Revenue and Customs are, in fact, currently engaged in a 'witch hunt' to track down UK taxpayers with undeclared income or gains from foreign property.

The truth, unfortunately, is that most UK residents remain liable to UK taxation on all worldwide income and capital gains, no matter where they arise. This is just as true of foreign rental income, and capital gains arising on sales of foreign property, as it is of anything else.

Foreign property owned by most UK taxpayers also generally remains subject to UK Inheritance Tax.

Sadly, to add insult to injury, the fact that foreign property owned by UK residents is taxable in the UK does not generally make any difference to the owners' local tax liabilities in the country in which the property is situated.

In other words, a UK resident owning foreign property faces 'double trouble' – tax in both the local country and in the UK.

The fact that foreign tax must often also be paid makes no difference to the general requirement to account for UK tax on foreign property. Whilst, as we shall see in the chapters which follow, the taxpayer is often able to claim double tax relief, they are nevertheless still left with the administrative nightmare of dealing with two different tax regimes (sometimes even three – see Section 7.8) and the additional costs which this inevitably entails.

Hence, in order to plan for the tax consequences of any foreign property purchase, it is absolutely vital to understand the UK

property tax regime as it applies to foreign property, the local tax regime of the country in which the property is situated and, perhaps most importantly, the way in which the two regimes interact with each other. The essential aim of this guide is to enable you to achieve this level of understanding.

1.2 WHERE DO UK RESIDENTS LIKE TO BUY PROPERTY?

In the course of compiling this guide, we did some research to establish the most popular destination countries for UK residents buying property abroad.

We found the results interesting and we thought that our readers would find them interesting too.

The table below shows the results of our findings, based on various surveys of property investors.

Rank	Country	Rank	Country
1	France	11	Dubai
2	Spain	12	Canada
3	Bulgaria	13	New Zealand
4	Florida/USA	14	South Africa
5	Italy	15	Germany
6	Ireland	16	Greece
7	Cyprus	17	Romania
8	Portugal	18	Morocco
9	Australia	19	Croatia
10	Turkey	20	India

Space does not permit us to include all 20 of these most popular destination countries in this guide, but in Appendix A we have included a quick reference guide.

1.3 USING THIS GUIDE

As we have already seen, a UK resident owning property abroad will need to deal with the taxation regime both in the UK and in the country where the property is located.

Readers who are both resident and domiciled in the UK should consult Chapters 1 to 7 to see how their foreign property will be treated for UK tax purposes.

Those who are UK resident but not UK domiciled are subject to different UK taxation rules and these are explained in Chapter 8.

The tax concepts of residence and domicile are first explained in Section 1.4 below. These issues are explored further in Chapter 9 which is devoted to the issue of changing your residence or domicile through emigration.

All readers should also benefit from reading Chapters 12 and 13 which set out some guiding principles which are likely to be encountered in the taxation regimes of most developed countries. Chapter 14 also deals with some matters relevant to all countries within the EU (see Appendix C).

By this stage, you will already be armed with a detailed knowledge of your tax position in the UK and some understanding of the basic principles of international taxation.

If the country in which your property is located, or which interests you as a possible location for a future property purchase, is included in Chapters 15 to 21, you can then select the relevant chapter for a detailed explanation of how the taxation authorities abroad will treat you and your foreign property. If your chosen destination country is not included in this edition, you will already have gained a good grasp of the main principles to watch out for from Chapters 1 to 14.

1.4 RESIDENCE & DOMICILE

The tax concepts of residence and domicile can sometimes be fairly complex and space does not permit a full examination of them. Both are extremely important, however, when we come to consider overseas property tax issues and a brief discussion of these concepts is therefore warranted.

The only way to determine your residence or domicile for certain is to examine your own personal circumstances in detail. Broadly, though, in most cases:

- You are resident in the country in which you live.
- You are domiciled in the country where you were born or where your nationality lies.

Your residence can change from year to year throughout your life. Few people will ever change their domicile and, those that do, can usually do so only once.

Whilst residence and domicile can become quite complex, for many people the situation is quite straightforward and, generally speaking, if you have British parents and have lived in the UK all of your life, then you are almost certainly UK resident and domiciled.

For those who are not so easily pigeon-holed, HM Revenue and Customs' own guidelines state that a person will usually be regarded as UK resident if:

- They spend more than 182 days here in any one UK tax year, or
- They spend more than 90 days per year in the UK on average.

The above criteria are given as rough guidelines only, however, and just because someone spends less time than this in the UK does not guarantee that they are non-UK resident. We will come back to this topic again in more detail in Chapter 9 when we look at the idea of emigrating to avoid UK tax.

More complex issues relating to domicile will also be covered in Chapter 8.

1.5 SCOPE OF THIS GUIDE

The aim of this guide is to cover the UK and overseas tax implications for UK residents investing in property abroad.

Residence in the UK for tax purposes is explained in Section 1.4 above. This guide is intended for the use of UK residents only. (Those non-UK residents who remain UK domiciled may, however, gain some benefit from the sections covering Inheritance Tax and its foreign counterparts).

For tax purposes, the UK does not include the Channel Islands or the Isle of Man, but comprises only England, Scotland, Wales and Northern Ireland.

The foreign tax rates given in the last seven chapters of this guide are the latest available at the time when the relevant chapter or section was written.

Whilst every reasonable effort is made to ensure that the information contained in this guide is up to date, it must be appreciated that tax law throughout the world is constantly changing and tax rates included in this guide may have been superseded by new legislation or government announcements.

The reader must also bear in mind the general nature of this guide. Individual circumstances vary and the tax implications of an individual's actions will vary with them. For this reason, it is always vital to get professional advice before undertaking any tax planning or other transactions which may have tax implications. In particular, when purchasing property abroad, it is also vital to seek local professional advice in the territory concerned. Neither the author nor Taxcafe UK Ltd can accept any responsibility for any loss which may arise as a consequence of any action taken, or any decision to refrain from action taken, as a result of reading this guide.

1.6 A WORD ABOUT THE EXAMPLES

This guide is illustrated throughout by a number of examples.

Unless specifically stated to the contrary, all persons described in the examples in this guide are UK resident, ordinarily resident and domiciled for tax purposes. (Even if their names may suggest otherwise!)

The examples given in the first 14 chapters of the guide will sometimes include foreign tax liabilities. These foreign taxes are included purely for the purposes of illustration and are not meant to be indicative of the general rates of taxation applying in those countries. Some of the countries used in these examples are also fictional.

UK tax rates used in the examples in this guide are partly based on estimated tax bands and allowances. Details of the estimates used are given in Appendix B.

All persons described in the examples in this guide are entirely fictional characters created specifically for the purposes of this guide. Any similarities to actual persons, living or dead, or to fictional characters created by any other author, are entirely coincidental.

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