Global mobility and remote working: new ways of working

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As global mobility and remote working become more common, we consider the tax implications for an individual living and working full-time on the Villa Vie Residences cruise ship.

Key Points

What is the issue?

Villa Vie Residences is a cruise ship where individuals can own a villa and live full-time while traveling the world. Many residents have sold their homes and intend to live aboard the ship permanently. We consider how residency status and tax obligations would change after moving onto the ship.

What does it mean for me?

The statutory residence test in the UK determines whether an individual is considered a resident or non-resident for tax purposes based on the number of days spent in the UK and other factors. A non-resident would only be taxed on UK-sourced income; however, if UK residency is resumed within five years, certain income and gains realised during the non-resident period may become taxable in the UK.

What can I take away?

We consider the tax implications of remote work, including potential double taxation, permanent establishment rules, and the complexities of navigating different legal and tax systems based on the employee's location.

Imagine a world where all your meals are cooked for you, your home is cleaned each week, you visit dozens of countries a year and you may also have no liability to income tax.

In this article, we explore the unique world of Villa Vie Residences, a cruise ship where individuals can own a villa at sea. Owning a villa at sea means that residents can enjoy life aboard the ship for the duration of its life (or a minimum of 15 years). Villa Vie allows individuals to 'explore the world without ever leaving home'.

Many of the individuals who have moved into cabins have sold their homes and intend to live full time on the ship. As well as offering a new home, the ship also has a business centre for residents complete with coffee facilities and private meeting rooms. If a consultant from the UK purchased a home on board, what does this mean for their tax status? And would circumstances be different for an employee working on the boat, rather than for the residents?

Case study: Valentina

Valentina is a UK tax adviser, and is the director of her own company which is registered in the UK. She has no employees. Valentina was born and raised in the UK. She recently sold her UK home and purchased a home on Villa Vie Residences. Valentina intends to continue working as a tax adviser while she travels the world. She moved onto the boat at the end of September 2024. We will now examine the tax position for Valentina with regards to her company, salary and dividends, and consider how – and if – she will break residency.

Residency and tax

In the UK, residents are generally subject to income tax on their worldwide income and gains. Therefore, the first step is to determine how and when Valentina would break residency from the UK.

Residency is determined by the statutory residence test as set out in Finance Act 2013 Sch 45. The statutory residence test is split into three tests and must be read in order:

- The first section determines if an individual will be considered automatically non-resident.
- The second test determines if an individual will be considered automatically resident.
- The third test determines if an individual will be considered resident or non-resident under the sufficient ties test.

Excluding death, there are three automatic overseas tests:

1. The individual has spent fewer than 16 days in the year in the UK: Valentina does not meet this test as she spent the first six months of the tax year in the UK.
2. The individual has not been resident in the UK for the three tax years preceding the year and has spent fewer than 46 days in the year in the UK: Valentina does not meet this test as she has been resident for the previous three years.
3. The individual has been working overseas full time for the year and has spent fewer than 91 days in the year in the UK, of which there no more than 30 days where the individual does more than three hours of work.

Definitions

This test has several words to work through.

Working

According to Finance Act 2013 Sch 45 para 26, Valentina will be considered to be working at any time when she is ‘doing something’:

- in the performance of duties of an employment held by her; or
- in the course of a trade carried on by Valentina, alone or in partnership.

‘Employment’ in this context has the meaning given in Income Tax (Earnings and Pensions) Act s 4. ‘Trade’ for this purpose, includes: a profession or vocation; or anything that is treated as a trade for income tax purposes, within the meaning of Income Tax (Trading and Other Income) Act 2005 s 11(2).

Valentina meets the definition of working and would therefore meet this condition.

Full time

Full time is defined as working ‘sufficient hours’, which constitutes working for 35 or more hours per week, on average, across a relevant reference period. There is a five step computation to work out if the sufficient hours test is met at Finance Act 2013 s 14(3). In addition, there are to be no significant breaks of more than 31 days.

Valentina meets the sufficient hours condition.

Overseas

The United Kingdom means England and Wales, Scotland and Northern Ireland. It also includes the territorial sea of the United Kingdom. This is relevant if the cruise ship is in the waters of the UK, as indeed it was when it recently unexpectedly docked in Belfast for four months.

However, overseas means anywhere outside of the UK. Therefore, the fact that Valentina is not working in another country or territory while on board ship outside UK waters does not preclude her from breaking residency under this tie. She would therefore break residency under the condition of working full time overseas.

Tax position as a non-resident

This is a complex area and this section offers the briefest of comments on Valentina’s tax status as a non-resident.

As a non-resident, Valentina is subject to tax on UK sourced income only. All of Valentina’s income is employment income, and would there remain taxable in the

UK on income that was earned for employment duties performed wholly or partly in the UK.

However, employment income earned by Valentia for duties performed wholly outside of the UK would not be taxable in the UK, according to the Residence, Domicile and Remittance Basis Manual RDRM10425. Therefore, providing the work was not performed in UK waters, Valentina's salary would not be taxable in the UK. Dividends would also not attract UK income tax.

Temporary non-residence rules

Alongside breaking residency, Valentina would have to ensure she remained non-UK resident for five complete years to ensure that other income and gains remained outside the scope of UK tax.

Special rules apply to individuals who realise gains a period of temporary non-UK residence under the Taxation of Chargeable Gains Act 1992 s 1M. The rules operate to ensure that an individual who leaves the UK (and achieves non-resident status) but subsequently returns (and resumes UK resident status) is chargeable to capital gains or income tax on gains or income realised the period of absence on the disposal of assets owned prior to departure if these two conditions are met:

1. Valentina was resident for at least four out of the seven tax years immediately prior to departure; and
2. the period of non UK residence is less than five years.

Under the Residence, Domicile and Remittance Basis Manual RDRM12660, the income and gains caught by these provisions are:

- certain pension payments, lump sums and certain other charges;
- income taxable under the disguised remuneration rules;
- remitted foreign income (for remittance basis users);
- distributions from closely controlled companies;
- loans to participators written off or released;
- chargeable event gains; and
- offshore income gains.

If Valentina resumes UK residency within five years and has earned income or gains as specified above, these will become chargeable to tax on the date of her return. This would include dividends paid from her company but not her employment income.

Remote workers in general

When people hear the term ‘remote working’, they often envision working from a sunny beach anywhere in the world. While this sounds appealing, the reality is that most employers restrict remote work to the home location of the employee or business.

Remote working has surged in recent years, primarily due to the recent global pandemic, which accelerated technological advancements and shifted workplace cultures. The growing use of video conferencing platforms and collaborative software, along with the introduction of nomad visas, has further supported this trend. Beyond nomad visas, remote working presents significant advantages for both employers and employees, including flexibility, reduced commuting times and potential increases in productivity. However, it also brings challenges, particularly concerning tax considerations; for example, employees may face tax obligations based on their work location.

Many countries have tax rules tied to residency or the physical location where work is performed. Working in a different country from the employer’s headquarters can lead to double taxation or require employees to file taxes in multiple jurisdictions. In countries with tax treaties, like the UK and several European nations, individuals may be protected from double taxation but still need to comply with local tax filing requirements.

From an employer’s perspective, remote work introduces complexities related to corporate taxes, payroll taxes and employee benefits. Employers must navigate different legal and tax systems based on where their employees are located. They also need to consider permanent establishment rules, which dictate where an employee can create a taxable presence of the employer. Failing to manage these risks could result in a business being taxed in a foreign location, especially if a remote worker is deemed to create a taxable presence there.

The case of Villa Vie Residences illustrates a unique aspect of remote working, as these individuals are constantly moving between jurisdictions. Unlike traditional remote workers, Villa Vie residents are in a state of perpetual motion, rarely spending significant time in any one country, which complicates tax residency determinations. While nomad visas can benefit remote workers abroad, they may not apply to Villa Vie residents due to their transient nature.

When considering tax residency for remote workers on the ship, individuals should consider the following points:

- Employees of Villa Vie Residences will not break residency under the statutory residence test. Cruise ship workers are subject to tax as international transportation workers under Finance Act 2013 Sch 45 para 30. As employees, their duties will be relevant if they are performed on board a ship while it is travelling.
- Some jurisdictions suggest that tax residency for globally mobile individuals can be determined by the location where income is generated. This means that income earned while working in international waters may not be subject to the same income tax as earnings in a specific country.

As remote work continues to evolve, navigating these legal and tax considerations will be crucial for ensuring compliance and maximising the benefits of this new work paradigm. By staying informed and seeking professional advice, remote workers can better manage their tax responsibilities, allowing them to focus on their work and enjoy the freedom that remote working provides.

Unexpected stops and physical boundaries

In the summer, the Villa Vie ship faced an unexpected challenge when it broke down in Belfast, resulting in an unexpected stay of four months. As the stop was in Belfast waters, it means that the residents on board will be deemed to be residing in Belfast this period. Therefore, any employment income earned by Valentina these four months would be taxable in the UK.

This situation raises important questions about tax residency and how it applies to individuals temporarily working in Belfast. As mentioned above, in the UK the statutory residence test determines tax residency. Generally, individuals who spend

183 days or more in the UK within a tax year are considered tax residents. However, a four month stay could also result in residency if the individual has additional ties to the UK.

If classified as tax residents due to their four month stay in Belfast, individuals may be subject to UK income tax on any income sourced in the UK or globally.

HMRC has historically shown leniency in unexpected situations that cause individuals to overstay in the UK. the pandemic in 2020, HMRC indicated that individuals who were unable to leave the UK due to travel restrictions would not automatically be considered tax residents for that period. Although the Villa Vie case is not a global pandemic, the underlying principle remains: individuals unable to leave the UK may not be classified as tax residents (although see Keith Gordon's discussion of a 2022 case in 'The statutory residence test', October 2023).

In conclusion

In an era where global mobility is more accessible than ever, Villa Vie Residences redefines the concept of home by offering a unique living experience aboard a cruise ship. This lifestyle allows residents to travel the world in what will likely be a tax advantageous way. However, unexpected situations can complicate tax obligations. Ultimately, Villa Vie exemplifies the need for proactive tax planning and informed decision making in a world where work and transient living seamlessly intertwine.

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