Webinar

What makes me a tax-resident?

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Limited vs Unlimited Tax Liability

- Unlimited tax liability: the entire world income is taxed.
- Limited tax liability: only the income earned in one specific country is subject to taxation in this country.
- Whoever is resident in a state is in principle subject to unlimited tax liability.
- However, unlimited tax liability can also occur if one is resident abroad.
- Residency criterion is therefore not necessarily linked to the criteria of limited and unlimited tax liability.

Personal Tax Liability

Criteria of residence (e.g. Austria, similar in most countries)

- Domicile
- Habitual residence
- Place of management
- Centre of vital interest

Secondary Residence Regulation in Austria

- The centre of vital interests is located abroad for more than five calendar years,
- a domestic dwelling shall establish residence within the meaning of § 1 of the Income Tax Act 1988
- only in those years in which this dwelling used alone or together with other domestic dwellings for more than 70 days.
- paragraph 1, shall only apply if a register is kept showing the days on which the domestic dwelling is used

Domestic Residence of the Partner

- Use of the domestic residence of the unlimited taxpayer (spouse) from whom the taxpayer does not live permanently separated, shall constitute a residence for the taxpayer

Separation from the Partner

- A separation agreement is one - of many - ways to prove an actual separation.
- Depends on the actual intention of the spouses to separate.
- If this cannot be assumed, taking into account all the circumstances, even a formal separation agreement is of no help.
- Section 1567 of the German Civil Code provides for something similar: "The spouses live separately if there is no domestic community between them and one spouse recognisably does not want to establish it because he or she rejects the marital community."

Personal Relationship

- The strongest personal relationship exists with the place where a person regularly lives with his or her family.
- This assumption presupposes the keeping of a common household as well as the absence of decisive and stronger ties to another place, for instance for professional or social reasons.

Personal Relationship – Further Criteria

- all those that connect a person, for reasons inherent in that person, with the place where he has a domicile.
- Family ties as
- activities of a social, religious and cultural nature
- other activities for the development of personal interests
- connections to material entities, such as private collections, membership in associations and other social commitments

Proof of Residence in another country

In addition to the residence permit issued by immigration authorities, you need

- a utility bill,
- a registration certificate,
- or a rental contract confirmed by an authority,
- or a bank statement.
- For obtaining a tax resident certificate you will have to live 183 days in 12 months in the country.
- **But even such certificate is not the ultimate proof that you are no more resident in your home country**

Advantages of a second residence

(without claiming to be complete)

- Doing business, also virtually through a local server
- Open bank and securities accounts worldwide without having to provide your home address
- Have your pension paid tax free to the account
- Set up a last will according to the local law and avoid compulsory portions
- Rent, buy and sell properties in this country and – depending on the DTA – earn profits free of capital gains tax
- Obtain a local driving license

Conditions to obtain a residence (example UAE)

- Establish a business (sole proprietorship, free zone company, mainland company)
- Set up a branch of a foreign company.
- Purchase shares in an existing company
- Employment. We can provide such employing companies.
- Investor visa by purchasing real estate
  (at least AED 1,000,000).
- Golden investor visa for 10 Mio AED investment
- Special offer in Ras al Khaiman: AED 400,000 Investment in Real Estate provides a 10 years visa
  Dependent Resident Permit if a family member is already a resident in the UAE

Double taxation agreements

Before starting a business in another country and remaining tax resident in your home country, you should check the double taxation treaties.

If the relevant DTA provides for the exemption method for your source of income and the right of taxation and the country of your business or employment has the right of taxation, your tax residence in the high-tech country is not disadvantageous.

DTAs

- The DTAs with Austria mainly provide for the exemption method rather than the credit method:
- UAE: for all sources of income
- KSA, Kuwait: for wages
- Bahrain: for business profits
- Singapore, Indonesia: wages
- Thailand: wages , profits, real estates

Some favorable DTAs with UAE

- Switzeland: exemption in most sources
- Bulgaria: exemption in all sources
- Hungary: exemption in all sources
- Thailand: exemption on all sources besides dividends, interests and royalties

Example of taking advantage of 3 DTAs

- Resident in Thailand. Retirement visa from 50 years of age. Many other visa types avalable.
- Income from business profits (not dividends) in UAE- taxation in UAE zero, exempt feom Thai tax.
- Apartment in Austria- Can be used for 70 days per year – limited tax liability – or up to 180 days per year – unlimited tax liability.

Checklist

- Choosing the country of residence:
  does it tax worldwide income or only local sources?
- Which kind of DTA exists with the country where the main income is generated?
- Do I still poses a habitat in my former (high tax) home country? Who is using it?
- How many days per year do I plan to stay in my old home country?
- Check the DTAs between your old home country and your country of residence as well as with the country of your main income

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