



DOMICILE OF CHOICE

The 12 Badges of Domicile

The first step in developing any international estate planning solution is to determine the jurisdictions with which the individual, his family and any assets and liabilities comprising his estate are connected. For individuals originating from the UK, the most important connecting factor is domicile.

Definition of ‘Domicile’

Domicile designates the body of law that governs an individual’s life (ie. *Personal Law*) determining certain essential legal questions such as rules of succession, jurisdiction of a Court or the interpretation of a Will. While a person may have many places of residence, one may only have one domicile. At birth a person obtains the domicile of their parents (usually the father). Later, as an adult, one may subsequently change it as by forsaking the former domicile and intending to reside indefinitely at a new place in which he is physically and lawfully present.

The law of Domicile will govern the laws of inheritance applicable on the death of a individual and matrimonial law will govern the property of a married couple, wherever that property may be situated. In some countries, domicile proves largely irrelevant. In others, such as the UK, domicile is crucial and determines Inheritance, Capital Gains as well as Income Tax questions.

In law nobody is without a domicile. The four principles governing domicile are:

- * No one shall be without a domicile at any time.
- * No one can have more than one domicile at any time.
- * Domicile must relate to a territory subject to one legal jurisdiction.
- * A change of domicile may never be presumed.

Domicile of Choice

Persons capable of acquiring an independent domicile can acquire a domicile of choice to replace their domicile of origin. To do this, one must reside in a place and form a clear and fixed intention of making their permanent home or indefinite residence there.

Persons who have acquired a domicile of choice will revert automatically to that of origin if they leave the place in question and intend to abandon their permanent home or residence there.

The *12 Badges* comprise the principal indicators of Domicile status.

THE 12 BADGES OF DOMICILE

	YES	NO	n.a.
1. Permanent Residence			
1.1 Long period of local residence? *.....
1.2 Permanent Residency Permit? (more than 5 years)
1.3 Visits to the UK & lengths of stay. *.....
2. Residence of immediate family			
2.1 Is your spouse already locally domiciled?
2.2 Did you move the family to Portugal?
3. Children's Education (if any minor children)			
3.1 Where are they being or to be educated?
4. Statutory Declarations			
4.1 <i>Dom I</i> : Declaration of Intent to live permanently?
4.2 Do you have a will in Portugal?.....
4.2 If so, did you adopt local Statutory Law?
5. Property			
5.1 Sale of all property in UK?
5.2 Purchase of principal residence?
5.3 Property in a Portuguese Nominee Company?
6. Means			
6.1 <i>If employed</i> : the nature/length of local employment *
6.2 <i>If retired</i> : is your pension paid to Portugal?.....
6.3 <i>Domicile of Investment Portfolio Structure</i> : *			
• transfer investments?
• are regular income paid to Portugal?.....

* additional information on page 4

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	YES	NO	n.a.
7. Burial			
7.1 Declared intention of burial in Portugal?
7.2 Possible acquisition of a burial plot?
8. Nationality (if married to a Portuguese national)			
8.1 Acquisition of local citizenship?
9. Voting			
9.1 Are you on the electoral roll?
9.2 If so, where and for how long? *.
10. Links to the local Community *			
10.1 Relinquishing UK memberships: clubs, societies?
10.2 Membership of local clubs, associations, church? *
10.3 Establishment of local banking/financial facilities?
<i>If working:</i>			
10.4 Resignation of UK directorships?
10.5 Establishment of local business interests?
10.6 Membership in local professional associations? *
11. Documentation			
11.1 Do you have a Portuguese Driver's Licence?
11.2 <i>If a UK licence, is your registered address in PT?</i>
12. Taxation			
12.1 Fiscal Residency?
12.2 Payment of local and state taxes?

* additional information on page 4

*** FURTHER CLARIFICATION ***

- 1.1 Date when residency was first established in Portugal:
- 1.3 Inventory of Visits to the UK in the past 4 years - *lengths of stay*:
- 6.1 Local Employment - *nature and length of service*:
- 6.3 Investment Portfolio - *type of structure*:
- 9.2 Voter Registration - *where and since when*:
- 10.2 Local Memberships - *please list*:
- 10.6 Local Professional Associations - *please list*:

Additional relevant information:

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HEADQUARTERS

Rua do Sol, 4
8200-448 GUIA (Algarve)
tel: +351 289 561 333
fax: +351 289 562 061

euroFINESCO s.a.

Madeira Branch

Rua do Aljube, 61, 2º dtº
9000-067 FUNCHAL (Sé)
tel: +351 291 221095
fax: +351 291 221103

Lisbon Branch

Rua A. M. Cardoso, 15, 4ºD
1200-273 LISBOA (Chiado)
tel: +351 21 342 4210
fax: +351 21 342 4212

Internet

e-mail: info@eurofinesco.com
www.eurofinesco.com
PORTUGAL
mobile: +351 96 910 2813