Smith & Williamson

Citizenship vs Residency

The Taxation Implications of Citizenship by Investment Programmes

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Contents

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1. Tax Report Guidelines

All intellectual property contained in this report remains that of Smith and Williamson.

This report has been prepared and is based on UK tax law as well as HM Revenue & Customs (HMRC) practice as at April 2019. As part of this report we have also taken a high level review on the tax law of St Lucia, Dominica and St Kitts and Nevis and the tax residency rules of the jurisdictions that have signed up to the Common Reporting Standard (CRS) reporting. We are under no obligation or duty to update you on any changes in UK tax law or the tax law of St Lucia, Dominica and St Kitts and Nevis, the tax residency rules of the OECD countries or HMRC practice, unless it is specifically agreed in writing for us to do so.

Smith & Williamson LLP has been commissioned to investigate the UK taxation implications or tax consequences of an individual participating in citizenship by investment programmes. In particular we have been asked to look at whether participation in such a programme could alter an individual's tax residence position or exposure to UK tax.

This report focuses on the citizenship by investment programmes offered by:

- St Kitts and Nevis
- Dominica
- St Lucia

All three countries have been flagged by the OECD as providing citizenship by investment schemes that, 'present a high risk of being misused for circumventing CRS reporting,' and thus provide a 'backdoor to money-launders and tax-evaders.'

This report looks at the following:

- The difference between residency, citizenship and tax residency in the three jurisdictions outlined above and finds them wholly separate concepts.
- Provides a general overview of the importance of tax residency and how it is established in different jurisdictions, specifically noting that citizenship is generally not a deciding factor of tax residency in the majority of countries, including Dominica, St Kitts and Nevis, and St Lucia.
- Considers the application of double taxation agreements between different jurisdictions when tax residency has been established.
- Considers the double taxation agreements in place between the above three jurisdictions and other countries, with particular emphasis on the taxation agreements in place with the UK.
- A review and comparison of the checks and information requested of an individual when applying for citizenship in Dominica, compared to an individual applying for a Tier 1 Investor Visa in the UK.

2. Executive Summary

2.1.1 Although an individual can have citizenship rights or residence rights in a number of different countries, usually only countries where an individual is resident for tax purposes can tax the individual's worldwide income and gains.

2.1.2 An individual obtaining citizenship of a country, through investment or another means, is not sufficient on its own to make an individual tax resident in that country, with the exceptions of the United States of America, Hungary and Eritrea.

2.1.3 In order to become tax resident in any country an individual must satisfy the domestic laws of that country pertaining to tax residency.

2.1.4 It is possible for internationally mobile individuals to find themselves tax resident in more than one country. Where this occurs and a double taxation agreement is in place between the countries in question, 'tie-breaker clauses' are used to determine the country of tax residence.

2.1.5 Reporting under the CRS is also based on tax residence and not on citizenship or the right to reside in a jurisdiction. When an individual is tax resident in more than one country the CRS requires them to self-certify all their jurisdictions of tax residence. Tie-breaker clauses in double taxation agreements are only applicable when it comes to alleviating the double taxation burden on the individual concerned and not when self-certifying under the CRS.

2.1.6 These tie-breaker clauses are often, but not always, modelled on the OECD model treaty. The OECD treaty applies three consecutive tests in order to determine tax residency:

- If you have a permanent home in one state, you are tax resident in that state.
- If you have a permanent home in both states, you are tax resident in the state which is your 'centre of vital interests' i.e. the country in which you have close personal and financial ties.
- If you do not have a permanent home in either state and it is not possible to determine your centre of vital interests, then you are tax resident in the country in which you have a habitual abode.

2.1.7 The citizenship of an individual is only ever considered as a last resort, if all three of the above tests, when applied in order, produce an inconclusive result.

2.1.8 Where no tie-breaker clauses exist in a double taxation agreement, or when there is no double taxation agreement in place, a dual tax resident individual may find themselves taxable on their worldwide income and gains in more than one country.

2.1.9 Where no double taxation agreement exists this may result in an individual having to rely on receiving relief from double taxation under the domestic laws of the individual countries concerned. In the UK, unilateral tax relief is available where a UK tax resident individual is subject to foreign tax in a country with which the UK does not have a double taxation agreement. However, this relief is restricted to tax paid in the country in which the income arises. This can cause issues, for instance when the taxation laws of a foreign country differ from UK laws in determining the source of the income or when an individual is taxed on worldwide income in two different jurisdictions due to dual tax residency but the underlying income arises in neither of the jurisdictions. This would mean that an individual could pay tax in two or more countries on the same income without receiving relief.

St Lucia and Dominica

2.1.10 Neither St Lucia nor Dominica have entered into double taxation agreements with countries outside of the Caribbean community, but both countries allow foreign tax credit relief for foreign taxes suffered. Therefore, as no double taxation agreements are in place, countries such as the UK retain the right, under their own domestic laws, to tax income arising within that country on tax resident individuals. Tax residents of St Lucia and Dominica are then reliant on receiving relief for the foreign tax suffered via their own domestic tax credit rules.

2.1.11 Where a tax resident of Dominica or St Lucia finds themselves dual tax resident with another country, such as the UK, they may find their entire worldwide income taxable in multiple jurisdictions and is thus reliant only on tax credit relief available under the domestic laws of the countries of tax residence.

2.1.12 This can lead to an individual being unable to obtain tax relief for the double taxation suffered i.e. if the second country of tax residence is the UK, unilateral tax relief for foreign tax suffered is restricted to tax suffered in the country in which the income arises. Therefore, tax levied in Dominica or St Lucia on foreign source income does not automatically receive unilateral tax relief under UK tax law.

St Kitts and Nevis

2.1.13 St Kitts and Nevis has a number of double taxation conventions in place, not only with the Caribbean community but also with other countries, including the UK.

2.1.14 Double taxation agreements determine how income or profits arising from cross-border transactions between the states should be taxed to minimise double taxation. Therefore, even when a tie-breaker clause results in an individual being deemed St Kitts and Nevis tax resident, this does not necessarily preclude all income arising at source within the other state from being taxed by that state. The position would depend entirely on the terms of the agreement, which is a negotiated position between the two parties.

2.1.15 In the context of the St Kitts and Nevis/UK relations, there is no tie-breaker clause in the St Kitts and Nevis/UK double taxation agreement. This means that an individual, who is dual tax resident in the UK and St Kitts and Nevis, can be taxable on their worldwide income in both countries. Furthermore, the wording of this double taxation agreement does not prevent the UK from taxing a tax resident of St Kitts and Nevis, on UK source income.

2.1.16 Where a double taxation agreement does not exist between a country and St Kitts and Nevis, the other country retains the right, under its own laws, to tax source income on tax residents of St Kitts and Nevis. Tax residence of St Kitts and Nevis alone is not sufficient to prevent an individual being taxed on income of any kind, including source income, by other foreign countries.

Conclusion

In conclusion, where an individual is able to establish themselves as a tax resident of St Kitts and Nevis, Dominica or St Lucia, this does not create an undue tax advantage and in many cases can result in the individual being exposed to double taxation that cannot be mitigated under the domestic tax credit relief rules of the countries in question.

3. Citizenship, Residency & Tax Residency

Citizenship is defined in the Oxford English Dictionary as being the, 'position or status of being a citizen of a particular country,' whereas residence is defined as, 'the fact of living in a particular place.' The distinction between the two is important, particularly when looking at taxation and tax residency. In the Organisation for Economic Co-operation and Development (OECD) report on 'Preventing Abuse of Residence by Investment Schemes to Circumvent the CRS', the OECD accepts that Citizenship by Investment (CBI) Schemes and Residence by Investment (RBI) Schemes, 'grant a right of citizenship of a jurisdiction or a right to reside in a jurisdiction.' They do not provide tax residence. In order to determine if an individual is tax resident in a jurisdiction it is necessary to consult each individual jurisdiction's tax residency rules.

The difference between residency, citizenship and tax residency is examined below for Dominica, St Kitts and Nevis and St Lucia.

3.1 Dominica

3.1.1 As part of the public input received on the 'Preventing Abuse of Residence by Investment Schemes to Circumvent CRS,' the Ministry of Finance for the Commonwealth of Dominica submitted a letter detailing the Citizenship by Investment Programme and the rights bestowed upon participants of the programme.

3.1.2 In this letter, dated the 19th March 2018, the Ministry of Finance outlined that the Citizenship by Investment Programmes had been in operation since 1993. Under the Programme individuals can become citizens only, in exchange for a contribution to Dominica's economic development. Dominica did not operate a Residence by Investment Programme and it is understood that, to date, Dominica continues to only operate a Citizenship by Investment Programme.

3.1.3 Although Dominican citizens have the right to reside in Dominica, there is no requirement for an applicant, under the Citizenship Programme, to reside in Dominica before, during or after the application process. According to the Ministry of Finance, 'the archetypal applicant for economic citizenship of Dominica strives for the freedom to travel across borders, greater flexibility to pursue business goals, and personal security.' This is afforded by a Dominican citizen's ability to undertake visa-free travel to over 115 countries and territories.

3.1.4 Citizenship of Dominica does not bear on a person's status as a Dominican tax resident. Furthermore, physical residence in Dominica does not automatically equate to Dominican tax residence. In order to become tax resident in Dominica, the conditions outlined in the Dominican Income Tax Act Part 1, Section 2 (1) must be satisfied.

3.1.5 To become tax resident under this legislation, according to the Ministry of Finance, any person, including economic citizens, must:

- Be physically present in Dominica for a period of not less than 183 days in the tax year; or
- Be physically present in Dominica for less than 183 days in the current tax year but be deemed resident due to being resident in the preceding or following tax year; or
- Have a permanent abode in Dominica and be physically present in that abode for a period of time during the tax year.

3.1.6 One means of obtaining Dominican citizenship under the Citizenship Programmes is to purchase government-approved real estate valued at a minimum of US $200,000. The Ministry of Finance confirmed in their letter that, 'To date, all government-approved real estate in Dominica consists of hotels and resorts, with applicants being able to purchase shares of said hotels and resorts or, in limited cases, freehold suites or apartments. Even where freehold suites or apartments are available for purchase; these are managed by the larger resorts and are not available for residential living.'

3.1.7 Therefore, the purchasing of government-approved real estate alone under the Programme is not sufficient to confer Dominican tax residence on an individual, through them claiming a permanent abode on the island. More evidence than simple ownership of real estate would be necessary to show that a permanent abode had been established, and indeed, physical presence in that abode for a period of time would also be necessary.

3.1.8 Obtaining citizenship of Dominica through its Citizenship by Investment Programme gives the right for an applicant to reside in Dominica if they wish, but there is no legal requirement under the Programme for them to spend any time there, before, during or after the application. Therefore, citizenship does not equate to residence. Furthermore, an individual would have to set up a permanent abode on Dominica and reside there for a period of time or spend not less than 183 days on the island before they could be deemed tax resident.

3.2 St Kitts and Nevis

3.2.1 St Kitts and Nevis has been operating a Citizenship by Investment Programme since 1984. Under the Programme individuals can become citizens by making a one-time contribution to the Sustainable Growth Fund or to the Sugar Industry Diversification Foundation or by purchasing government-approved real estate, which includes villas and condominium units from an approved developer.

3.2.2 Although citizenship of St Kitts and Nevis gives an individual the right to reside in St Kitts and Nevis, there is no requirement to reside in St Kitts and Nevis, before, after or during the application process.

3.2.3 Furthermore, in order to be granted the status of resident of St Kitts and Nevis, an immigrant under the St Christopher (St Kitts) and Nevis Immigration Act, Section 5(2) must:

- Be entitled to register as a citizen under the constitution;
- Because of education and other qualifications, be employed by the government;
- Be successfully established in a trade, business or profession; or
- Be likely to establish themselves in a trade, business or profession.

Residence can also be granted to persons who own substantial assets in the Federation, the sufficiency of which is determined by the Minister responsible for immigration on the advice of the Cabinet. Therefore, there is a clear distinction between individuals who are granted the status of resident and those who are citizens of the island.

3.2.4 There is no formal concept of tax residence under St Kitts and Nevis domestic law as St Kitts and Nevis has no personal income tax regime. However, there are a number of taxes that are paid by resident individuals of the Islands including statutory payroll deductions and property taxes. For these taxes to be applicable, an individual would need to spend at least six months in the country and have the intention of establishing permanent residence.

3.2.5 Obtaining citizenship of St Kitts and Nevis through its Citizenship by Investment Programme gives the applicant the right to reside in St Kitts and Nevis if they wish, but there is no legal requirement to spend any time in the country before, during or after the application. Therefore, citizenship does not equate to residence. In order to become a tax resident of St Kitts and Nevis, an individual would need to spend more than six months on the island with the intention of establishing a permanent residence.

3.3 St Lucia

3.3.1 St Lucia's Citizenship by Investment Programme has been in operation since January 2016. Under this Programme individuals can become citizens of St Lucia by making a contribution to the National Economic Fund, purchasing government-approved real estate, investing in a pre-approved enterprise project or investing in non-interest bearing government bonds.

3.3.2 Although citizenship of St Lucia gives an individual the right to reside in St Lucia, there is no requirement to reside there before, after or during the application process.

3.3.3 Citizenship of St Lucia does not bear on a person's status as a St Lucian tax resident. Furthermore, physical residence in St Lucia does not automatically equate to becoming St Lucian tax resident. To become a tax resident, the conditions outlined in the St Lucian Income Tax Act Cap 15.02 must be satisfied.

3.3.4 To be tax resident under this legislation an individual must either:

- Have their permanent place of abode in St Lucia and be physically present there for a period of time in the tax year;
- Be physically present in St Lucia for not less than 183 days in the tax year; or
- Be physically present in St Lucia for less than 183 days in the current tax year, but be deemed resident due to being resident in the preceding or following tax year.

3.3.5 Government-approved real estate includes full or limited shares in St Lucian hotels, resorts and boutique properties. The projects currently available for investment under the Citizenship by Investment Programme are:

- Pearl of the Caribbean project (race track resort).
- Belvedere Plantation Project (luxury hotel resort by Boka Estates Ltd).
- Black Bay Luxury Hotel and Villas (by Range Developments).

It should be noted that, even if residential property were available under the Programme, ownership of this alone would be insufficient to secure St Lucian tax residence. Further evidence would be necessary to show that a 'permanent' abode had been established on the island.

3.3.6 Obtaining citizenship of St Lucia through the Citizenship by Investment Programme gives the right for an applicant to reside in St Lucia if they wish, but there is no legal requirement under the Programme for them to spend any time there before, during or after the application. Therefore, citizenship does not equate to residence. Indeed, an individual would have to set up a permanent abode on St Lucia and reside there for a period of time or spend no less than 183 days on the island before they were deemed tax resident.

4. Importance of Tax Residency

4.1.1 Although an individual can have citizenship rights or residence rights in a number of different countries, usually only countries where an individual is resident for tax purposes can tax the individual's worldwide income and gains.

4.1.2 As can be seen in Appendix 1, each country has its own definition of tax residence, but generally speaking individuals are tax resident in:

- Countries in which they spend six months or more in a year.
- Countries where they have their centre of vital interests or habitual abode/domicile, provided they spend less than six months in a year in other countries.

4.1.3 As seen under Appendix 1, an individual is deemed tax resident in a number of countries if they are deemed to be domiciled in that country or have their centre of vital interests in that country. The concept of domicile varies slightly from country to country but is essentially based around the idea of having a permanent intention to reside in that country, shown through past or current habitual residence. An individual's centre of vital interests is determined by looking at the country with which an individual has the closest personal and financial ties. Merely obtaining citizenship of another country would be insufficient to shift an individual's domicile or centre of vital interests, and thus would not affect an individual's tax residence position in countries where tax residence is based on these concepts.

4.1.4 A small number of countries including Argentina, Columbia and the United Arab Emirates determine tax residency based on nationality. It is important to remember that nationality is different from citizenship and domicile. Generally, nationality is acquired by birth, adoption, marriage or descent (the specifics varying by country.) It is an ethnic or racial concept regarding a person's place of belonging. Domicile can be an attribute of nationality and denotes a person's place of residence or permanent home. Citizenship, by contrast, is a legal relationship between a state and a person that gives that person certain rights and responsibilities, provided that they comply with the legal formalities of the country in question. It is not possible to change a person's nationality; therefore, obtaining citizenship of another country will have no effect on an individual's tax residence position in countries where it is based on nationality.

4.1.5 The OECD's model double taxation treaty, defines a national as, 'any individual possessing the nationality or citizenship of that contracting state.' This is in contrast to the United Nations' double taxation treaty which defines a national as an, 'individual possessing the nationality of the contracting state.' The main effect of this difference is that under the OECD model double taxation treaty, a citizen of a country could be relieved of a greater taxation burden than that imposed by their country of nationality. Article 24 states that a:

'National of a contracting state shall not be subjected in the other contracting state to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the other state, in the same circumstance, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both contracting estates.'

Therefore, under certain treaties citizenship is linked to nationality, but the effect is simply to prevent an individual from receiving a taxation burden greater than that suffered by citizens or nationals of the other contracting state. It does not of itself provide the right to a more beneficial level of taxation.

4.1.6 It is very rare for an individual to be taxed in a country based on citizenship of that country alone. Only the United States, Hungary and Eritrea currently tax individuals based on both residence and citizenship. Therefore, merely obtaining citizenship of St Lucia, Dominica or St Kitts and Nevis is not sufficient to make an individual a tax resident of these jurisdictions.

4.1.7 It is possible under different countries' tax residence rules for an internationally mobile individual to be tax resident in a given tax year in more than one country at the same time, with both countries requiring them to pay taxes on their total worldwide income. This may be in addition to any income suffered at source.

4.1.8 Where an individual finds themselves a dual tax resident of more than one country it is necessary to determine whether a double taxation agreement exists between the countries in question. These double taxation agreements often provide 'tie-breaker' clauses that determine which of the two countries an individual is tax resident in, and therefore "in what country the individual's income should be taxed."

4.1.9 Reporting under the CRS is also based on tax residence and not on citizenship or the right to reside in a jurisdiction. When an individual is tax resident in more than one country, the CRS requires them to self-certify all their jurisdictions of tax residence. Tie-breaker clauses in double taxation agreements are only applicable when it comes to alleviating the double taxation burden on the individual concerned and not when self-certifying under the CRS.

5. Double Taxation Agreements

5.1.1 Different countries have their own tax laws; the fact that an individual pays tax in one country does not necessarily mean that the individual does not need to pay tax in another jurisdiction. Therefore, if an individual is tax resident in two countries at the same time, both of which are attempting to tax the individual's worldwide income and/or that individual has income or gains from another country that seeks to tax that income at source, that individual may suffer double taxation.

5.1.2 Double taxation agreements (DTAs) are agreements or contracts between two sovereign states which aim to alleviate or avoid double taxation of the same income by two countries. Double taxation can discourage international trade, cross-border transactions and international mobility.

5.1.3 There are a number of model conventions, including those produced by the OECD, United Nations and US, that are used as templates when double taxation agreements are negotiated between countries. Ultimately, however, every treaty is unique, based on the negotiated position of the two countries.

5.1.4 In the standard articles of the OECD's Model Tax Convention on Income and on Capital, the UN's Model Double Taxation Convention between Developed and Developing Countries and the US Model Income Tax Convention (herein after 'a model DTA'), Article 1 specifies the scope of the treaty and the persons covered. In particular it is important to note that only residents of one or both countries and only those who may be liable to tax in both are covered by the treaty. Therefore, only a resident of one or both of the countries between which the DTA is decided may avail themselves of treaty benefits, such as any preferential tax treatment or relief from double taxation.

5.1.5 Where, because of international mobility, an individual is deemed to fulfil the tax resident requirements of more than one country, Article 4 of the standard articles of a model DTA has a set of rules known as tie-breaker clauses which resolve dual tax residence for the application of the treaty. The tie-breaker clauses identify the individual's tax residence for the purposes of the double taxation treaty only. Which country the individual is deemed tax resident in depends on the individual treaty and the circumstances of the individual.

5.1.6 DTAs are also important for determining the respective taxing rights for the country of tax residence and the source country in which income has arisen, including the scope and rates applicable. Countries will often seek to tax income arising within their borders regardless of whether the individual to whom the income arises is tax resident. Therefore, in this scenario double taxation relief is often achieved by the country of tax residence granting relief for the tax suffered in the source country or by the treaty declaring that the income is only taxable in the country of the individual's tax residence.

5.1.7 DTAs supersede any written law of a country; if there is a conflict between domestic law and a treaty, the treaty will prevail. DTAs exist solely to avoid double taxation; they have no authority to introduce any new tax liability.

5.2 Tie-breaker Clause

5.2.1 The tie-breaker clauses in the OECD model treaty provide that:

- If you have a permanent home in one state, you are tax resident in that state.
- If you have a permanent home in both states, you are tax resident in the state which is your 'centre of vital interests' i.e. the country in which you have close personal and financial ties.
- If you do not have a permanent home in either state and it is not possible to determine your centre of vital interests, then you are tax resident in the country you have a habitual abode.

An individual who is tax resident in two countries would look at these rules in order to determine in which country they were ‘treaty resident’. It is important to note that not all DTAs follow these tie-breaker rules.

5.2.2 When applying the above tests the OECD commentary states that, ‘As regards the concept of a home, it should be observed that any form of home may be taken into account… But the permanence of the home is essential; this means that the individual has arranged to have the dwelling available to him at all times continuously, and not occasionally for the purposes of a stay.’

5.2.3 If an individual has more than one permanent home the location of their centre of vital interests is considered next. In their guidance, the OECD provides factors such as where an individual works, where their family and possessions are located and where they have always lived.

5.2.4 The ‘habitual abode’ test is a final resort. This is the place where the individual spends most of their time. If a habitual abode exists in both states then the individual’s country of nationality will be considered. If the individual is a national of both states or of neither, their treaty residence is ultimately settled by the tax authorities of the relevant countries. However, the individual would have to be tax resident in both states and failed all other tie-breaker tests before the question of nationality is even considered. Notably, as mentioned under section 4.1.5, the OECD’s model treaty defines a national as ‘any individual possessing the nationality or citizenship of that contracting state.’ Therefore, citizenship may be able to, as a last resort, help determine an individual’s tax residence under tax treaties which follow the ‘OECD’s Model Tax Convention.’ By contrast, treaties modelled on the UN’s model treaty, which defines a national based on nationality only, would not consider citizenship at all.

5.3 Tax Relief when no Double Taxation Agreement Exists

5.3.1 It is important to note that not all countries have entered into double taxation agreements with one another. Where a double taxation agreement does not exist between two countries, an individual may be able to get relief for tax suffered by means of a tax credit. For UK tax residents who are subject to foreign tax in a country with which the UK does not have a double taxation agreement, the UK offers unilateral tax relief via TIOPA 2010, s18. Other countries may offer similar relief under their own domestic legislation.

5.3.2 Under TIOPA 2010, s25, unilateral relief is not allowed in the UK where a double taxation treaty is in place which would allow relief for tax which would otherwise be payable in the other country. The credit is also not allowed where the tax payer is not a UK tax resident.

5.3.3 Furthermore, the foreign tax suffered by a UK tax resident must be admissible for credit and the credit relief cannot exceed the UK tax attributable to that income which is doubly taxed. The credit is usually allowed as a deduction from the UK tax charged on foreign income.

5.3.4 Under the legislation, the claimant must take all necessary steps to have their foreign tax liability reduced to a minimum, claiming all possible allowances and reliefs due to them. If they have failed to minimise their foreign tax, credit is only allowable for what would have been the reduced amount of foreign tax payable if a successful claim had been made.

5.3.5 In the UK, credit is normally allowable only for the tax paid in the country in which the income arises. For unilateral relief purposes, TIOPA 2010, s9 states, ‘Credit for tax paid under the law of the territory, calculated by reference to income arising, or chargeable gain accruing, in the territory and corresponding to UK tax, is to be allowed against any income tax or corporation tax calculated by reference to that income or gain.’ This can cause issues when the taxation laws of a foreign country differ from UK laws in determining the source of the income, or if income taxable in the UK is also taxed in a country which is not the source country.

5.4 Double Taxation Agreements: Dominica

5.4.1 The level of taxation imposed on tax residents of Dominica depends on their ordinary residence status. Please see section 3.1.5 for a definition of tax resident:

- Individuals who are ordinarily resident in Dominica pay income tax on all income that accrues to them directly or indirectly from all sources whether inside or outside Dominica.
- Individuals who are resident, but not ordinarily resident, in Dominica, pay income tax on income that accrues to them directly or indirectly from all sources in Dominica and on income accrued from sources outside Dominica to the extent that it is remitted to Dominica.
- Individuals who are non-resident suffer withholding tax on income arising within Dominica.

5.4.2 Dominica's only double taxation agreements are with the member states of the Caribbean community, namely:

- Antigua and Barbuda
- Barbados
- Belize
- Grenada
- Guyana
- Jamaica
- Montserrat
- St Lucia
- St Kitts and Nevis
- St Vincent and the Grenadines

5.4.3 Dominica does not have any other double taxation agreements. The 1949 Double Taxation Agreement between Dominica and UK, amended in 1968, was terminated by Dominica and ceased to have effect in 1987. The UK now only allows unilateral tax relief on income tax suffered by UK tax residents in Dominica.

5.4.4 Like the UK, Dominica offers tax credit relief for foreign tax paid where income accrues to a tax resident of Dominica who has been taxed in another country. The tax credit is the lesser of the tax payable in the other country or the tax charged in Dominica. But the individual must satisfy the definition of tax resident in Dominica in order to access this credit.

5.4.5 Therefore, where, for example, UK source income arises to a tax resident of Dominica, the lack of a double taxation agreement means that the UK retains the right to tax this income under UK domestic law, and the tax resident of Dominica would only receive a foreign tax credit against their Dominican tax liability for tax already suffered.

5.4.6 As discussed in Section 4, it is possible for an individual to be tax resident in more than one jurisdiction. This is a matter of fact based on the domestic law of the relevant countries. Without double taxation agreements in place, a dual tax resident of Dominica may therefore find their worldwide income taxable in more than one jurisdiction, and is thus reliant on any tax credit relief available under the domestic laws of the countries of tax residence.

5.4.7 Furthermore, if the second country of tax residence is the UK, unilateral tax relief for foreign tax suffered is restricted to tax suffered in the country in which the income arises. This means that tax levied in Dominica on foreign source income remitted to Dominica does not automatically receive any tax relief in the UK.

5.5 Double Taxation Agreements: St Kitts and Nevis

5.5.1 St Kitts and Nevis does not currently operate a personal income tax regime, though there are various annual property taxes payable by tax residents of the two islands.

5.5.2 St Kitts and Nevis has a number of double taxation conventions in place, with the Caribbean community and with other countries, including:

- Monaco
- San Marino
- United Arab Emirates
- United Kingdom

5.5.3 The 1947 Double Taxation Agreement with the UK covers double taxation on income tax. The Agreement is not modelled on the OECD articles and does not contain a 'tie-breaker clause'. Therefore, a dual UK and St Kitts and Nevis tax resident cannot take advantage of the lack of personal income tax regime in St Kitts and Nevis, by relying on a tie-breaker clause finding them tax resident in St Kitts and Nevis.

5.5.4 Smith and Williamson are unable to comment as to whether tie-breaker clauses exist within the double taxation agreements of other countries with St Kitts and Nevis. However, it is important to remember that even where a tie-breaker clause does exist, the double taxation agreement is a negotiated contract between two sovereign states. Therefore, even where a tie-breaker clause was to determine an individual as St Kitts and Nevis tax resident this would not necessarily preclude any income arising at source within the other state from being taxed by that state. The position would depend entirely on the terms of the agreement.

5.5.5 The UK/St Kitts and Nevis Double Taxation Agreement repeatedly states that any form of income arising in either country is only available for tax relief if that income is actually subject to tax in the other territory. For example:

'An individual who is a (tax) resident of the Presidency (of St Kitts and Nevis) shall be exempted from UK tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if:

(a) He is present within the UK for a period or periods not exceeding in aggregate 183 days during that year, and
(b) The services are performed for or on behalf of a person resident in the Presidency, and
(c) The profits or remuneration are subject to Presidential tax.'

As there is no income tax chargeable on employment income in St Kitts and Nevis, any employment income received by a dual tax resident of St Kitts and Nevis and the UK may be taxed by the UK.

5.5.6 Therefore, under the UK/St Kitts and Nevis double taxation agreement, even if an individual was found dual tax resident in the UK and St Kitts and Nevis, this would not prevent the UK from being able to tax that individual on worldwide income.

5.5.7 It is also important to remember that countries with which St Kitts and Nevis does not have a double taxation agreement still retain the right to tax source income, under their own domestic laws, on a St Kitts and Nevis tax resident.

5.6 Double Taxation Agreements: St Lucia

5.6.1 The level of taxation imposed on tax residents of St Lucia depends on their ordinary residence status. Please see section 3.3.4 for a definition of tax resident:

- Individuals who are ordinarily resident in St Lucia pay income tax on all income that accrues to them directly or indirectly from all sources whether in or outside St Lucia.

- Individuals who are resident, but not ordinarily resident, in St Lucia pay income tax on income that accrues to them directly or indirectly from all sources in St Lucia and on income accrued from sources outside of St Lucia to the extent that it is remitted to St Lucia.
- Individuals who are non-resident pay income tax on income arising in St Lucia and income accrued from sources outside of St Lucia to the extent that the income is remitted to St Lucia.

5.6.2 St Lucia's only double taxation agreements are with the members of the Caribbean Community. The Double Taxation Agreement with the UK was terminated in 1988. The UK now only allows unilateral relief for income tax suffered in St Lucia by UK tax residents.

5.6.3 St Lucia, like the UK, offers tax credits for foreign tax paid. Where income accrues to a tax resident of St Lucia who has been taxed in another country, the tax credit available is the lesser of the tax payable in the other country and that payable in St Lucia. The individual must first satisfy the definition of tax resident in St Lucia to benefit from the tax credit.

5.6.4 Therefore, where, for example, UK source income arises to a tax resident of St Lucia, the lack of a double taxation agreement means that the UK retains the right to tax this income under UK law, and the tax resident of St Lucia would only receive a foreign tax credit against their St Lucian tax liability for tax already suffered.

5.6.5 As discussed, it is possible for an individual to be tax resident in more than one jurisdiction. This is a matter of fact based on the domestic law of the relevant countries. Therefore, without double taxation agreements in place, a dual tax resident of St Lucia may find their worldwide income taxable in more than one tax jurisdiction and is thus reliant only on tax relief available under the domestic laws of the countries of tax residence.

5.6.6 Furthermore, if the second country of tax residence is the UK, unilateral tax relief for foreign tax suffered is restricted to tax suffered in the country in which the income arises. Therefore tax levied in St Lucia on income accrued from sources outside of St Lucia would not automatically receive unilateral tax relief under UK tax law.

5.6.7 This would also apply to an individual who was not a St Lucian tax resident but received income from worldwide sources in St Lucia. In this scenario the income would be taxable in St Lucia but, as the individual is not a St Lucian tax resident, no tax relief would be available to offset the St Lucian tax. Furthermore, as the income did not arise in St Lucia, UK unilateral tax credit relief would not automatically be available for the St Lucian tax suffered if the individual was a UK tax resident.

5.6.8 Therefore, any tax resident in St Lucia is likely to suffer double taxation on their income if they are also tax resident in other countries. Without the benefits of a double taxation treaty, the individual would be reliant on tax relief credits available under the domestic laws of the countries of tax residence, which is unlikely to fully mitigate the double taxation suffered.

6. Examples

In the examples below a Russian citizen who is a tax resident in the UK and has significant worldwide investment income is assumed to obtain citizenship of Dominica under its Citizenship by Investment Programme. The examples look at the tax implications that would arise if the individual was:

- Tax resident in the UK only
- Dual tax resident in the UK and in Dominica

6.1 Tax Resident in the UK

6.1.1 Upon obtaining citizenship of Dominica the Russian citizen receives the right to reside in Dominica, but there is no requirement under the Programme for them to do so. Under Dominican tax rules, an individual is tax resident in Dominica if:

- They are physically present in Dominica for a period of not less than 183 days in the tax year.
- They are physically present in Dominica for less than 183 days in the current tax year, but are deemed resident due to being resident in the tax year preceding or following that tax year.
- They have a permanent abode in Dominica and have been physically present in that abode for a period of time during the tax year.

6.1.2 Assuming that the Russian citizen does not satisfy the tax residence requirements in Dominica, and does not remit other income to Dominica, they will only suffer withholding tax in Dominica on income arising on Dominican assets.

6.1.3 As the individual is tax resident in the UK, satisfying the statutory residence test, they will be taxable upon their worldwide income and gains under UK tax law. However, the UK adopts a concept of domicile, which can be used to restrict the foreign income and gains of individuals that are subject to UK tax.

6.1.4 Under UK law, an individual receives a domicile of origin when they are born from their father, if their parents are married at the time of the individual's birth, and from their mother if not. This may be different from their country of birth. Once an individual reaches the age of 16 it is possible for them to change their domicile of origin, replacing it with a domicile of choice. To acquire a new domicile an individual must leave their country of domicile and settle in another country with the intention of remaining in that new country permanently or indefinitely. The concept of domicile is complicated and various factors are looked at when determining if an individual has obtained a domicile of choice.

6.1.5 If our UK tax resident Russian citizen does not have an intention to remain permanently or indefinitely in the UK, they have likely retained their Russian domicile of origin and thus will be able to claim taxation under the remittance basis for the first 15 years of UK residency. On this basis they will only be taxable on their worldwide income and gains to the extent that they are remitted or brought into the UK. If such a claim is made, and assuming that the individual has sufficient UK wealth that they do not need to bring other foreign income into the UK, the individual will only be taxable on UK income. It is important to note that this restriction on UK tax is due entirely to the Russian domicile of the individual and UK tax law, the fact that they have Dominican citizenship is irrelevant.

6.1.6 If the individual chooses not to make a remittance basis claim, they will be taxable in the UK on their worldwide income and gains, and will only be able to receive unilateral tax credit relief for foreign tax suffered on their foreign income in other countries.

6.2 Dual Resident in Dominica and UK

6.2.1 If our Russian citizen fulfils the requirements for tax residency in Dominica, for example by spending 183 days on the island, he will be deemed a Dominican tax resident under Dominican law, as well as a UK tax resident.

6.2.2 As there is no double taxation agreement between the UK and Dominica, the Russian citizen is exposed to the risk of double taxation of their worldwide income and gains.

6.2.3 Assuming that the Russian citizen satisfies the conditions for tax residency in Dominica, but is not ordinarily resident (i.e. that their residence in Dominica is casual and does not from part of a regular, habitual mode of life), then they will be taxable in Dominica on all income arising within Dominica and on any worldwide income remitted to Dominica. If they are ordinary resident in Dominica (i.e. their presence in Dominica is for a settled purpose and is habitual), they will be taxable in Dominica on their worldwide income and gains, including any UK sourced income.

6.2.4 As the individual is also tax resident in the UK, they will also be taxable upon their worldwide income and gains under UK tax law. Therefore, if no remittance basis claim is made and the individual is ordinarily resident in Dominica, they will be taxed on their worldwide income and gains in both Dominica and the UK.

6.2.5 Although both countries allow unilateral tax credit relief for foreign tax suffered on foreign income from other countries, the UK restricts relief to tax suffered in the country in which the income arises. Therefore, tax levied in Dominica on an ordinary tax resident on worldwide income would not receive unilateral tax relief under UK tax law. This would result in income being taxed twice, without relief, in cases where the Russian citizen remitted foreign income to the UK or did not make a remittance basis claim.

6.2.6 If our UK tax resident Russian citizen did make a remittance basis claim, and assuming that the individual had sufficient UK wealth that they do not need to bring other foreign income into the UK, the individual would only be taxable on UK income. Relief for the tax suffered on this UK income would then be available in Dominica in the form of a tax credit. Again, it is important to emphasise that the fact that our Russian citizen is also tax resident in Dominica has no effect on the amount of tax that can be collected in the UK.

6.2.7 In summary, citizenship of Dominica would not have any detrimental impact on UK tax that can be collected and, even if the individual were to also become a tax resident of Dominica, it could expose them to double taxation on their income, which could not be mitigated under the domestic tax laws of the jurisdictions involved.

7. Citizenship vs Residency Checks

7.1 Checks in Place Regarding Citizenship by Investment Applications in Dominica

7.1.1 As outlined in the Ministry of Finance of Dominica's letter to the OECD of 19th March 2018 regarding the 'Preventing Abuse of Residence by Investment Schemes to Circumvent the Common Reporting Standard,' the Commonwealth of Dominica performs heightened due diligence checks on all applicants applying for their Citizenship by Investment Programme, with the aim of discouraging 'illicit actors' from applying to the Programme.

7.1.2 Under the Programme, applicants must provide personal information including basic details, residential history, educational history, professional history, business history and family history, as well as extensive information on their source of wealth including estimated net worth, net annual income, value of their assets and liabilities, details of their close business relations, the main geographical location for their business activities and a summary of the means by which their total net worth was accumulated.

7.1.3 According to the Ministry of Finance of Dominica, 'Information is collected for applicants' present and past activities, with the latter generally spanning a period of 10 years.' Applicants are also queried as part of the application process as to whether they have been under investigation from any law enforcement agency or tax authority in any country.

7.1.4 Furthermore this information is not taken at face value, the Ministry confirming that the data, 'must be corroborated, first by the applicant (by the submission of supporting documentation) and then by the Commonwealth of Dominica itself… All supporting documentation must validate statements made by the applicant. So, where an applicant states he or she is employed, he or she must provide a letter of employment. Similarly, to confirm net worth the applicant must provide at least 12 months' bank statements. All supporting documents must be originals, or certified and legalised copies. Where documents are not in English, translations must be provided by certified translators, certified and legalised.'

7.1.5 Verification of the information and documents is then performed both internally by the Citizenship by Investment Unit and externally by professional firms. According to the Ministry, 'Outside the Unit, investigations are carried out by reputable professional firms headquartered in Canada, the United Kingdom and the United States. Such investigations include both online and in-depth, on-the-ground research on the applicant, as every piece of information on the applicant's life is assessed.'

7.1.6 The Unit also passes relevant information to international law enforcement and non-governmental organisations, such as Interpol and the Caribbean Community's Implementation Agency for Crime and Security. Names are verified by these organisations against sanction and other relevant lists.

7.2 Checks in Place Regarding UK Residency by Investment Applications

7.2.1 In contrast, the checks in place under the Tier I Investment Visa Programme which permits non-EEA citizens to come to the UK do not appear to be as comprehensive as those carried out under the Dominica Citizenship by Investment Programme.

7.2.2 Applicants under the Tier I Investment Visa Programme are required to provide the following:

- An overseas criminal record certificate for any country the investor has been present in continuously or cumulatively for 12 months or more in the 10 years prior to application.
- A current passport or other identification document.

- Evidence showing that the investor holds the required investment funds and where the funds are being held.
- Evidence of where the money came from, if it has been held for less than three months.
- Evidence that the money can be transferred to the UK and converted to sterling.

7.2.3 Applicants are not currently required to provide comprehensive audits of all financial and business interests and do not have to evidence the source of the money if held for more than 12 months.

7.3 Comparison

7.3.1 Although Smith and Williamson do not hold documentary evidence and cannot comment on any external checks carried out by the Home Office regarding Tier 1 Investment Visa applications, especially as biometric information is collected as part of the application process, it appears that the evidence and personal information requested from applicants is less comprehensive than the information and documentary evidence required by Dominica's Ministry of Finance.

7.3.2 Whilst Dominica requires extensive information on an applicant's source of wealth, including estimated net worth, net annual income, value of their assets and liabilities, details of their close business relations, the main geographical location for their business activities and a summary of the means by which their total net worth was accumulated, the UK only requests evidence that applicants hold the funds required to make the application and that they have held such funds for more than 90 days.

7.3.3 It could therefore be argued that the anti-money laundering checks of the Dominican Citizenship by Investment Programme are more thorough and robust than the UK's Tier 1 Investor Visa Programme when it comes to identifying individuals involved in tax evasion and money laundering.

8. Conclusion

8.1.1 In conclusion, although an individual can have citizenship rights or residence rights in a number of different countries, only countries where an individual is resident for tax purposes can tax the individual's worldwide income and gains. The main exception to this is the United States of America, which also taxes US citizens on income.

8.1.2 Citizenship of a country obtained through investment or another means, is not sufficient on its own to make an individual tax resident in that country, aside from the three exceptions. In order to become tax resident in any country an individual must satisfy the domestic laws of that country pertaining to tax residency. These laws normally require the individual to either:

- Be physically present in the country for a certain number of days during a specified period.
- Have a habitual abode or permanent residence in the country.
- Have strong personal or financial links to that country.

8.1.3 There are a small number of countries that determine that an individual is tax resident based on their nationality. Nationality is different from citizenship. Nationality regards an individual's ethnic or racial belonging to a nation and is generally based on the individual's country of birth. Nationality cannot be changed or displaced by citizenship. Citizenship is a legal concept giving an individual legal rights and responsibilities in any country with which they conform to make them a citizen.

8.1.4 It is possible for internationally mobile individuals to find themselves tax resident in more than one country. Where this occurs and a double taxation agreement is in place between the countries in question, 'tie-breaker clauses' are used to determine the country of tax residence for taxation purposes. These 'tie-breaker' clauses have been negotiated between the two countries involved.

8.1.5 Where no 'tie-breaker clause' exists in a double taxation agreement, or when there is no double taxation agreement in place, a dual tax resident may find themselves taxable on their worldwide income and gains in more than one country. Where no unilateral tax credit relief is available under the domestic laws of the countries concerned, an individual is at risk of suffering tax on the same income in multiple jurisdictions.

8.1.6 Reporting under the CRS is based on tax residence and not on citizenship or the right to reside in a jurisdiction. Where an individual is tax resident in more than one country, the CRS requires taxpayers to self-certify all their jurisdictions of tax residence for tax purposes. The 'tie-breaker clause' only applies when it comes to alleviating a double taxation burden and is not applicable when self-certifying under the CRS.

8.1.7 In conclusion, Smith and Williamson believe that citizenship by investment does not present a risk to facilitating tax evasion, as citizenship alone is insufficient to secure tax residency of a country and, subject to an existing double taxation treaty, an individual is only liable to tax in countries where they are tax resident.

J P Millington

Partner

9. Disclaimer

This paper sets out the opinion of Smith & Williamson LLP on certain tax issues.

This report has been based on laws, final, temporary and proposed regulations, and administrative and judicial interpretations in force as at the date of this report April 2019. The points noted are subject to changes in applicable law and the report does not purport to address all the possible tax or commercial considerations that may be relevant to companies and shareholders.

Appendix 1

The below provides a high level overview of the tax residency rules for individuals in jurisdictions that have signed up to exchanging information under the CRS. The information is based on the information provided to the OECD Secretariat by the jurisdictions involved, in addition to information on the tax residence criteria of Dominica and St Kitts and Nevis.

The summary does not consider the tax residence position of cross-border workers, individuals working on ships or individuals who are members of a diplomatic service.

Jurisdiction	Overview of Criteria for Individuals to be considered tax resident	Tax Residency based on number of days physical presence.	Tax Residency based on domicile, home or centre of vital interests	Tax Residency based on other criteria i.e. Visa, Nationality etc.
Andorra	➢ Natural persons staying more than 183 days in Andorran Territory over the calendar year. ➢ Natural persons whose main base or centre of activities or economic interest is situated directly or indirectly in Andorra. ➢ Natural persons whose dependent spouse and or/under aged children are usually resident in Andorra.	Yes	Yes	
Argentina	➢ Individuals with an Argentine Nationality. ➢ Foreign individuals who have obtained permanent residence status in Argentina or have been living in the country for more than 12 months.	Yes		Yes
Aruba	➢ Natural persons who are residents of Aruba i.e. individuals whose centre of vital interests and closest social and economic ties are with Aruba.		Yes	
Australia	➢ Individuals who reside in Australia i.e. individuals whose centre of vital interests and closest social and economic ties are with Australia. ➢ An individual who is Australian domiciled (unless their permanent place of Abode is outside Australia). ➢ A person who spends more than half the financial year in Australia. ➢ Temporary Australian residents i.e. individuals with Visa's allowing entry to Australia for a restricted period.	Yes	Yes	Yes
Austria	➢ Individuals that have their domicile or habitual abode in Austria.		Yes	
The Republic of Azerbaijan	➢ An individual present in the Republic of Azerbaijan for a total of more than 182 days in the calendar year. ➢ Individuals whose centre of vital interests and closest social and economic ties are with The Republic of Azerbaijan.	Yes	Yes	
Kingdom of Bahrain	➢ Bahrain does not have formal tax residency rules.			

Jurisdiction	Overview of Criteria for Individuals to be considered tax resident	Tax Residency based on number of days physical presence.	Tax Residency based on domicile, home or centre of vital interests	Tax Residency based on other criteria i.e. Visa, Nationality etc.
Belgium	➢ Individuals whose domicile or seat of wealth is located in Belgium.		Yes	
Belize	➢ An individual present in Belize for 183 days or more during the calendar year. ➢ Individuals who are domiciled in Belize.	Yes	Yes	
Bermuda	➢ Bermuda does not have formal tax residency Rules			
Brazil	➢ An individual who moves to Brazil under a permanent visa. ➢ An individual who is hired by a Brazilian Company. ➢ An individual who remains in the country for more than 183 days during a 12 month period.	Yes		Yes
Brunei Darussalam	➢ An individual who in the year preceding the year of assessment resides in Brunei Darussalam. ➢ An individual who is physically present in Brunei Darussalam for 183 days or more during the year preceding the year of assessment.	Yes		
Bulgaria	➢ An individual who has a permanent address in Bulgaria. ➢ An individual who resides in Bulgaria for more than 183 days in each 12 month period. ➢ An individual whose centre of vital interests is in Bulgaria.	Yes	Yes	
Canada	➢ An individual who spends 183 days or more in a year in Canada. ➢ An individual who is ordinarily resident in Canada i.e. someone who regularly, normally or customarily lives in the usual mode of life in Canada.	Yes	Yes	
Cayman Islands	➢ The Cayman Islands do not have formal tax residency rules.			
Chile	➢ Individuals who are resident or domiciled in Chile. ➢ Individuals who are present in Chile for more than 6 months in a calendar year. ➢ Individuals who are present in Chile for more than 6 months in aggregate over a period of two consecutive calendar years.	Yes	Yes	
China	➢ Individuals who are domiciled in China. ➢ Individuals who have resided for one or more years in China.	Yes	Yes	
Colombia	➢ Individuals who have spent 183 days or more in Columbia in a given 365 day period. ➢ Individuals of Columbian Nationality (in certain circumstances).	Yes		Yes
Cook Islands	➢ Individuals whose home is in the Cook Islands and who are present in the Cook Islands for more than 183 days in a 12 month period.	Yes	Yes	

Jurisdiction	Overview of Criteria for Individuals to be considered tax resident	Tax Residency based on number of days physical presence.	Tax Residency based on domicile, home or centre of vital interests	Tax Residency based on other criteria i.e. Visa, Nationality etc.
Costa Rica	➢ Costa Rican individuals receiving income from Costa Rican sources, regardless of whether the individual has lived in the country during the respective fiscal year. ➢ Foreign individuals who have continuously lived or spent at least 6 months in Costa Rica and have received income from Costa Rica sources during the respective financial year.	Yes		Yes
Croatia	➢ An individual who is domiciled or habitually resident in Croatia. ➢ An individual employed in the Civil Service of the Republic of Croatia. ➢ An individual who owns an apartment or has one in their possession for at least 183 days in one or two calendar years in the Republic of Croatia. Physical presence in the apartment is not required.		Yes	Yes
Curaçao	➢ An individual who is a resident of Curaçao i.e. their centre of vital interests and closest social and economic ties are with Curaçao.		Yes	
Cyprus	➢ An individual who resides in Cyprus for more than 183 days.	Yes		
The Czech Republic	➢ An individual whose place of residence is in the Czech Republic. ➢ An individual who resides in the Czech Republic for more than 183 days in a calendar year.	Yes	Yes	
Denmark	➢ All individuals who establish a home in Denmark. ➢ An individual who stays in Denmark for a period of at least six months.		Yes	
Dominica	➢ An individual physically present in Dominica for a period of 183 days in the tax year. ➢ An individual physically present in Dominica for less than 183 days in the current tax year, but is deemed resident due to being resident in the tax year preceding or following that tax year. ➢ An individual with a permanent abode in Dominica, in which they have been physically present for some period of time during the tax year.	Yes	Yes	
Estonia	➢ An individual whose place of residence is in Estonia. ➢ An individual who stays in Estonia for at least 183 days over the course of a period of 12 consecutive calendar months.	Yes	Yes	
Ecuador	➢ An individual who spends 183 days or more in Ecuador in a fiscal period. ➢ An individual who spends 183 days or more in Ecuador during 12 months within two fiscal periods. ➢ The centre of the individual's activities or interests	Yes	Yes	

Jurisdiction	Overview of Criteria for Individuals to be considered tax resident	Tax Residency based on number of days physical presence.	Tax Residency based on domicile, home or centre of vital interests	Tax Residency based on other criteria i.e. Visa, Nationality etc.
	resides in Ecuador. ➢ The individual has not stayed in any country more than 183 days in the fiscal year and the individual's closest family ties are in Ecuador.			
Faroe Islands	➢ An individual who establishes a home in the Faroe Islands. ➢ An individual who stays in the Faroe Islands for 180 days or more.	Yes	Yes	
Finland	➢ An individual whose main abode is in Finland. ➢ An individual who stays in Finland for a continuous period of more than six months.	Yes	Yes	
France	➢ An individual domiciled in France. ➢ An individual deemed domiciled in France as France is the centre of their vital interests.		Yes	
Germany	➢ An individual whose habitual abode is in Germany. ➢ An individual who spends an unbroken period of more than six months in Germany.	Yes	Yes	
Gibraltar	➢ An individual who is present in Gibraltar for a period or periods together amounting to at least 183 days. ➢ An individual who is present in Gibraltar in the year of assessment which is one of three consecutive years in which the total of the days on which the individual was present on Gibraltar exceeds 300 days.	Yes		
Greece	➢ An individual who maintains a permanent or principle residence, usual abode or centre of living interests in Greece. ➢ An individual that is constantly present in Greece for a period exceeding 183 days including short periods of living abroad.	Yes	Yes	
Greenland	➢ An individual domiciled in Greenland. ➢ An individual who remains in Greenland for at least 6 months including short stays outside Greenland for Holidays etc.	Yes	Yes	
Guernsey	➢ Information not available from OECD.			
Hong Kong, China	➢ An individual who ordinarily resides in Hong Kong. ➢ An individual who stays in Hong Kong for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment.	Yes	Yes	
Hungary	➢ Any citizen of Hungary (with the exception of dual citizens without a permanent or habitual residence). ➢ An individual who spends at least 183 days in Hungary	Yes	Yes	Yes

Jurisdiction	Overview of Criteria for Individuals to be considered tax resident	Tax Residency based on number of days physical presence.	Tax Residency based on domicile, home or centre of vital interests	Tax Residency based on other criteria i.e. Visa, Nationality etc.
	during the calendar year. ➢ Any individual whose centre of vital interests is in Hungary or whose only permanent residence is in Hungary.			
Iceland	➢ An individual staying in Iceland for 6 months or more.	Yes		
India	➢ An individual staying in India for more than 182 days.	Yes		
Indonesia	➢ An individual who resides in Indonesia. ➢ An individual who has been present in Indonesia for more than 183 days within any 12 month period. ➢ An individual who has been residing in Indonesia within a particular year and intends to reside in Indonesia.	Yes	Yes	
Ireland	➢ An individual who is present in Ireland for 183 days or more in the tax year. ➢ An individual who is present in Ireland for 280 days or more in the tax year and the preceding tax year.	Yes		
Isle of Man	➢ An individual who has a view or intent of establishing residency on the Isle of Man. ➢ An individual who resides on the Isle of Man for a period equal to 183 days or more in a tax year. ➢ An individual's visits to the Isle of Man over a four or more year consecutive period exceed an average of 90 days in each tax year. ➢ Where an individual intends for visits to the Isle of Man to average more than 90 days per year.	Yes	Yes	
Israel	➢ An individual who spends 183 days or more in Israel during the tax year. ➢ An individual who spends 30 or more days in Israel during a tax year and the total period of stay in that tax year and the previous two years exceeds 425 days or more. ➢ Any individual whose centre of vital interests is in Israel.	Yes	Yes	
Italy	➢ For more than 6 months in the tax year the individual is registered in the Municipal Population Registers. ➢ The individual has a domicile in Italy. ➢ The Individual has a habitual abode in Italy.		Yes	Yes
Japan	➢ An individual who has a domicile in Japan. ➢ An individual who is continuously resident in Japan for one or more years.	Yes	Yes	
Jersey	➢ An individual is present in Jersey for 183 days in any one tax year. ➢ The individual maintains a place of abode in Jersey and stays one night in Jersey in the tax year.	Yes	Yes	

Jurisdiction	Overview of Criteria for Individuals to be considered tax resident	Tax Residency based on number of days physical presence.	Tax Residency based on domicile, home or centre of vital interests	Tax Residency based on other criteria i.e. Visa, Nationality etc.
	➢ The individual does not maintain a place of abode in Jersey but visits Jersey for an average of three months per year over a period of four years.			
Korea	➢ An individual who has an occupation that requires them to reside in Korea for 183 days or more. ➢ An individual who has family members living with them in Korea and is deemed to continually reside in Korea for 183 days or longer in view of their occupation or property status.	Yes		
Kuwait	➢ Kuwait does not have formal tax residence rules.			
Latvia	➢ The registered place of residence of the individual is Latvia. ➢ The individual stays in Latvia for 183 days or longer during a 12 month period beginning or ending in the tax year.	Yes	Yes	
Lebanon	➢ An individual who has a place of business in Lebanon. ➢ An individual who has a permanent home at their disposal in Lebanon which is their usual residence. ➢ An individual who is resident in Lebanon for more than 183 days in a period of 12 consecutive months.	Yes	Yes	
Liechtenstein	➢ An individual whose residence or habitual abode is in Liechtenstein.		Yes	
Lithuania	➢ An individual whose permanent place of residence is Lithuania during the tax period. ➢ An individual whose place of personal, social or economic interest is Lithuania rather than a foreign country during the tax period. ➢ Any individual who is present in Lithuania for a period or periods in aggregate of 183 days or more in a tax period. ➢ Any individual who is present in Lithuania for a period or periods in aggregate of 280 days or more during successive tax periods and who stayed in Lithuania for 90 days or more in any such tax periods.	Yes	Yes	
Luxembourg	➢ Individuals whose normal place of residence is in Luxembourg.		Yes	
Macao Special Administration Region	➢ Currently no concept of tax residence.			
Malaysia	➢ An individual is resident in Malaysia for 182 days or more in a basis year. ➢ The individual resides in Malaysia permanently.	Yes	Yes	
Malta	➢ An individual who spends more than 6 months in Malta.	Yes	Yes	

Jurisdiction	Overview of Criteria for Individuals to be considered tax resident	Tax Residency based on number of days physical presence.	Tax Residency based on domicile, home or centre of vital interests	Tax Residency based on other criteria i.e. Visa, Nationality etc.
	➢ An individual whose centre of vital interests is based in Malta.			
Republic of the Marshall Islands	➢ Information not available from OECD.			
Mauritius	➢ An individual has a domicile in the Mauritius and they do not have a permanent place of abode outside the Mauritius. ➢ An individual spends 183 days or more in the Mauritius in the tax year. ➢ An individual spends 270 or more days in Mauritius in the tax year and in the 2 preceding years.	Yes	Yes	
Mexico	➢ An individual who establishes their permanent home in Mexico. ➢ An individual who has their centre of vital interests in Mexico.		Yes	
Montserrat	➢ An individual whose permanent place of abode is in Montserrat. ➢ An individual who is physically present in Montserrat for not less than 183 days during the basic year.	Yes	Yes	
Nauru	➢ Information not available from OECD.			
Netherlands	➢ An individual has a permanent residence and/or centre of vital interests located in the Netherlands.		Yes	
New Zealand	➢ An individual has a permanent place of abode in New Zealand. ➢ An individual has been present in New Zealand for more than 183 days in total in any 12 month period.	Yes	Yes	
Norway	➢ An individual who spends more than 183 days during a 12 month period. ➢ An individual who stays more than 270 days during a 36 month period.	Yes		
Poland	➢ An individual who has their personal interests or economic interests in Poland. ➢ An individual who is present in Poland for more than 183 days during a tax year.	Yes	Yes	
Portugal	➢ An individual who is present in Portugal for more than 183 days in any 12 month period. ➢ An individual is present in Portugal for less than 183 days but has, on any day during the period, a home under circumstances which imply their intention to keep and occupy such an abode as a permanent residence.	Yes	Yes	

Jurisdiction	Overview of Criteria for Individuals to be considered tax resident	Tax Residency based on number of days physical presence.	Tax Residency based on domicile, home or centre of vital interests	Tax Residency based on other criteria i.e. Visa, Nationality etc.
Romania	➢ An individual who is domiciled in Romania. ➢ An individual who has their centre of vital interests in Romania. ➢ An individual who is present in Romania for more than 183 days in any 12 month consecutive period.	Yes	Yes	
Russian Federation	➢ An individual who spends 183 days or more over 12 consecutive months in the Russian Federation.	Yes		
St Kitts and Nevis	➢ Currently no concept of tax residence for worldwide income, however statutory payroll deductions and a number of property taxes apply to an individual who has spent at least six months in the country and has the intention of establishing permanent residence.			
St Lucia	➢ An individual whose permanent place of abode is in St Lucia and who has physically been present in that property for a period of time during the tax year. ➢ An individual who is present in St Lucia for not less than 183 days in the year of income. ➢ An individual physically present in St Lucia for less than 183 days in the current tax year, but tax resident in the year preceding or following that tax year.	Yes	Yes	
St Vincent and the Grenadines	➢ An individual whose permanent place of abode is in St Vincent and the Grenadines. ➢ An individual who is present in St Vincent and the Grenadines for not less than 183 days in the basis period for the year of assessment.	Yes	Yes	
Samoa	➢ An individual who has their home in Samoa. ➢ An individual who is present in Samoa for a period of 183 days in any 12 month period commencing or ending in the tax year.	Yes	Yes	
Republic of San Marino	➢ An individual who has their registered residency in San Marino for most of the tax period. ➢ The individual lives in the territory of San Marino for most of the tax period. ➢ An individual has a centre of vital interests in San Marino.	Yes	Yes	
Saudi Arabia	➢ An individual has a permanent place of residence in the Kingdom and resides in the Kingdom for a period not less than 30 days in the taxable year. ➢ An individual resides in the Kingdom for not less than 183 days in the taxable year.	Yes	Yes	
Seychelles	➢ An individual who resides in the Seychelles. ➢ An individual whose domicile is in the Seychelles, unless the individual has a permanent place of abode outside the Seychelles.	Yes	Yes	

Jurisdiction	Overview of Criteria for Individuals to be considered tax resident	Tax Residency based on number of days physical presence.	Tax Residency based on domicile, home or centre of vital interests	Tax Residency based on other criteria i.e. Visa, Nationality etc.
	➢ An individual who is present in the Seychelles for 183 days or more in any twelve month period, that commences or ends in the tax year.			
Singapore	➢ The individual is physically present in Singapore for at least 183 days in the calendar year preceding the year of assessment. ➢ The individual exercises an employment in Singapore for at least 183 days in the calendar year preceding the year of assessment. ➢ The individual resides in Singapore and their absence from Singapore must be temporary and reasonable.	Yes	Yes	
Slovak Republic	➢ An individual with a permanent address in the Slovak Republic. ➢ An individual that spends at least 183 days in the calendar year in the Slovak Republic.	Yes	Yes	
Slovenia	➢ An individual who has a permanent home in Slovenia, officially registered with a local public authority. ➢ An individual who has a habitual abode in Slovenia. ➢ An individual who has their centre of vital interests in Slovenia. ➢ An individual who is present in Slovenia for 183 days in a calendar year.	Yes	Yes	
South Africa	➢ An individual who is ordinarily resident in South Africa. ➢ An individual who is physically present in South Africa for a period or periods exceeding 91 days in total during the tax year of assessment, as well as 91 days in total during each of the five years of assessment preceding the year of assessment, and 915 days in total during those five preceding years of assessment.	Yes	Yes	
Spain	➢ An individual who spends more than 183 days in Spanish territory over the calendar year. ➢ An individual whose centre of vital interests is situated in Spain.	Yes	Yes	
Sweden	➢ An individual who resides in Sweden ➢ An individual who stays in Sweden continuously for six months or more. ➢ An individual who was previously Swedish resident and has maintained close ties to Sweden.	Yes	Yes	
Switzerland	➢ An individual with the intention to remain permanently in Switzerland. ➢ An individual who spends more than 30 days in Switzerland and undertakes a gainful activity. ➢ An individual who spends at least 90 days in Switzerland.	Yes	Yes	

Jurisdiction	Overview of Criteria for Individuals to be considered tax resident	Tax Residency based on number of days physical presence.	Tax Residency based on domicile, home or centre of vital interests	Tax Residency based on other criteria i.e. Visa, Nationality etc.
The Bahamas	➢ There is no formal concept of tax residency in the Bahamas.			
Trinidad and Tobago	➢ An individual who is ordinary resident or domiciled in Trinidad and Tobago. ➢ An individual who spends in excess of six months in Trinidad and Tobago.	Yes	Yes	
Turkey	➢ Individuals who are domiciled in Turkey. ➢ Individuals who stay continuously more than six months in Turkey in one calendar year.	Yes	Yes	
Turks and Caicos Islands	➢ There is no formal concept of tax residency in Turks and Caicos Islands.			
United Arab Emirates	➢ An individual who is a United Arab Emirates National. ➢ An individual who is resident in the United Arab Emirates with a valid Emirate ID or valid Residency Visa.			Yes
United Kingdom	➢ An individual who spends more than 183 days in the UK during a tax year. ➢ An individual who has a home in the UK. ➢ An individual who works full time in the UK. ➢ An individual who satisfies the sufficient ties test.	Yes	Yes	
United States	➢ An individual who is a US citizen. ➢ An individual who is a US resident. ➢ An individual who is a lawful permanent resident under U.S. Immigration Law. ➢ An alien individual present in the US for 31 days during the calendar year and 183 days during the 3 year period that includes the current calendar year.	Yes	Yes	Yes
Uruguay	➢ An individual staying more than 183 days during the civil year in Uruguay. ➢ An individual whose centre of vital interests is based in Uruguay.	Yes	Yes	