

Guernsey Company Tax Residence

An overview



There have been dramatic changes to the previously long standing Guernsey definition to determine which companies are considered Guernsey tax resident from January 2019.

Up until that time any company will be treated as tax resident in Guernsey if:

- (a) It has not been granted exemption from tax;
- (b) It has to be recognised this has been an unusual set of criteria when compared to many other tax jurisdictions which had included the more traditional concept of management and control; or
- (c) it is incorporated in Guernsey and has not been granted tax exempt status in Guernsey.

This then included any company incorporated outside of Guernsey but owned by Guernsey residents. Often this meant such companies were dual tax resident, in their country of incorporation or management and control, as well as Guernsey.

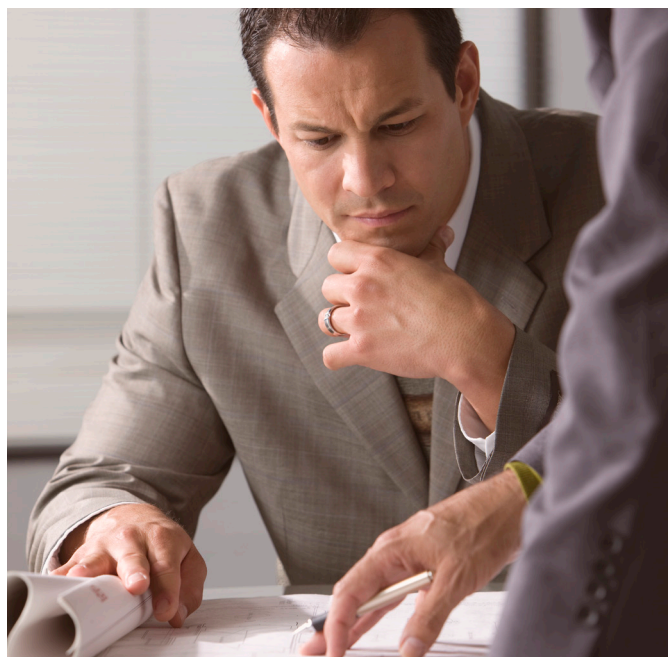
The change which came into effect on 1 January 2019 was for Guernsey to include such a management and control test as an additional determining factor as to whether a company is or is not tax resident in Guernsey. It thus extended the above to add:

- (d) it is centrally managed and controlled in Guernsey in that year of charge.

Management and control for these purposes is based on the long established case law principals and tends to look at where the Board of the company meet and how it controls affairs.

The other change introduced is that a company can now be treated as not Guernsey tax resident, including those that are Guernsey incorporated if:

- (a) the company is tax resident in another jurisdiction in terms of that jurisdiction's domestic tax law, and
- (b) the company is centrally managed and controlled in that other jurisdiction, and
- (c) either:
 - (i) the company is tax resident in that jurisdiction in terms of a Double Taxation Agreement (or Tax Treaty) ("DTA"), in which a tie-breaker clause applies, or
 - (ii) the highest rate of corporate tax in that jurisdiction is at least 10%, and
- (d) the company's tax resident status in that jurisdiction is not motivated by tax avoidance.



Filing Requirements

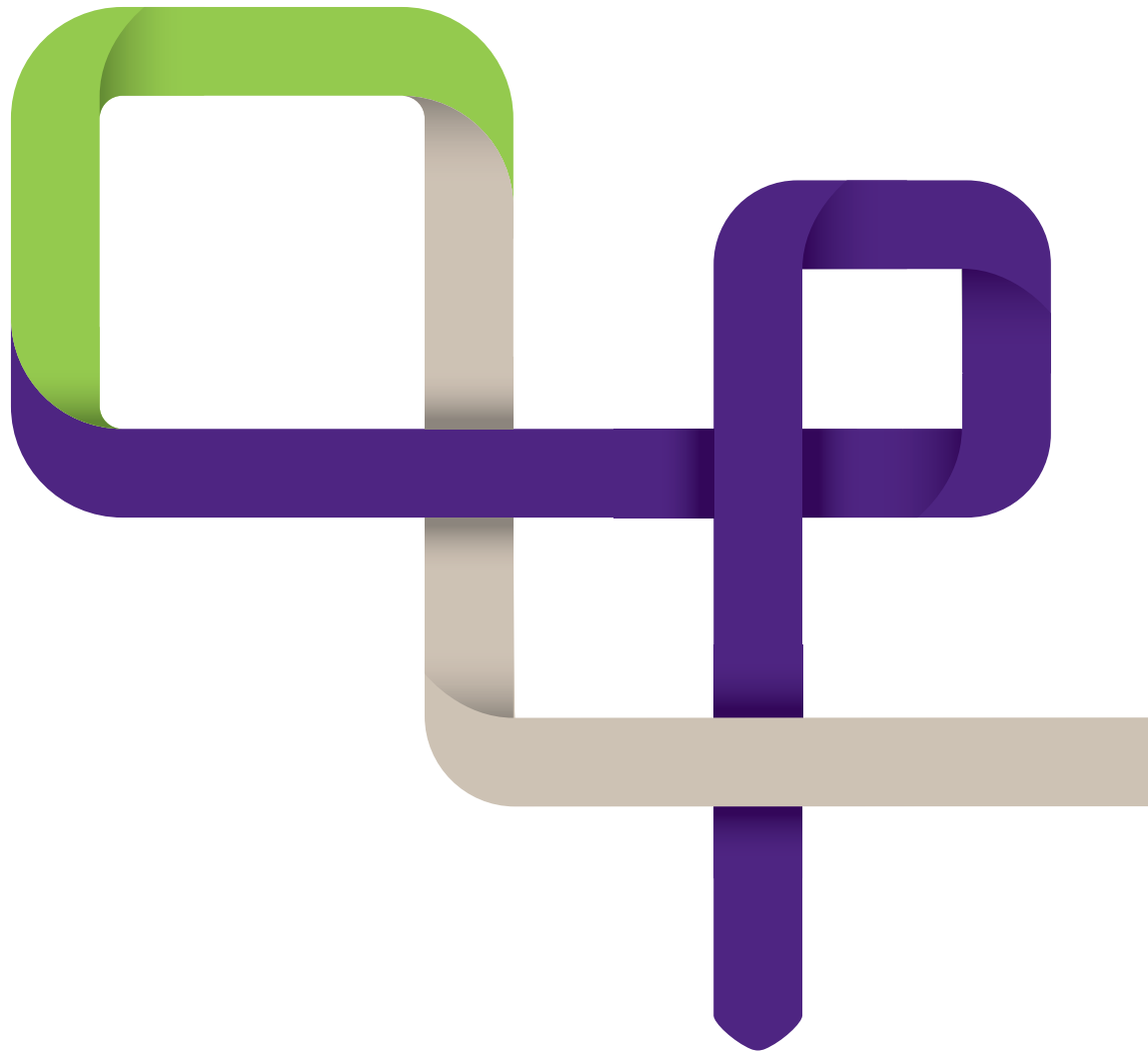
Any tax resident company will be required to file a company tax return, due by 30th November in the following calendar year. **(Reminder: the Guernsey tax year is calendar and for a company is based on the accounting period ending in the tax year).**

Such a return will now also have to consider the substance requirements which were also introduced from 2019, thus requiring some more information and to include a copy of the accounts being filed. We can provide further guidance and advice on these substance rules as requested.

Guernsey company tax rates

The company standard rate is 0%, however 20% and 10% rates may apply.

The 20% rate applies to Guernsey property rental companies and utilities. The 10% rate was introduced in 2008 principally with respect to banking business, but has since been extended to include income from a licensed fiduciary business, the provision of fund administration services to unconnected third parties, domestic insurance, and then further extended more recently to include investment management and certain compliance and other related services and aircraft registry.



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