

Jurisdiction's name:

Guernsey

Information on Residency for tax purposes

Section I – Criteria for Individuals to be considered a tax resident

Please list the domestic legal provisions that determine whether an Individual is to be considered a tax resident of that jurisdiction. Such legal provisions may be articles of the relevant tax code (with hyperlinks to the provisions themselves, where possible), as well as any further regulations specifying the residency criteria (if available, with hyperlinks).

This section should ideally also provide further guidance for Individuals to determine whether they are a resident for tax purposes in the jurisdiction, presented either in narrative form or by means of hyperlinks to the relevant sections of the government or tax authority website or publications.

Individuals

For the purpose for Guernsey income tax, residence is determined in accordance with section 3 of the [Income Tax \(Guernsey\) Law, 1975, as amended \(“the Law”\)](#)

A simple guide to Guernsey income tax residence and resultant income tax liability (dependent on residential status) in Guernsey is available [here](#).

The Director of Income Tax also publishes [Statements of Practice \(“SOP”\)](#) which include relevant information concerning residence for tax purposes (specifically covered in Statements of Practice with the prefix “R”), the most recently published SOP being R14, which is located [here](#).

Section II – Criteria for Entities to be considered a tax resident

Please list the domestic legal provisions that determine whether an Entity is to be considered a tax resident of that jurisdiction. Such legal provisions may be articles of the relevant tax code, as well as any further regulations specifying the residency criteria. Ideally, also a list of domestic Entity types that are in principle considered tax residents of the jurisdiction should be included (if available, with hyperlinks).

This section should ideally also provide further guidance for the different types of Entities to determine whether they are a resident for tax purposes in the jurisdiction. It can be presented either in narrative form or by means of hyperlinks to the relevant sections of the government or tax authority website or publications.

Social Security numbers are not issued to Entities. However, online with the OECD commentary on TINs, a “functional equivalent” to the TIN may be used. The “functional equivalents” for the TINs of the following Entities;

Companies

A “company” is defined in section 209(1) of [the Law](#) as “...any body of persons corporate or unincorporated, not being a partnership...”

A company is resident in Guernsey in accordance with section 4 of [the Law](#) , when it is either controlled in Guernsey or incorporated in Guernsey and has not been granted an exemption from income tax for that

year of charge under any Ordinance made under section 40A of [the Law](#).

Exemption under section 40A of the Law is available only to public collective investment schemes, in accordance with [Schedules 1 and 2 of the Income Tax \(Exempt Bodies\) Ordinance, 1989](#).

The Director of Income Tax has also published [Statements of Practice \(“SOP”\)](#) which include relevant information concerning the residence of companies for income tax purposes. SOPs with the prefix “C” relate specifically to the income tax position for companies. A specific SOP has been published separate to the current version of the main SOP Booklet and is numbered C52, dealing with “Corporate residence” and can be found [here](#).

Foundations

Foundations fall within the definition of a company (namely, “...any body of persons corporate or unincorporated, not being a partnership...”), therefore, the residential status is determined in accordance with section 4 of [the Law](#) (on the same basis as a company).

Section III – Entity types that are as a rule not considered tax residents

This item should ideally provide a list of entity types that are considered fiscally transparent by the jurisdiction or are considered to have no tax residence by the jurisdiction based on other criteria, including a particular legal status or tax regime (such as trusts, foundations, partnerships, investment funds etc.), but are considered to have a nexus with the jurisdiction, in particular due to the fact that the entity was incorporated or is organised under the laws of the jurisdiction or has its place of effective management within the jurisdiction. Jurisdictions may wish to complement this section with further guidance on their domestic rules on the topic, either in narrative form or by inserting relevant hyperlinks.

Partnerships

Partnerships are fiscally transparent for the purposes of Guernsey income tax, therefore, the partners of a partnership (which may be individuals or companies) will be taxed on their respective share of the profits/income of the partnership in accordance with section 42(1) of [the Law](#).

In Guernsey, ordinary “trading” partnerships are governed by the terms of [the Partnership \(Guernsey\) Law, 1995](#), which was enacted to codify and clarify the customary law on partnerships. There is no statutory partnership law in Alderney but a partnership formed therein under customary law is similar to a Guernsey partnership formed under the Partnership Law, as the customary law of Alderney is the same as that of Guernsey.

Limited Partnerships are defined, for income tax purposes, in section [209\(1\) of the Law](#), which includes reference to the definition contained in [the Limited Partnerships \(Guernsey\) Law, 1995](#).

Limited Liability Partnerships are also defined in section [209\(1\) of the Law](#), which includes reference to the definition contained in the [Limited Liability Partnerships \(Guernsey\) Law, 2013](#).

Trusts

For Guernsey income tax purposes a trust cannot be considered resident as it is neither an individual nor a company. In accordance with section 53 of the Law the trustee or the beneficiary of a trust may be charged with income tax on any income which they are entitled to receive or has arisen from the property vested in the trust.

The Director of Income Tax has also published [Statement of Practice M12](#), which provides clarification that income tax will only be charged on trust income where the income arises in Guernsey (with the

exception of Guernsey bank interest) or the beneficiaries are resident in Guernsey.

In the event that a trust is determined to be revocable then the settlor will be charged with income tax in respect of the trust income arising in Guernsey (excluding Guernsey bank interest) or the worldwide trust income where the settlor is resident in Guernsey.

Section IV – Contact point for further information

Please provide the contact details of the competent service within their tax authority, which can be contacted in case of further questions on tax residency.

(EU Member States can furthermore refer to the Taxes in Europe Data Base maintained by the European Union, which contains a wide range of information on all taxes in the EU Member States, including on tax residency.)

Further questions relating to Guernsey Tax residency, may be addressed to:

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