

What are the tax implications for living in different jurisdictions?

We plan to spend time in three countries throughout the year

LUCY WARWICK-CHING

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Countries have different tax laws on residency © Xavier Arnaud/Getty Images

In December, my husband and I decided to go part-time in our jobs rather than retire. We plan to set up residences in the US and Spain, while keeping our base in the UK. As we plan to spend time in the three countries during the year, we have heard there could be tax complexities. What are the main tax ramifications of living in multiple jurisdictions?

Helen Jones, partner in private client tax services at accountancy and business advisory firm BDO, says every country has its own tax laws and that includes how to determine if a person is resident for tax purposes. Often these rules look at factors including the number of days you spend in the country each tax year, if you have a home and if your family live with you. As the rules differ between countries, you and your husband could be treated as tax resident in each of the jurisdictions.

You should take tax residency advice about how many days you can spend in each country before becoming tax resident there, as you may be able to manage your days in Spain and the US to remain non-resident.



Helen Jones, partner at BDO

If that is not possible, you may be tax resident in more than one country. It would then be necessary to look at the double tax treaties between the relevant jurisdictions to determine which country takes priority for residence and taxing rights on different sources of income and capital gains. Often the country that takes priority for residence will be the one where a person has a permanent home and closer personal and economic relations. As you plan to keep your base in the UK it is possible that you and your husband may be treated as tax resident in the UK under the relevant treaties.

You mention that you will both continue to work. Given the shift to remote working in recent years it is now easier than ever to work from anywhere in the world. However, there are tax, social security and regulatory issues that can arise for you and your employer when you work in a different country to your employer regardless of your residence. This is something you should discuss with your adviser and employer.

Spain and the US have a tax year ending on December 31 and their own rules regarding payment of tax and filing obligations, time limits to claim reliefs and exemptions and penalties will often apply for non-compliance. The US also has state and city taxation. It is therefore prudent that you take advice as your personal circumstances and the legislation and practice in a country may change over time.

Finally, it is important to seek advice on immigration and visa status to ensure that you have the right to live and work in the US and Spain.

Do we need a postnuptial agreement?

Should we bother getting a postnuptial agreement? It didn't feel very romantic to discuss a pre-nup, but now we're married, my husband and I have started talking about a post-nup. We both own our own businesses and this is a second marriage for both of us. But are these agreements worth the paper they're written on?

Katie Wood, barrister at law firm 4PB, says postnuptial agreements are worth the paper they are written on, but only if they have been drawn up properly and are fair.

Post-nups, are a form of agreement entered into after a marriage or civil partnership to regulate the financial terms in the event of a separation, divorce or dissolution. It does not, however, signal that the marriage/partnership is at an end – it is more a form of financial planning and has the advantage of providing peace of mind from a financial perspective.



Katie Wood, barrister at law firm 4PB

Although post-nups are not legally binding, family courts are increasingly willing to enforce agreements freely entered into between the parties, respecting their autonomy in doing so. If the court is satisfied that the parties freely entered into the agreement with a full appreciation of its implications and with an awareness of the other party's financial resources, then it is likely to be upheld by the court.

For couples who are already married and who have not got the pressure of a wedding date on the horizon, it is sensible to get legal advice on how to formalise how assets should be divided in the event that the marriage or partnership comes to an end.

Couples seeking to enter into a post-nup will be asked to disclose their assets and income and legal advice can be given as to whether the terms of the post-nup meet each of the parties' needs and is fair and thus more likely to be upheld by a court. The terms of the post-nup should be drafted clearly, with each party given the opportunity to seek independent legal advice to ensure that neither spouse is put under undue pressure and is fully aware of the agreement they are entering into, as well as its implications.

The consequences of not entering a nuptial agreement are that, upon the breakdown of the marriage or partnership, and in the absence of agreement as to how their finances should be divided, couples find themselves embroiled in what can become protracted, bitter and costly court proceedings, which could have been avoided.

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