

Part 34-00-02 - Residence of Trusts (other than Unit Trusts) and of Estates under administration

Ireland and the United Kingdom

Reviewed May 2017

Introduction

This manual sets out guidelines for deciding the residence of trusts and estates under administration under the double taxation agreement (DTA) between Ireland and the United Kingdom. The guidelines, designed to deal with the majority of cases, have been agreed with the HMRC.

Guidelines

These guidelines apply for income tax purposes only.

References to trusts should be taken as including estates under administration and references to trustees as including personal representatives.

Where is the 'Place of effective management' of the Trust?

Revenue regard trustees as a body of persons and as such are "a person other than an individual" for the purposes of Article 4(3) of the DTA. Therefore the proper test in resolving the residence of trusts is the place of effective management of the trust.

To determine the "place of effective management" of a trust the following rules should be observed:

- (a) If the trustees are all individuals residing in one country only that country should be accepted as the place of effective management.
- (b) If the trustees are all individuals but not all residing in one country
 - (i) the country in which the individual who generally controls and supervises the work of administering the trust (i.e. keeps the accounts, conducts the correspondence, arranges the meetings of the trustees and puts into effect the decisions taken at such meetings) resides should be taken,
 - (ii) if there is no such individual the dates and places of all meetings held should be established and the country in which

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the majority of the meetings were held regarded as the place of effective management.

- (c) If a professional body is acting as trustee, either alone or in conjunction with individuals, the place of business of that professional body should generally be presumed to be the effective place of management of the trust.
- (d) If the professional body acting as trustee is a United Kingdom Bank with a branch or subsidiary in this country and the work of administering the trust is carried out by that branch or subsidiary, this State should be regarded as the country of residence, and vice versa in the converse situation.

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