

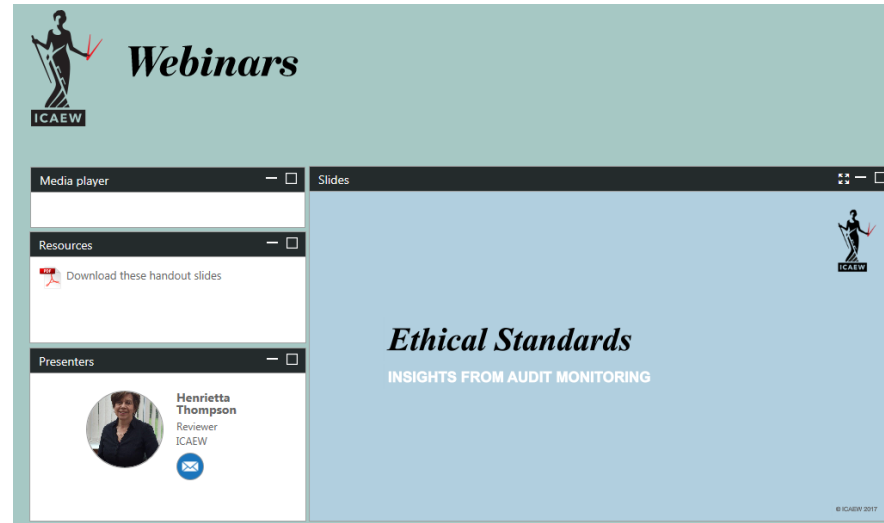


Brexit and lockdown in the EU: Taxes, healthcare and legal residency for UK nationals

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Today's speaker



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Brexit: Taxes, healthcare and legal residency for UK Nationals

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Agenda

- **Covid 19 responses & healthcare systems in...**
 - France
 - Spain
 - Portugal
- **UK & EU Draft Agreements...**
 - Disparities & Citizens Rights?
 - Current legal residency thinking
- **Tax Changes in the EU...**
 - 5th AML Directive and UBO's
 - Changes to the Non-Habitual Residence Regime in Portugal
 - UK tax changes impacting movers
- **Closing Comments**



Covid19 responses & healthcare systems in...

France, Spain & Portugal

Covid19 response...

France

- General feeling...
 - Slow response from first case (24th January) to lockdown (17th March), and confused messaging...
 - 3rd March closed 120 schools in 2 regions, but still allowed gatherings of up to 1,000
 - Closed all schools 12th March, but allowed first round of elections 15th March
- Two things forced Macron into a rethink...
 - Italy moving from 3 cases in early February, to 15,000 by 15th March
 - 2,500 cases traced back to one person at a religious festival on 17th February

Covid19 response...

France

- France does not have logistical capacity to promote mass testing – few accredited labs
- Lack of testing means no data and delay in response
- Shortages of masks, beds, ICUs and ventilators
- Moved patients from West to East of France by TGV, and also on to Germany, Luxembourg & Switzerland
- World renowned health system, but also one of most expensive
- Past 30 years – leaders have cut spare capacity, closed hospitals
- Reduces ability to deal with large crises

Covid 19 response...

Spain

- Several long-term disadvantages...
 - Years of hung Parliaments - inactive legislative bodies, no long-term decision making or problem solving
 - 17 autonomous regions means devolved national administration and provision of healthcare – lack of coordination
 - After 2008, Spain only staved off international bail-out through deep cuts in public services
 - The way the Spanish live – apartment living with extended family encourages spread of virus

Covid19 response...

Spain

- 6th March – Spain's Health Emergency Coordination Centre warned government of virus's spread, deaths mounting in Italy
- Then – only 280 cases and 4 deaths
- But –
 - Champions League - Atalanta (from Bergamo - the epicenter of Covid 19 in Italy) vs Valencia – 44,000 people, of which 2,500 from Spain
 - 8th March – tens of thousands march on Spain's International Women's Day
- 15th March – Royal Decree for lockdown

Covid19 response...

Portugal

- Portugal has fared well compared to other EU states – why?...
 - Fast-acting government, centralised health system – quick & effective
 - Only one border!
 - Was 3 weeks behind Italy in infection cycle, and saw impact in Spain
 - Portuguese - disciplined, and started self-isolating from end February
 - Schools, bars & restaurants closed as children & customers stayed away
 - State of Emergency 18th March – only 2 days after their first death
 - Most infected remained at home, not overwhelming hospitals
 - Hospital beds – 3 per 1,000 (USA 2.7, UK 2.5)

Covid19 response...

Portugal

- €3Bn State aid – guarantees for loans to small businesses, bank loans, subsidies, public loans, etc.
- State of Emergency – significant restriction in movement, shops closed, no public events, remain at home
- But - Portugal was bailed-out in 2008, so shutdown is hurting economy
- GDP grew by 2.2% 2019; expected to fall by 3.7% - 5.7% 2020
- 32,000 companies applied for furlough of 552,000 staff (pop. 10m)
– add 5% to unemployment rate, to 11.7%

Health System...

Rankings

Country	EU Health Care Index (2019)*	World Health Care Index (2020)*	Euro Health Consumer Index (2018)**	Healthcare Spend as a % of GDP (2018)
UK	8	13	16	9.8%
France	4	5	11	11.2%
Spain	6	6	19	8.9%
Portugal	15	23	13	9.1%

* Health Care Index - estimation of the overall quality of the health care system, health care professionals, equipment, staff, doctors, cost, etc.

** Euro Health Consumer Index (EHCI) - comparison of EU health care systems based on waiting times, results, and generosity

Health System...

France

- '*Régime Général*' - the general health insurance fund (85% of pop.)
- '*Protection Universelle Maladie (PUMA)*' - permanent health cover for all those who legally reside in France, working or inactive
- At local level *Régime Général* is administered by a health authority, the '*Caisse Primaire d'Assurance Maladie (CPAM)*'.
- The social security system picks up most health costs (roughly 70%), you will need voluntary health insurance to cover the remainder (not compulsory)
- Mainly via non-profit, "mutuelle" insurance company coverage.

Health System...

France

- 2008 - '*Carte Vitale*' smart card system. Certifies entitlement to health insurance
- *Carte vitale* into a card reader – later receive direct reimbursement from the insurance fund
- *Carte vitale* is not a payment card, but does enable most to get direct payment, or '*tiers payant*' for the State reimbursement
- *Tiers payant*, is now in operation in most GP surgeries
- *Tiers payant* often extended to '*mutuelles*' - insurers are notified of their charge by the social security system and the doctor is reimbursed by them.

Health System...

Spain

- Spanish constitution requires State to provide medical care
- Spanish National Healthcare (SNS)
- A public, universal healthcare system, with option for additional, private coverage
- UK nationals employed or self-employed in Spain, who contribute to Spanish social security (*‘seguridad social’*) and their families will receive medical care on same terms as Spanish residents
- Under 20% of Spaniards pay private insurance

Health System...

Spain

- Register with the *seguridad social*
- Registration card will provide your social security number
- If you arrive before 31st December 2020, and are UK state pension age, then obtaining an S1 will allow you to access SNS
- If you have a permanent residence certificate - Apply for the '*documento acreditativo del derecho a asistencia sanitaria*'
- No other cover – join the '*Convenio Especial*'. Provides access to the state healthcare system for a monthly payment
- €60 per person under the age of 65 and €157 for those age 65+.

Health System...

Portugal

- Provided through three coexisting systems:
 - National Health Service, or *Serviço Nacional de Saúde* (SNS) from 1979, universal for all Portuguese citizens and foreign legal residents
 - ‘Health sub-systems’ – special health insurance schemes for certain professions & organisations, paid either by subscriptions from employees, employers or members of bodies (25%)
 - Voluntary private health insurance (10%) & mutual funds (7%)
- 2012 - to ensure the sustainability of SNS service introduction of fees to be paid at the end of treatments
- 2019 - government proposed scrapping all fees (2% of the SNS's budget)

Health System...

Portugal

- Must first register with the local council, *'junta de freguesia'*, then with the local health center, *'centro de saúde'*
- The health center will give you a healthcare number, *'Número de Utente'* - show number whenever accessing public healthcare
- Eligibility is based on being a legal resident - not just permanently resident (5 years+)
- Includes non-working or retired UK nationals legally resident



UK & EU Draft Agreements

UK & EU Draft Agreements...

Disparities

The Future Relationship with the EU; The UK's Approach to Negotiations (February 2020)

- Much different position to that of Theresa May's deal
- Priority is maximum freedom for the UK to determine its own policies
- Demand for comprehensive FTA at its core – Canada or South Korea
- Removes most tariffs, but no requirement to stick to EU rules
- Wants it to include 'substantially all trade' – goods, as well as minimise barriers for services

UK & EU Draft Agreements...

Disparities

The Future Relationship with the EU; The UK's Approach to Negotiations (February 2020)

- Envisages separate agreements for fisheries, security, aviation and nuclear cooperation.
- “...separate and independent policies” to cover immigration (points based), competition, the environment, social policy & data protection
- Mobility & Social Security Coordination – only two paragraphs, but to be based upon pre-existing SSC agreements

UK & EU Draft Agreements...

Disparities

EU's 'New Partnership with the United Kingdom' (February 2020)

- Most important concept – “level playing field”
- EU leaders – want an “ambitious” wide-ranging agreement
- “Robust” guarantees in respect of competition and standards
- Would provide full access to single market, but want a high degree of conformity with EU law and the ECJ as the final legal arbiter
- Little detail on Citizens Rights beyond workers

UK & EU Draft Agreements...

Disparities

Fundamental differences appear difficult to overcome...

- UK rejects regulatory alignment
- UK rejects any jurisdiction of the ECJ
- EU is linking fisheries to trade talks, whilst the UK is determined to become an “independent coastal state”, controlling its own fish stocks
- Financial services problematic – agreeing ‘equivalence’ of each side’s regulations
- EU fear of UK providing state aid and trade “dumping”

UK & EU Draft Agreements...

Negotiating Process

- First round talks – early March 2020
- Then suspended for 6 weeks due to Covid 19
- Resumed by video conferencing 20th April...

“The UK cannot refuse to extend the transition, and at the same time slow down discussions on important areas.”

Michel Barnier



- No substantive progress on major issues
- Further rounds of negotiations – 11th May & 1st June
- Two pending deadlines.... 30th June & 31st December!

UK & EU Draft Agreements...

Citizens Rights

Current Position Under the Withdrawal Agreement (WA):

- Free Movement remains until 31st December
- If you are 'legally resident' on 31st December you can stay
- After 3 months - must be employed, self-employed, a student or self-sufficient ('economically inactive')
- Economically inactive need minimum financial resources and health insurance (pensioners - S1 is sufficient) to acquire temporary residence
- Renewable annually for 5 years
- After 5 years - conditions fall away and 'permanent residence'

UK & EU Draft Agreements...

Citizens Rights

Current Position Under the Withdrawal Agreement (WA):

- The 5 years can include years both before and after the effective date
- Those with less than 5 years' – continue to build their years until they reach 5, when they are eligible for permanent residence
- Whilst building the 5 years - can only be absent for up to 6 months in any one year
- On acquiring permanent residence - can be absent for up to 5 years and still retain the right of permanent residence
- If absent for more than 5 years – lose automatic right of permanent residence under the WA

UK & EU Draft Agreements...

Citizens Rights

Current Position Under the Withdrawal Agreement (WA):

- Reciprocal healthcare is agreed - those who have an S1 or will be eligible for one when they retire will continue to have their healthcare funded by the UK
- Aggregation of social security contributions is agreed - both before and after the effective date
- Lifetime export of uprated state pensions is agreed – the UK state pension will be increased annually just as it would be if you were living in the UK

UK & EU Draft Agreements...

Citizens Rights

Current Position Under the Withdrawal Agreement (WA):

- Under WA - EU27 have a choice of system for legal residency
- **Declaratory** – mirrors current system. As long as you meet the conditions, you retain the right to remain, whether or not documented
- A certification process will be available, but not compulsory
- **Constitutive** – need to apply for new status. Means without successful application, you will not acquire legal residency rights
- Deadline of 30th June 2021 to apply
- Few EU27 declared chosen route - most Constitutive.

UK & EU Draft Agreements...

Citizens Rights

- To qualify for residency permit under the WA (ie., those present by 31st December 2020):
 - Proof of sufficient resources, so the individual is not deemed a burden on a Member State's social care system
 - Proof of health insurance
- Sufficient resources...*“...shall not be higher than the threshold below which nationals of the host Member State become eligible for social assistance, or, where this criterion is not applicable, higher than the minimum social security pension paid by the host Member State.”*

UK & EU Draft Agreements...

Citizens Rights

WA Proof of health insurance for UK nationals under state pension age:

- EHIC card only covers for first three months
- Continuing to work in the UK – UK coverage in EU27
- Working in the EU27 - host state's social security system
- UK's S1 form not available to those under state pension age
- Economically inactive may need to purchase private health insurance for first year to obtain residency permit
- Can stills access state healthcare insurance thereafter.

UK & EU Draft Agreements...

Citizens Rights

No further Agreement and arriving after 31st December 2020...

- UK becomes a “third state”
- Only real change is sufficient resources rules likely to become more onerous
- Minimum income level increases from unemployment benefit or host members state pension to the legal minimum wage
- Minimum wages:

France	€18,250 pa
Spain	€12,600 pa
Portugal	€6,400 pa

UK & EU Draft Agreements...

Citizens Rights

No further Agreement and arriving after 31st December 2020...

- Will be able to stay for 90 days visa free, then must leave for 90 days
- Rolling 180 day period – overstay, and you might be prevented from returning!
- ETIAS – new EU electronic travel authorisation system for those travelling to Europe from visa-free countries
- Travel (including the dates of arrival and departure) will be logged on central EU computer system.

UK & EU Draft Agreements...

Citizens Rights

No further Agreement and arriving after 31st December 2020...

- Second home-owners currently often spend up to six months or more in a host state
- Practice will become more complicated
- Will become subject to the same rules as other non-EU nationals - visas, health insurance and sufficient resources
- Currently no agreement to continue with the European Health Insurance Card (EHIC)
- If no EHIC agreement - all visitors will need travel insurance including health cover.

UK & EU Draft Agreements...

Citizens Rights

No further Agreement and arriving after 31st December 2020...

- Under WA can move to host state under Freedom of Movement
- Obtain residency permit “at your leisure” in-country, though absolute deadline under the WA is 1st July 2021
- Arrive after 31st December - will need to plan in advance to apply for a visa from the relevant Consulate/Embassy in the UK
- Need a substantial amount of documentation, and attend an interview
- Some documentation may need to be translated by a certified and accredited translator.



Tax Changes in the EU...

5th AML Directive & UBO's

Tax Changes in the EU...

5th AML Directive & UBO's

- Came into force in EU on 10th January 2020
- Widened the reporting requirements of the 4th AML Directive
- Aim is to restrict money laundering and tax evasion by establishing Ultimate Beneficial Ownership (UBO) Registers
- Corporate UBO register for 25%+ shareholders
- Includes non-EU companies owning EU real estate
- UBO's are always 'natural persons'

Tax Changes in the EU...

5th AML Directive & UBO's

- 4th AML - UBO's were only available to government authorities
- 5th AML - placed greater emphasis on transparency
- Aim is for EU to have inter-connected, publicly available registers
- By 10th September 2020 - centralised, auto-mechanisms for identifying holders of bank accounts, safety deposit boxes, etc.,
- By 10th March 2021- EU central platform.

Tax Changes in the EU...

5th AML Directive & UBO's

- 4th AML – imposed obligation on trusts. TRS – Trust Registration Service
- Must provide settlor, trustees, protector, beneficiaries, controlling interests
- No longer just trusts with tax consequences – 5th AML widened to include all trusts
- Brings into scope:
 - Non-EU trusts that own real estate within the EU
 - Trusts that have a business relationship with an 'obliged entity' (an entity subject to anti-money laundering rules, such as banks, estate agents, accountants and solicitors)

Tax Changes in the EU...

5th AML Directive & UBO's

- Another string to the bow of Spanish and Portuguese tax authorities
- Trust - company structures have been used for overseas ownership of property in Spain and Portugal since the 1970's
- Many structures have not been reviewed since inception
- Both civil law countries have no concept of trusts, and have legislation in place, but 1,000's of structures remain
- Also presents significant issues for tax advisers in the UK, with 'shadow-director' rules

Tax Changes in the EU...

5th AML Directive & UBO's

- Spanish 2019 Tax Inspection Plan – focused on international investors using opaque structures to invest in Spain
- Spanish authorities have established 122,000 shell companies to investigate
- Portugal 2018 State Budget – included legislation taxing the transfer of company shares where at anytime in the past 365 days 50% of the value has derived from real estate
- Provides the judicial means to look through a company to the underlying gains on property sales



Tax Changes in the EU...

*Changes to the Non-Habitual
Residence Regime in Portugal*

Tax Changes in the EU...

Changes to the Non-Habitual Residence Regime in Portugal

What's Non-Habitual Residence?

- Introduced in 2009, following financial crises
- Must not have been Portuguese tax resident in the previous 5 tax years
- Preferential tax regime for first 10 tax years
- Need to register by 31 March following arrival
- Miss the deadline - may be denied a NHR certificate

Tax Changes in the EU...

Changes to the Non-Habitual Residence Regime in Portugal

- Preferential tax rate (20%) on employment / self-employment income
- High value-added, restricted list of activities
- Tax exemption for foreign-source income - pensions, rental income, certain capital gains, interest, dividends
- Provided certain conditions are met

Tax Changes in the EU...

Changes to the Non-Habitual Residence Regime in Portugal

- The UK-Portugal DTT gives Portugal taxing rights on UK private pensions, company pensions and the UK State Pension
- NHR provided a full tax exemption for the first 10 years
- Non-habitual residents could receive most UK pension income tax-free
- This benefit is magnified when UK ‘pension freedoms’ were used to liquidate the whole pension scheme during the first 10 years.

Tax Changes in the EU...

Changes to the Non-Habitual Residence Regime in Portugal

- Years of international and EU pressure to change these rules
- 2020 Budget – from 31st March, NHR exemptions no longer apply to pensions
- New, flat 10% tax rate on all foreign pension income.
- The new tax on pensions affects those applying for non-habitual residence after 31 March 2020

Tax Changes in the EU...

UK tax changes impacting movers

Tax Changes in the EU...

UK tax changes impacting movers

- Often the case UK nationals retain their UK home when they move overseas
- But once resident in an EU state – liable to their tax rules, reliefs and exemptions when they sell the old UK home
- Most EU states have main home reliefs, **but** - completely different to those of the UK
- No apportionment between qualify and non-qualifying periods – most simply taxable or not!

Tax Changes in the EU...

When should they sell the old UK main home?

Most beneficial...

- When UK resident - full PPR reliefs apply
- When non-UK resident – could be apportionment of post 5 April 2015 gain between qualifying and non-qualifying periods
- BUT – also potential liability in new country of residence

Tax Changes in the EU...

When should they sell the old UK main home?

From 6th April 2020, changes to PPR relief –

- Period of ‘deemed’ occupation in the final period of ownership was 18 months up to this date
- From 6th April 2020, this is reduced to 9 months
- This has particular implications for those moving abroad
- Often prefer to retain their old UK main home as security in case their move goes wrong



Closing Comments

Closing Comments

- Narrowing timeframe to move before 31st December 2020 and secure various benefits for life
- No clarity on new rules for movers after 31st December 2020
- Impact of Covid 19 on economies, tax collection and increased government spending means the wealthy will be facing greater scrutiny in their tax affairs
- State tax authorities already specifically targeting the wealthy and their structures
- EU moves towards greater financial transparency has its own tax implications

Take professional advice before any move!



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