

Mobility: anticipate to avoid issues

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Transferring your residence abroad has long involved a profound upheaval in one's life: an ordeal from an administrative, logistical or cultural perspective. Also, a move abroad was often synonymous with a loosening of social and family ties.



In an era of international mobility, expatriation has become increasingly probable during the course of a lifetime. The current pandemic has led to the emergence of new behaviours, where working people operate at a distance from the place they themselves have chosen.

Expatriation is therefore easier to organise today.

However, it cannot be improvised and must be prepared carefully so as to avoid a legal and fiscal quagmire.

1. The impacts of expatriation

Within the European Union, the free movement of persons, established as early as 1957 as one of the four major freedoms of movement underpinning the single market, has helped to facilitate the movement of citizens between Member States. Financial, trade and professional boundaries have also, gradually, become blurred on a global scale.

However, each State has retained its national prerogatives regarding its tax and public policy rules. A person planning to move must therefore be aware that he may be faced with fiscal and wealth management impacts, both in his country of origin (exit tax) and in the moving country (wealth tax, double taxation).

The well-informed traveller will therefore turn to a professional (tax lawyer or wealth manager) to prepare for the consequences of a move abroad and to limit - or even avoid - any damaging impact which may result.

2. Expatriation and wealth management: the key questions

Thus, for an individual who has already completed his wealth planning, or even organised his estate, the consequences of transferring residence abroad must be analysed in advance and with particular care.

In this respect, his adviser will have to answer the following questions:

- Which tax rules will apply to his client after his change of residence?
- How will the individual parts of his wealth be affected?
- Will the rules - both legal and fiscal - governing his estate be different?
- Does he plan to return to his country of origin? When will this take place?
- Will this project affect his wealth or estate planning? Are changes necessary? What changes? When should this be done?

3. Illustration: expatriation and life insurance policies

As an example, let us consider the situation of a person who has taken out a life insurance policy with a Luxembourg insurance company and who wishes to transfer his residence abroad.

In principle, a Luxembourg life insurance policy is “portable”. In other words, it can follow the policyholder’s movements and can be adapted to them. However, certain rules and limits must be respected. Indeed, while the law applicable to the life insurance policy may remain the same (particularly if it is the policyholder’s national law), the mandatory rules applicable to policies or to insurance law in the future country of residence will nevertheless have to be respected. Similarly, the tax regime applicable to the policy depends mainly on the country where the policyholder is tax resident.

As a result, the impact on the life insurance policy of a policyholder’s residence transfer abroad must be analysed in advance.

First of all, you must be certain that the insurance company can distribute its products in the new country of residence. If this is not the case, the policyholder absolutely must contact his insurance company to determine the practical consequences of his planned move, and how to address them.

If distribution is possible, you must, before any actual departure abroad, check that the policy does not need any specific modification:

- is a right of supervision over the management of the underlying assets possible in the new country of residence?
- is the type of fund linked to the life insurance policy recognised / possible?
- is a minimum death cover required?
- is an additional premium taxable?

An analysis of these various points may lead to the conclusion that the life insurance policy would not, as it stands, be recognised as such in the future country of residence or that it would be subject to unforeseen tax treatment there.

It is essential that you discuss these matters with your financial adviser before any transfer of residence in order to make the most of the portability of your Luxembourg life insurance policy.

Are you thinking of moving abroad in the near future and wondering about the impact of this move on your life insurance policy? Do not hesitate to contact us.

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