

# Declaration Residence Definitions

## Residence - Individual

An individual will be regarded as being resident in Ireland for a tax year if she or he:

- 1) spends 183 days or more in the State in that tax year;  
(135 days for the "short tax year" 6 April 2001 to 31 December 2001);

*or*

- 2) has a combined presence of 280 days in the State, taking into account the number of days spent in the State in that tax year together with the number of days spent in the State in the preceding year.  
(280 days is reduced to 244 days in respect of the combined tax years, commencing on 6 April 2000 and 6 April 2001, and those commencing on 6 April 2001 and 1 January 2002.)

Presence in a tax year by an individual of not more than 30 days (22 days for the "short tax year" 6 April 2001 to 31 December 2001) in the State will not be reckoned for the purpose of applying the two year test. Presence in the State for a day means the personal presence of an individual at the end of the day (midnight).

## Ordinary Residence - Individual

The term "ordinary residence" as distinct from "residence", relates to a person's normal pattern of life and denotes residence in a place with some degree of continuity.

An individual who has been resident in the State for three consecutive tax years becomes ordinarily resident with effect from the commencement of the fourth tax year.

For example, an individual who is resident in the State for the tax years:

- 6 April 2000 to 5 April 2001,
- 6 April 2001 to 31 December 2001, and
- 1 January 2002 to 31 December 2002,

will become ordinarily resident with effect from 1 January 2003.

An individual who has been ordinarily resident in the State ceases to be ordinarily resident at the end of the third consecutive tax year in which she or he is not resident. Thus, an individual who is resident and ordinarily resident in the State in 2000/2001 and departs from the State in that year will remain ordinarily resident up to the end of the tax year 1 January 2003 to 31 December 2003.

## Residence - Company

A company which has its central management and control in Ireland (the State) is resident in the State irrespective of where it is incorporated. A company which does not have its central management and control in Ireland but which is incorporated in the State is resident in the State except where:-

- the company or a related company carries on a trade in the State, and either the company is ultimately controlled by persons resident in EU Member States or countries with which Ireland has a double taxation treaty, or the company or a related company are quoted companies on a recognised Stock Exchange in the EU or in a tax treaty country;

*or*

- the company is regarded as not resident in the State under a double taxation treaty between Ireland and another country.

It should be noted that the determination of a company's residence for tax purposes can be complex in certain cases and declarants are referred to the specific legislative provisions which are contained in section 23A Taxes Consolidation Act, 1997.

## Declaration of Residence outside Ireland

Plan Owners resident outside Ireland are required by the Irish Revenue Commissioners to make the following declaration, which is in a format authorised by them, in order to receive payments without deduction of Irish tax.

I/ We \* declare that

- I/ We \* have read the explanation of the terms detailed in the note entitled "Residence Definitions" attached;
- I am/We are/The company is \* the Plan Owner in respect of which this declaration is being made;
- I am/We are/The company is \* not resident or ordinarily resident in Ireland.

*If you are making this declaration whilst in the process of setting up your plan, setting up a series of regular withdrawals or making a first partial surrender:*

- I/ We/The company \* hereby undertake to inform Scottish Mutual International of any change in my/our/the company's \* country of residence during the life of the plan.

*\*Delete as appropriate*

Name and principal place of residence/address of Plan Owner:

Plan number:

Signature of Plan Owner or Authorised Signatory:

Capacity in which declaration is made:

Date: \_\_\_\_\_

Second Plan Owner (if any):

Name & principal place of residence/address:

Joint Policyholders:

Names & Principal places of residence

Signatures

_____	_____
_____	_____
_____	_____

_____
_____
_____

### Notes:

1. This form may be subject to inspection by the Irish Revenue Commissioners. It is an offence under Irish Law to make a false declaration.
2. This declaration must be signed by Plan Owners who are neither resident nor ordinarily resident in Ireland or by personal representatives signing on behalf of deceased persons. Where the Plan Owner is a company, the declaration must be signed by the company secretary or such other authorised officer. It may also be signed by a person who holds power of attorney from the Plan Owner. A copy of the power of attorney should be furnished with this declaration.

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