

UK Taxation for expatriates abroad

A brief guide
Factsheet No 101

If you have been paying tax in the UK and now find yourself out of the clutches of the Inland Revenue, it won't be surprising if you breathe a sigh of relief, tear up that tax return you packed in your relocation briefcase and put the taxman at the back of your mind.

Before you do however, there are two things you must be aware of.

1. You do not automatically become a non-resident UK taxpayer simply by moving abroad
2. You will be deemed to be liable to taxes in the UK on other revenue than your regular income be it a salary or consultancy fees paid by your client.

The 365-day rule for non residency

In order to become a non-resident taxpayer in the UK, you need to be out of the UK for a full tax year, i.e. 6th April to 5th April the following year. This is most important to observe, as these are relatively new rules. Previously, you could be non-resident from day one as long as your period of stay outside the UK was likely to exceed 365 calendar days. Currently, as long as you take up a full time position abroad, which lasts for a whole tax year, you will be treated as non-resident from the day you leave the UK until the day you return.

Spouses accompanying you

If you are the husband or wife of a full time employee, you will also be treated as non-resident even if you do not have a full time occupation.

The 183-day rule for UK visits

Whilst out of the UK, you have to ensure you do not breach the 183 day rule by which you could technically become resident again, merely by visiting too often or staying longer during your visits. To retain your non-resident status, your visits to the UK should not exceed 183 days in any one tax year or 90 days a year on average over the period of non-residency.

The 183-day rule for your country of residence

Just as in the UK most OECD countries have the equivalent of the 183-day rule. This means that you will not be considered as resident in that country, unless you are there for more than 183 days. The rule varies from country to country however and this is where one must exercise caution. In some countries residency starts from the day you arrive whereas in others, it starts after the 183 days. It is important to check this before you settle in, preferably even before you accept the overseas posting. It is possible to be resident in more than one country at the same time but where this is the case, any double taxation agreement existing between the countries would more than likely cover for this and prevent you from being treated as resident in more than one of those countries.

Double tax relief, what are they?

Double tax relief is what prevents you from being taxed in two countries on the same income. If you are still deemed to be resident in the UK but receive taxed income from abroad, depending on the treaty between the UK and your host country, you are entitled to relief for the UK tax paid. In most cases, this relief is a complete exemption from the UK tax liability on earned income as well as capital gains.

It is still possible to get taxed twice. All that happens is that the tax you pay in one country, gets treated as a deduction in calculating your taxable income in another country. Certain restrictions may apply if you do not remit the whole of the income to your country of residence.

Withholding taxes, what are they?

If you are resident in one country but derive an income from another country, the institution making the payment to you can retain part of that income in the form of withholding taxes. Withholding taxes is usually levied on investment income such as dividends and interest payment as well as on insurance payments and even lottery winnings! Rates do vary from country to country starting from around 10% to almost 35% in Switzerland. Withholding taxes are refundable depending on the residency status as well as the treaty in place between the host and investing country. Withholding taxes also apply to fees you may receive as a director of a company resident in the host country. If you are a director being relocated from the UK therefore, you may want to evaluate whether to become a director in the subsidiary or associate company you will be working for.

Forms to be completed before departure or soon after

Before leaving the UK or at least very soon after, make sure you inform the Inland Revenue. You can do so by correspondence but the Revenue has its own forms you should complete. This is referenced P85 and contains a host of questions which the Inland Revenue will use to ascertain your UK tax status.

How to get a zero tax code

By completing the form P90, if for any reason your employer is in the UK rather than your country of residence, a zero tax code will be issued to you, and copied to your employer. Your employer will then apply this tax code in calculating your salary. This on its own does not take care of your tax liability outside the UK and that has to be arranged separately.

Overseas payroll or wage taxes

In the UK, this is normally referred to as PAYE and it is the responsibility of the employer to deduct the tax at source and pay over to the tax authorities, on your behalf. The same applies to the Republic of Ireland. In many countries in Europe however, this isn't the case. France and Switzerland are two examples though in Switzerland the rules are stricter for non-residents. Wage tax is often the responsibility of the **employee** who has to file a return and pay the tax to the national or regional government of the host country.

National Insurance and Social Security liabilities

The UK has bilateral social security arrangements with all EEA (EU plus Finland, Iceland and Liechtenstein) and several non EEA countries (including Switzerland, Turkey and the new countries of the former Yugoslavian republic) which enables UK citizens to benefit from the healthcare facilities in each other's country without charge. However, health is only one of the areas NI contributions are supposed to cover, there is also, pensions, union contributions etc., that these non-tax contributions are supposed to cover. Most of these are unheard of in the UK but must be treated with care. These additional taxes could add up to a significant percentage, which the local employer has to meet. The agreements cover benefits as well as obligations in each country. If you are sent to work in another EU/EEA country you can continue to pay UK contributions if your relocation abroad does not exceed 12 months. You may continue to pay UK contributions for an additional 12 months with the agreement with your host country and in some cases up to a total of five years.

If you intend to remain permanently abroad, you will be subject to social security regulations of your host country from the day you arrive. Under these circumstances, you may want to continue paying a voluntary contribution in the UK to protect your pension rights.

If you work in a country that has no bilateral agreement with the UK and is not in the EEA, you may have to continue paying UK contributions for up to twelve months following your departure. This applies even if you have to pay some contributions in your host country.

Relocation expenses

If you are relocated anywhere from the UK, you are eligible to claim up to £8,000 in relocation expenses tax-free. In most cases, this is simply met by the employer and the employee therefore does not suffer taxes on the allowance as a benefit in kind. If your employer does not meet these costs however, you have a strong case for claiming any additional out-of-pocket expenditure you have incurred as a result of your relocation.

Still receiving income from UK investments?

Investment income covers income such as rents, dividend and interest. You are still able to claim a personal allowance against these incomes and if tax has been deducted at source you may be able to reclaim the amount deducted in certain cases where there is also other taxable income as the allowance is first set against your investment income. Apart from rents, you may also be able to claim an exemption or partial relief from tax deduction in the UK under the double tax agreement with your host country. Rental income is fully taxable and the tenant or agent has a legal obligation to deduct the tax due from the rent before it is paid over to you. If however, your tax affairs are fully up to date, never had any UK tax obligations or expect to pay any UK taxes, you could apply for an exemption. Interest from banks and building societies is fully taxable unless you make a non-resident declaration to the bank or building society. Your liability to tax is limited to the amount deducted by the institution therefore you may not pay higher rate tax on this part of your income.

Non-resident controllers of UK limited companies

If you hold a controlling interest in an active UK company during your residency abroad, you may be deemed to have relocated your company as well. This isn't so much of a problem with the UK authorities as with those of your new host country. If you are relocating or have relocated and find yourself in this situation, it is a good idea to relinquish control of the company, even if temporarily, or make sure you do not control the company from abroad. This can be done by coming back to the UK for meetings etc, where decisions about the company are made. Beware however that you do not yourself become resident by ruthlessly pursuing this route.

Capital gains tax implications

It used to be that by simply leaving the UK for a complete tax year, and then disposing any profitable assets during that year could relieve you of the burden of capital gains taxes. Alas however, one year is no longer sufficient. One has to be non-resident for a minimum of five years to take advantage of this rule. Proper planning is very important here. A few months here or there could make a significant difference in your tax liability. Sometimes it may even be worth taking an extended holiday rather than risk coming back to the UK, where significant asset sales have occurred.

Even though you may be deemed non-resident for income tax purposes, you are treated as temporarily non-resident for capital gains tax purposes for up to 5 years. Any gains made during that time are taxed in the year you return to the UK if within five years. If however the asset was acquired after you had left the UK, then the gains are not subject to UK capital gains tax. When double taxation agreements are taken into account, capital gains may be completely exempt from UK tax but taxable in your host country. As such there is still room for planning where the host country charges a lower rate than the UK.



Inheritance tax implications

The rules governing inheritance taxes are complex. There are basic allowances below which no inheritance tax is payable. However, the very nature of the tax means it is almost completely outside your control. A small amount of planning will always pay for itself. IHT does not apply to non-domiciled UK residents. By non-domiciled, it is interpreted as having a permanent home to which one intends to return that is situated outside the UK. Domicile is not necessarily related to residency or nationality therefore a UK citizen can still be domicile abroad if that is where you have your permanent home. You can be domiciled by origin, choice or dependency. The rules however do not apply in cases where the UK taxpayer has been resident in 18 out of the last 20 years in the UK. Again careful planning may help to overcome these restrictions.

What happens when you return to the UK?

When you return to the UK, you need to re-establish yourself as a UK resident and taxpayer. As long as you still have a National Insurance number, your new employer can take care of the administrative aspects by including you in the payroll. If you join a new company, you may well have substantial relocation expenses to meet out your own pocket. These are worth claiming out of your new income, but your new employer may be unlikely to offer help here. Hopefully, your new salary will reflect this but by claiming it directly you will also get the tax benefits lost. You may be required to complete a form P46 and P86, which enables the Inland Revenue to give you a tax code appropriate to your new status. As long as you only keep one main job you should get the full personal allowance available to all taxpayers.

Special classes of employees

Special rules apply to employees of the crown, merchant navy, EU and oil and gas exploration employees employed by non-UK companies. Please contact us for further information.

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