Odiri Tax
Consultants & Accountants

Contents

Welcome to the edition of tax guide for individuals seconded overseas to work.

It can be daunting going to work in a foreign country on an international assignment. UK tax and social security implication increases the complexity and anxiety of working in a new country.

Odiri Tax Consultants & Accountants team has been advising UK nationals seconded to work outside the UK and international assignees seconded to the UK to work for over a decade and assisting international assignees to understand what they need to do.

The advice contained in this document reflects UK tax law and the reporting position for the 2020/21.

Please do ask for advice before you act on any of the information contained in this guide to make sure you have the most current data.

You can also find further information on UK tax rates, allowances and Budget news at www.odiritaxconsultants.com

We hope you find this guide useful and informative.

This guide does not cover the tax and social security implications of self-employed individuals or partnerships, for which there are different rules.

Residence

Residence is determined by Statutory Residence Test (SRT). This test determines whether you are resident or not resident in the UK in a tax year.

There are two layers to the SRT:

1. The automatic residence test.
2. The sufficient ties test.

The automatic residence test is met if you meet any of the four automatic UK tests and none of the automatic overseas tests.

Automatic UK tests:

1. You are physically present in the UK for 183 days in a tax year.

2. Your only home is in the UK. You will satisfy the conditions of this test, If you occupy a UK home for at least 30 days during the tax year. This home also needs to be available for a 91-day period, at least 30 of these days are in the tax year concerned and:

a) during that 91-day period you do not have any home overseas.

b) if you do have a home overseas you were present there for less than 30 days in the tax year concerned.

3. You work full time overseas.

To fall into this category, you must average a 35-hour working week overseas and there must be no significant breaks from your work overseas. The calculation of the 35-hour average is complicated and you should consult your tax advisor if you have an irregular working pattern which could result in averaging less than the required 35 hours.

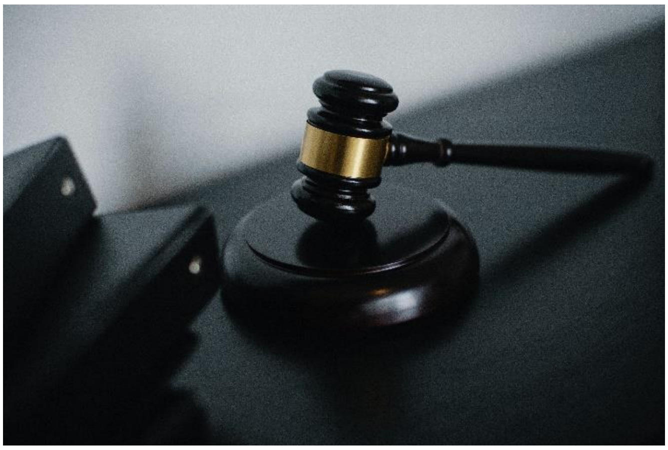
A significant break from work overseas is considered to be a break of 31 or more days when you do not work overseas. Exceptions are allowed for annual, sick and parenting leave.

If you work full-time in the UK, you will be regarded as working full time in the UK if you average a 35-hour working week in the UK and there are no significant breaks in your employment. Exceptions are allowed for annual, sick and parenting leave.

If you have an irregular working pattern you should consult an advisor to see if you will average a 35-hour working week in the UK as the rules are complex. If you work abroad and your non-UK workdays are 25% or more of your working days, you will not be deemed resident under this test. For example, if 26 percent of your workdays in the tax year are outside the UK, then you are not working full time in the UK for the purposes of this test. If you work on board, a vehicle, aircraft or ship and you make at least six cross border trips as part of this job then you will not be regarded as working full time in the UK and will not be considered resident under this test although you maybe resident under other tests.

A family tie:

You will have a family tie if you have a spouse, a civil partner, a partner (who you live with as 'husband and wife'), or a child under 18 who is/are tax resident in the UK. There are exemptions so that children who spend less than 21 days outside of school term time in the UK will not be regarded as resident here for this purpose. If you see your child for less than 61 days in the UK, this will also not count as a family tie.



Residence based on personal connections to the UK

If you are not regarded as resident under any of the tests outlined above, you may still become resident in the UK but it will be determined by comparing any personal ties you have to the UK with the amount of days you spend in the UK during the tax year. It is referred to as the 'sufficient ties test'. The number of ties you have to the UK sets the threshold of days you can spend in the UK before being regarded as resident.

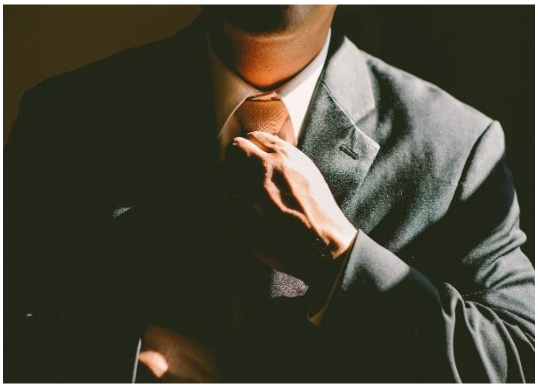
The following UK ties are relevant for determining this threshold:

Accommodation tie:

You will have an accommodation tie if you have a place to live in the UK which is available for at least 91 days and you spend at least one night in that place in the tax year. If the accommodation is the home of a close relative it would need to be stayed in for 16 nights in order for you to be regarded as having an accommodation tie.

Work tie:

If you work in the UK for at least 40 days in the tax year you will have a work tie. A day is counted in the same way as the full time work overseas test (i.e. more than 3 hours work is a UK workday). If you work on board, a vehicle, aircraft or ship then across border trip beginning in the UK will count as a workday but a trip ending in the UK would not be regarded as a workday for these purposes.



Country tie:

You will have a country tie if you spend more midnights in the UK than any other country.

90-day tie:

You will have a 90-day tie if you spend more than 90 midnights in the UK in either or both of the previous two tax years.

If you have been resident in the UK in any of the previous three tax years there is an additional tie you may have in the UK.

Days threshold

This table shows the number of days spent in the UK that will trigger residence when combined with your personal ties to the UK. The first table shows the days applicable if you have been resident in any of the previous three tax years.

Days spent in the UK in the tax year	Number of sufficient ties
More than 15	4 ties
More than 45	3 ties
More than 90	2 ties
More than 120	1 tie

What if I do not meet the conditions of the sufficient ties test?

If you do not exceed the days threshold based on your sufficient ties then you are regarded as non UK-resident for that tax year.

You will not be regarded as present in the UK at midnight if you are prevented from leaving due to exceptional circumstances. For this purpose, exceptional circumstances would include national or local emergencies such as war, civil unrest or natural disasters or life threatening illness or injury. This would include situations where your close family member is taken ill. The maximum number of days that can be excluded is 60.

Under the deeming rule, a day of presence is based on you being physically present in the UK at midnight. This deeming rule means that days when you are present in the UK, but not present at midnight, can count as a day spent in the UK.

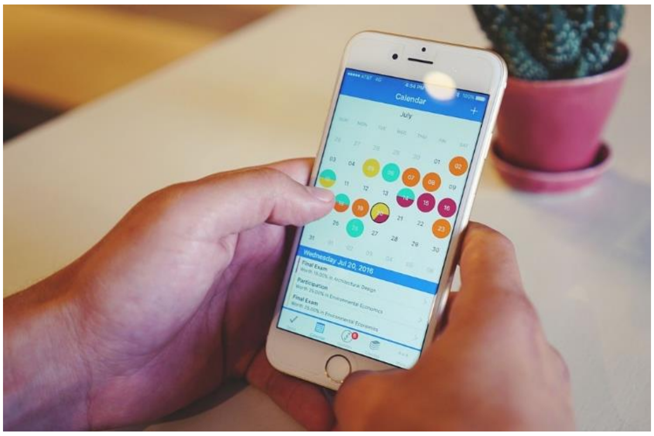
The second table applies, if you have not been resident in any of the previous three tax years.

Days spent in the UK in the tax year	Number of sufficient ties
More than 45	All 4 ties
More than 90	3 ties
More than 120	2 ties

How to count days of presence

You count a day of presence if you are present in the UK at midnight. There are exceptions to this:

If you arrive in the UK in transit, then you will not be regarded as having spent a day in the UK if you are here at midnight. A typical example is where an individual flies into Heathrow Airport (or an international airport) and needs to wait for a connecting flight such that they spent a midnight in the UK. This will not be treated as a day spent in the UK provided that you do not undertake activities which are to a substantial extent unrelated to your journey (for example holding a business meeting in a departure lounge).



It will apply where:

- You have at least three sufficient ties.
- You have been resident for at least one of the previous three tax years.
- The number of days when you are present in the UK at some point (but not at midnight) exceeds 30 days.

If these tests are met then any days when you are present in the UK at some point will count as actual days spent in the UK. The first 30 of these deemed days are disregarded. For example, if you have 40 deemed days, then you will be regarded as having spent 10 days in the UK, because the first 30 are ignored.

HMRC has said it may require proof that an individual could not leave the U.K. when intended due to COVID-19 restrictions, that she paid tax in her home country on earnings attributable to the extra time she spent in the U.K. and that she left as soon as she reasonably could have done.

COVID 19

HMRC recognizes that cases arise where a non-U.K. resident individual cannot leave the U.K. due to COVID-19, and may subsequently spend time working in the U.K. until he or she can return to his or her home country.

HMRC has confirmed that the U.K. will not seek to tax the employment income of a non-U.K. resident that relates to the period between the date (i) the individual originally intended to leave the U.K. (but for prevention due to COVID-19), and (ii) the date he actually left, provided the following conditions are met:

- the U.K. work-days are taxed in the individual's home country.
- the individual left the U.K. as soon as he reasonably could have done.

HMRC has provided an example in its guidance of an individual who was unable to leave the U.K. when originally planned because she was self-isolating. However, the guidance does not confirm whether this applies in other circumstances, such as if there were no available flights to the individual's home location. (KPMG LLP U.K. is seeking clarity from HMRC on this and various other points.)

Please note that although HMRC may not seek to tax these U.K. work-days, if the individual carries out more than three hours of work in the U.K. during the relevant day, it will still count as a 'U.K. work-day' for the purpose of the U.K. Statutory Residence Test.

Assessing your UK tax liability

- You are leaving to work full time overseas for the rest of the tax year and the next full tax year (from 6 April to the following 5 April)

- You have no significant breaks in your employment. A break of more than 30 days is significant (subject to exceptions for certain annual, parenting and sick leave) and; You average at least a 35-hour working week overseas over the rest of the tax year.

How do I become non-resident for UK tax purposes?

Your UK residence position is determined by a statutory residence test (please see Appendix 1). Many people will be regarded as UK resident during the tax year that they leave the UK. In certain situations, it is possible to split this tax year into a UK part and an overseas part. If you are able to do this, you will be taxed as if you were non-resident for the overseas part of the tax year.

If you are leaving the UK to work full time abroad, you will be able to claim the split tax year treatment provided the following conditions are met:

- You have physically left the UK to start your employment abroad and not, for example, for a holiday before starting the employment.

- Your visits to the UK during your overseas assignment do not exceed 90 days spent in the UK and 30 workdays back in the UK. These need to be pro-rated based on when you leave the UK

How do I calculate whether I am averaging a 35-hour working week abroad?

The formula for working out the 35 hours working week overseas is prescribed in the tax legislation. This is very complex and please seek a professional advice in order to perform this calculation.

How do I work out how many workdays and days I can spend in the UK and still split the tax year?

In the year of departure from the UK, you are required to pro-rate the 30 workday and 90 day limits based on when you left the UK. This is can been very complex and please seek professional advice to help you work out the prorated number.

How do I count a day spent in the UK and a UK workday?

A day is spent in the UK if you are here at midnight. A day of work includes any type of work, including travel for work purposes, that lasts for more than 3 hours in the UK.

What records do I need to prove I am working full time abroad?

You need to keep records to substantiate the time you spend working overseas and be able to provide this to HMRC in the event that HMRC requested for evidence. Email calendars, timesheets and detailed work diaries will all prove useful when supporting the claim that you were working full time overseas. You also need to keep contracts of employment and other documentation/communications which support your time overseas.

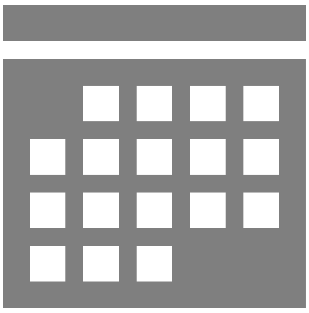
HMRC has been known to ask for information on the nature and duration of work activities and therefore you may wish to take a conservative approach and ensure your records of working time are sufficiently detailed, should HMRC ever enquire into your residence position.

What if I do not meet these conditions?

If you have any doubt about whether you will meet these conditions, and you continue to maintain links to the UK (for example your family remains in the UK while you work abroad) your residency position will be more complex, and you should take professional advice on it.

Applying split year tax treatment

If you are regarded as resident during a tax year then you will be regarded as resident for the entire year. It is common for individuals to be considered resident for the tax year in which they leave the UK. Therefore, if you leave the UK part way through the tax year you will need to consider if you can split the tax year so that you are not taxable in the overseas part of the tax year. If you fulfill the conditions of one or more of the following 3 scenarios, you will be able to split the tax year.



Starting full time work overseas (Case1)

You will be able to split the tax year at the point you begin full time work overseas. It is requirement that:

- For the overseas part of the tax year you average at least 35 hours of overseas work a week.
- For the overseas part of the year you do not exceed a prorated limit of 30 UK workdays and 90 days spent day in the UK (take advice on what your prorated workday and day limits will be)
- You are non-resident in the following tax year because you are working full time overseas for that year.

You are the partner of someone starting full time work overseas (case 2)

You will be able to split the year if you move overseas so that you can continue to live with your partner while they are working overseas. Your partner must be able to split the tax year under case 1. You also need to ensure that if you spend days back in the UK after you leave, they do not exceed the permitted limit. You calculate your permitted limit by prorating a 90-day limit to the overseas part of the tax year. For example, if you leave halfway through the tax year your permitted limit would be half of 90 days being 45 days.

If you leave the UK at a different point to your partner you should take advice on when you should split the tax year.

A ‘sufficient link’ will be established with the overseas country if either:

- You are considered resident in that country for tax purposes according to their domestic laws.
- You have been present in that country every day for a period of six months since leaving the UK.
- Your only home is in that country or if you have more than one home, they are all located in that country.

Ceasing to have a home in the UK (case 3)

This will typically apply where you leave the UK for reasons unrelated to work or you leave for work overseas but do not fulfil all the conditions of case 1. This case allows you to split the tax year if:

At the start of the year you have a home in the UK and at some point you no longer have that home in the UK.

- You have no home in the UK for the rest of that year.
- You spend no more than 16 days back in the UK (this is not prorated unlike case 1 and 2)
- You establish a ‘sufficient link’ with a country overseas within 6 months of leaving the UK.

The priority order of these cases

It will be common for individuals leaving the UK to fulfil more than one case. In this situation you will split the tax year when you meet the conditions of case 1 or case 2 in priority to case 3. This means that if you leave the UK to work overseas it will be usual to split the year at that point rather than when you dispose of your home in the UK.

In addition to this, you may also pay tax in the country in which the work assignment is being carried out. This may result to double taxation, but you may be able to claim double taxation relief for overseas tax paid against your income tax liability.

The UK has an extensive network of double tax treaties with other countries. This is to prevent double taxation by allowing only one country to tax your earnings, but this provision does not always apply. For example, it does not apply if you are working in another country for more than six months. In this case you may be taxed both in the UK and in country where the work assignment is being carried out and credit should be given in the UK for the overseas tax.

What happens if I do not become non-resident?

If it transpires that you are not regarded as non-resident in the UK, you will continue to be subject to UK tax on your worldwide income. A UK tax liability will arise on your overseas assignment-related payments such as such as housing and cost of living allowances. In some cases, special tax reliefs are available for assignment-related payments. These are covered in below. Your UK employer will be required to continue operating Pay As You Earn (PAYE).

Are any tax reliefs available for a tax resident on a short-term assignment?

If your work absence from the UK expect to be less than 24 months and forms a part of a continuing employment, you may not be subject to UK tax on employer-provided accommodation, travel and subsistence relating to your foreign work assignment. If you have paid these personally, you may be eligible to claim a deduction for such costs. Strictly, in all cases, this will only apply to your personal costs and does not apply to costs which are deemed to relate to your spouse or civil partner and children.

Other UK tax reliefs which do not rely on continuing employment and the length of your foreign assignment include:

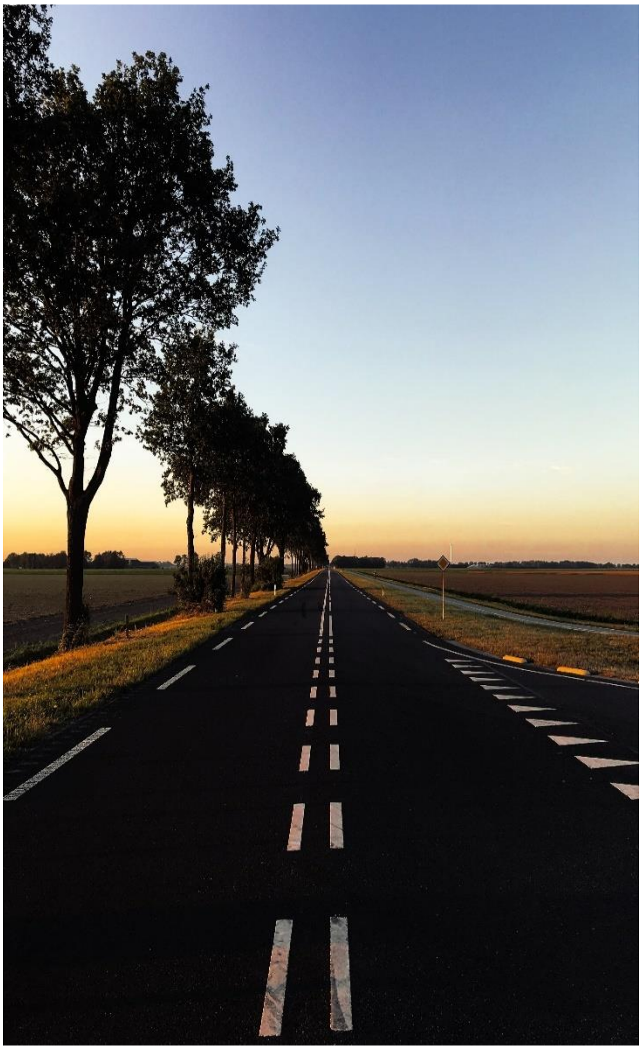
- Employer reimbursement of your personal additional travel and subsistence costs of working overseas. This includes the cost of travel between the UK and the assignment location where the duties are being performed.

- For all but very short assignments (under 60 days) the reimbursed cost of your family visiting you. Overseas board and lodging costs but only where you take up a separate overseas employment.

How is my spouse or civil partner affected by my overseas work assignment?

Under UK law, spouses and civil partners are generally treated entirely separately for tax purposes. This means that the tax residence position of your spouse or civil partner needs to be considered based on his or her own facts and circumstances. In some cases, it can be influenced by your own tax residence position. For instance, it is probable that your spouse or civil partner will remain tax resident, even if you are considered non-resident, if he or she does not accompany you on your overseas assignment.

However, if you are considered non-resident and your non-working spouse or civil partner accompanies you on your assignment then he or she will generally (although not in all cases) be treated as having broken tax residence at the date of departure, even though he or she is not in full-time employment outside the UK.



Does it matter if I am domiciled outside the UK?

Non-UK domiciled individual tax position is likely to be more complex as there are additional tax rules to consider. For example, offshore investment income, if remitted to the UK while you are regarded as temporarily non-resident, will potentially be taxable. We recommend you take further UK tax advice if you are domiciled outside the UK.

Taxation of non-UK residents

What are the main implications of becoming non-resident in the UK for tax purposes?

Non-UK resident individual remains liable to UK tax on UK source income from the date you of becoming non-UK resident to the day of resuming UK resident. Employment duties performed in the UK are not subject to UK tax provided the employment duties performed in the UK are incidental to your main duties. This applies even if you are still paid from the UK.

Your UK tax liability on income arising when you are considered non-resident is normally restricted to:

- Earnings from an employment previously carried on while resident in the UK, even if they are received after you have left the UK i.e. bonus paid after you leave the UK which was earned before you left.

- Some payments received on the cessation of your employment where termination occurs during your overseas assignment.
- Share options exercised during your assignment that may have been earned by reference to UK service.
- Other awards of shares that may have been earned by reference to UK service.
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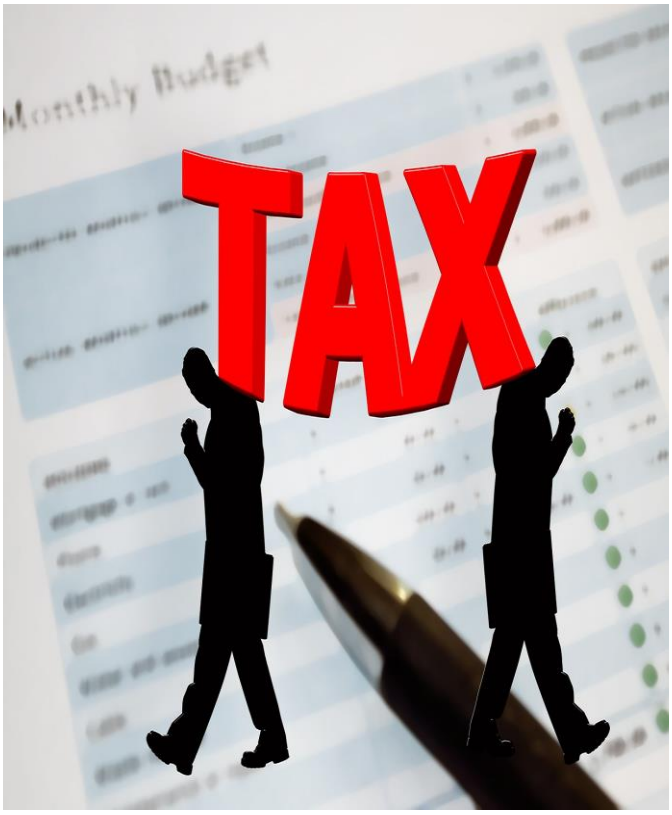
- Share options exercised during your assignment that may have been earned by reference to UK service.

- Other awards of shares that may have been earned by reference to UK service.

- Tax on UK source personal income, such as interest on UK bank accounts, UK dividends and rental income from UK properties.



- Capital gains tax (CGT) which arises on the sale of some assets. In particular, if you are temporarily non-resident for CGT purposes (broadly, if you are non-UK resident for five years or less) any gains realised during the absence on assets held before you left the UK are likely to be charged to tax in the year of your return.

- non-resident CGT on disposals of residential property.

Am I still entitled to personal tax allowances?

Yes, if you are a UK, or European Economic Area (EEA) national (Appendix II) or a resident of certain countries with which the UK has a double tax treaty (Appendix I). This is provided that your taxable income does not exceed a prescribed level, currently set at £100,000, after which a phase out applies. Where personal tax allowances are granted under a tax treaty, they may not be available if the only UK income you are receiving is interest or dividends.

Can I continue to participate in an Individual Savings Account (ISA)?

ISAs are available to individuals who are resident in the UK for tax purposes and over 18 years old. If you become non-resident you may retain existing ISA investments, with the UK tax advantages, but you may not invest in ISAs when you are considered non-resident. Income from an ISA may be subject to tax in your assignment location.

Is my other personal income taxable during my assignment?

This will depend on the level of investment income you receive from each source. Generally, the main sources of personal income are taxed as follows:

UK interest: Some or all of your bank and building society interest may be tax free, depending on the amount of interest payable and the level of your other sources of income.

UK dividends: Dividend income in excess of the dividend allowance (i.e. £2,000) is taxable.

Rental income: Any profit which arises from renting UK property will continue to be taxable in the UK.

In a complete UK tax year of non- residence, your income liability is the lesser of:

- UK tax (if any) deducted at source from certain investment income, plus your UK tax liability on any other UK source income calculated without any claim to tax-free personal allowances.

- Your UK tax liability on all UK source income after claiming tax-free personal allowances.

Is there any advantages of moving my personal investments outside the UK?

Investment income received from assets based outside the UK is not taxable when you are non-resident. However, special rules apply in the tax year that you return to the UK and advice should be sought before returning to the UK to achieve the optimal tax result.

There may be significant UK tax advantages of moving your investments outside the UK, but you need to consider your personal investment strategy, the tax treatment overseas and any anti-avoidance legislation before taking this action.

For example, if a tax liability arises in the country in which you are carrying out your employment duties on personal income then reducing your UK tax liability may have no incremental tax impact.

You also need to consider any tax (e.g., capital gains tax) and transaction costs of moving your investments outside the UK and any exchange rate risk.

Are there any tax implications if I make capital gains while non-resident?

You may be liable to UK capital gains tax on disposals of residential property while you are non-resident.

The capital gains tax regime is a complex area. If you are subject to temporary non-residence rules (typically if you return to the UK five or fewer years after your departure) gains made during your period of non-residence may be taxable in the tax year of your return to the UK.

Are there any tax implications for my other personal income?

If you leave the UK and become non-resident then certain types of personal income paid to you while you are non-resident could become taxable on your return to the UK.

If you were UK tax resident at any time in any four of the seven tax years before leaving the UK, certain income realized during complete UK tax years of non-residence could be taxable if you become resident in the UK within 5 or fewer tax years of departure.

How will my share options be treated?

The UK tax treatment of employee stock option gains is complex; as well as domestic rules, you may also need to consider the country in which you have been working. If you are intending to exercise share options or sell shares acquired share option scheme, please seek professional tax advice.

In the UK much will depend on whether or not the plan is tax qualifying for UK tax purposes. The UK tax treatment of each plan for a UK tax resident is typically as follows:

Tax qualifying plans

Any taxable gain where a tax qualifying option is exercised on or after the third anniversary of the date on which it was granted is generally subject to tax capital gains tax when you sell the shares.

There is no income tax on grant of shares

On exercise, there no UK income tax liability will arise at exercise unless the exercise occurs within three years following the grant. In this case (and subject to specific exceptions) the tax treatment is as for non-tax qualifying options.

if you acquire and sell the shares in a complete or split tax year of non-residence, assuming you have no other shares of the same class in the company, no capital gains tax liability normally arises. However, in all other cases a capital gains tax liability may arise depending on your personal circumstances.

Non-tax qualifying plans:

You are subject to income tax when you exercise the option. If the shares you receive are subject to restrictions, there could be a further income tax charge when the restrictions lapse. Similarly, further income tax charges could also arise if the shares are convertible or are sold for more than their market value.

Options granted whilst non-UK resident will not be subject to UK tax on grant.

If you were granted a non-tax qualifying option and undertook employment duties in the UK at any point during the "relevant period" (generally grant to vesting), the exercise will be liable to UK income tax. Your employer may be required to account for PAYE on the exercise. However, it may be possible to exclude from UK income tax the proportion of stock option appreciation which is deemed to relate to the period of your assignment outside the UK.

If you acquire (i.e., exercise the option) and sell the shares in a complete or split tax year of non-residence no UK capital gains liability normally arises assuming you have no other shares of the same class in the company. In all other cases, a tax liability may arise, although this will depend on your tax residence history prior to your assignment, your assignment length and the timing of the sale.

Will any other stock-based income I receive from my employment be taxed in the same way?

Similar income tax rules apply for other stock based income, although for example a different "relevant period" for calculating any apportionment may apply depending on the nature of the award. We strongly recommend that you take specific professional advice regarding the way in which any award will be taxed.

During my time in the UK I claimed the remittance basis of taxation. Can I bring this remittance basis income into the UK after I leave?

Remittance basis employment income is likely to be taxable even if remitted to the UK when you are non-resident. In addition, there are complex rules that will affect any investment income earned while resident in the UK if you return here within a limited period. You should take advice if you believe this may apply to you.

Can I continue to participate in a UK personal pension plan or a stakeholder pension plan?

Pension contributions can be made each year to a UK registered scheme (subject to the scheme rules and/or agreement of the provider) once you have left the UK and become non-UK resident. If there are no UK taxable earnings, UK tax relief at basic rate on employee contributions may be available for up to five years, but only on contributions up to £3,600 gross (£2,880 net) to a UK personal pension scheme.

Generally, it should be possible to obtain UK tax relief on contributions from UK taxed earnings if some work is done in the UK. However, contributions to UK registered schemes remain within the Annual Allowance and Lifetime Allowance regime, regardless of whether or not you are regarded as tax resident in the UK. As from 6 April 2020, the Annual Allowance of £40,000 is reduced by £1 for every £2 of the excess over £240,000 down to a minimum of £4,000. The maximum reduction to the annual allowance is £36,000, so anyone with adjusted income of £312,000 or more has an annual allowance of the £4,000 minimum.

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Remittance basis employment income is likely to be taxable even if remitted to the UK when you are non-resident. In addition, there are complex rules that will affect any investment income earned while resident in the UK if you return here within a limited period. You should take advice if you believe this may apply to you.

How are my Student Loan repayments affected by my overseas assignment?

You will need to continue repaying your Student Loan while working overseas, subject to meeting the income threshold. If you are planning to live outside the UK for more than three months, you must notify the Student Loans Company before you leave.

Renting your home while non-resident

What happens if remain UK resident and I sell my home?

If you live in a property which is your main home throughout the period of ownership, you are not normally taxed on any gain arising on its disposal. Neither can you claim relief for any capital loss on sale. However, the exemption from CGT for your main residence will only continue to apply to your property while you are not living there in certain specific circumstances. For example:

If you acquire any interest in a second property (by taking out a lease) you would need to make a formal nomination for the relief to continue to apply to your first property. This nomination will treat the property that was your home before you left the UK as your main residence during your absence.

When you sell your property the proportion of the capital gain attributable to periods when you lived in the property, and any periods of deemed occupation is exempt. Any remaining gain may be taxed.

If you have lived in a property as your main residence for any period the proportion of the gain attributable to the last 9 months of ownership, as well as periods of actual occupation, is exempt. If you have no other residence qualifying for relief, periods of absence may be treated as periods of deemed residence if you reoccupy the property as your home in the following circumstances:

- Any period of absence not exceeding three years or periods of absence which together did not exceed three years.
- Any period of absence throughout which you worked in an employment or office all the duties of which were performed outside the UK.

- Any period of absence not exceeding four years, or periods of absence which together did not exceed four years, throughout which you were prevented from residing in the house due to work or employment related reasons. This could be because of the location of your place of work or as a consequence of any condition imposed by your employer that required you to live elsewhere. This condition would need to be reasonably imposed to secure the effective performance of your duties.

What if I rent out my home during my assignment?

If you let your property whilst you are on assignment any rental profit may generate a UK tax liability because the income you receive is UK source. The tax on the profit is calculated using business accounting rules. You can deduct a number of qualifying expenses when determining the profit including attributable water rates, the cost of maintenance, repairs, insurance and management and any other service costs that you have to pay.

Where a property is let by a landlord who goes abroad for six months or longer, tax at the basic rate must be withheld from the sums payable to your account by your UK agent. The tax should be paid over to HMRC on a quarterly basis. If there is no agent, the tenant has this obligation. However, you can also make a formal request through HMRC's form NRL1 to receive the rents in full and settle the tax liability yourself. HMRC is likely to agree to this arrangement if you have a satisfactory tax history and comply with your UK tax obligations during your assignment.

What happens if become non-UK resident and I sell my home?

UK CGT has been extended to certain disposals of UK residential property by non-UK resident persons on or after 6 April 2015. Under these rules UK CGT is applied to the gains which accrue after 5 April 2015. More than one method is available to calculate this gain, but if you do not use the standard HMRC method you will need to make a special election to adopt one of the two other permissible approaches.

In certain circumstances relief may be available where the property was the main home of the non-resident. A Non-Resident Capital Gains Tax Return must be filed within 30 days of the completion of the sale even if there is no tax liability.

Tax Compliance while non-resident

What forms do I need to send to HMRC when I go abroad to work?

On leaving the UK for an overseas assignment, you may need to submit to HMRC a form P85. This is a departure questionnaire, which will enable HMRC to consider your residence position.

If you will break tax residence and no tax will be due on your employment income, your employer can request a no tax (NT) PAYE coding notice from HMRC. This authorizes your UK employer to cease PAYE deductions from payments made to you during your assignment. Aside from this, your UK taxes affairs are handled via your self-assessment tax return.

If I am non-resident do I need to file a tax return?

If you have been issued a tax return by HMRC and you have UK sources of taxable income or chargeable capital gains, you must complete it and provide details. However, you do not need to report non-taxable assignment income or gains. If you are non-resident for the whole tax year and have no UK sources of income or chargeable gains, advise HMRC of this in writing. If HMRC issues you with a tax return and you take no action, HMRC will automatically pursue you for late filing penalties even if you have no liability to tax.

What should I do if I need to file a tax return but haven't received one?

If you need to file a tax return to report taxable income or gains, but have not received one, you should tell your tax office by no later than 5 October following the tax year-end. If you do not manage this, to minimize any interest applying for late payment, make sure you pay the correct amount of tax due by the following 31 January.

By when must I submit my UK tax return and pay tax?

You should submit your return by 31 October following the tax year-end if you want HMRC to:

- Calculate your tax, and
- Code and deduct an underpayment with next year's PAYE.
- Accept your tax return filed in paper form.

Will I continue to have to pay National Insurance contributions (NIC)?

Whether you continue to pay Class 1 NIC depends on your legal employer during your assignment, which country you are assigned to and the expected length of your assignment. With most temporary assignments overseas, you continue to be an employee of a UK company and are seconded to the overseas company. If this is the case, UK Class 1 NIC may continue to be paid at least for a time. If you were to become a legal employee of an overseas company, the position would differ. If you remain employed by a UK company the social security position depends on which country, you are assigned to and which of the three categories below applies.

Transferring...

Transfers to European Economic Area (EEA) countries?

The general rule under the EU social security regulations is that you will be subject to the legislation of the EEA member state where you physically perform your work duties. However, you will continue to pay into the UK scheme if:

- Your secondment is expected to last no more than 24 months at the outset.

- Your secondment is no more than five years at the outset and the social security authorities in the assignment country agree.

In the above cases, a form A1 should be obtained by your employer from HMRC to certify continuing UK Class 1 liability. No liability should then arise in the assignment country.

Even if the initial assignment is for longer than 24 months the regulations dealing with European transfers and associated member state practice will normally allow you to continue to pay only in the UK for a total period of up to five years provided that the authorities in both the UK and the host assignment country agree.

Transfers to other countries with which the UK has a social security agreement

The UK has negotiated agreements with certain countries, which are intended to deal with the social security implications of temporary transfers. For a full list of the countries the UK has a social security agreement with please see Appendix II. For each country you will need to look at the relevant agreement. Some deal only with the reciprocation of benefits and not with contributions. For those that deal with contributions, the general rule is that contributions must continue in the UK for a specified period.

Transfers to countries with which the UK does not have a social security agreement

If your assignment is to a country outside the EEA and with which the UK does not have a social security contributions agreement, you and your employer (if it has a UK place of business) may be obliged to pay Class 1 NIC under UK law for a period of 52 weeks following your departure provided you meet certain conditions. This may mean there may be both a UK and assignment country liability during this period. At the end of this 52-week period, UK Class 1 NIC should cease.

Should I make voluntary contributions?

If Class 1 NI contributions are not required or cease after a period, it is generally possible to pay voluntary UK NI contributions. Your individual circumstances will dictate whether this is advisable or not. However, it is worth considering that voluntary contributions will only protect entitlement to certain basic state benefits such as the old age retirement pension. When you are deciding whether to make voluntary contributions, you should explore which benefits are of concern to you. You may find that you are entitled to these benefits without making voluntary contributions, or that you have already made sufficient Class 1 contributions to qualify.

Can I continue to claim UK child benefit while I am overseas?

Child benefit will continue if you are assigned to another EEA country or a country that the UK has a social security agreement with that covers child benefits. You will need to continue to pay UK contributions under the provisions described previously. Otherwise, child benefit is usually available for the first eight weeks of a temporary absence abroad (of up to 12 months). You must notify the Child Benefit Centre if either you or the child, or both of you, are intending to go abroad for more than 12 months or permanently. Entitlement will normally cease from the date of departure.

Appendix 1: Double Tax Agreement

Albania	Algeria	Anguilla	Antigua and Barbuda
Argentina	Armenia	Aruba	Australia
Austria	Azerbaijan	Bahrain	Bangladesh
Barbados	Belarus	Belgium	Belize
Bermuda	Bolivia	Bosnia-Herzegovina	Botswana
Brazil	British Virgin Islands	Brunei	Bulgaria
Cameroon	Canada	Cayman Islands	Chile
China	Colombia	Croatia	Cyprus
Czech Republic	Denmark	Egypt	Estonia
Ethiopia	Falkland Islands	Faroes	Fiji
Finland	France	Gambia	Georgia
Germany	Ghana	Gibraltar	Greece
Grenada	Guernsey	Guyana	Hong Kong
Hungary	Iceland	India	Indonesia
Iran	Ireland	Isle of Man	Israel
Italy	Ivory Coast	Jamaica	Japan
Jersey	Jordan	Kazakhstan	Kenya
Kiribati	Kosovo	Kuwait	Kyrgyzstan

Macedonia	Malawi	Malaysia	Malta
Marshall Islands	Mauritius	Mexico	Moldova
Monaco	Mongolia	Montenegro	Montserrat
Morocco	Myanmar (Burma)	Namibia	Netherlands
Netherlands Antilles (Curacao,Sint Maarten and BES Islands)			
New Zealand	Nigeria	Norway	Oman
Pakistan	Panama	Papua New Guinea	Philippines
Poland	Portugal	Qatar	Romania
Russia	Saint Kitts and Nevis	Saudi Arabia	Senegal
Serbia	Sierra Leone	Singapore	Slovak Republic
Slovenia	Solomon Islands	South Africa	South Korea
Spain	Sri Lanka	St Lucia	Sudan
Swaziland	Sweden	Switzerland	Taiwan
Tajikistan	Thailand	Trinidad and Tobago's	Tunisia
Turkey	Turkmenistan	Turks and Caicos Islands	
Tuvalu	Uganda	Ukraine	
United Arab Emirates			
Uruguay	USA	USSR	Uzbekistan
Venezuela	Vietnam	Zaire	Zambia
Zimbabwe			

Appendix 2: Social Security Agreement Countries

Barbados

Bermuda

Canada

Chile

Isle of Man

Israel

Jamaica

Japan

Jersey and Guernsey

Mauritius

New Zealand

Philippines

Republics of former Yugoslavia (the Republics of Bosnia-Herzegovina, North Macedonia, Serbia, Montenegro and Kosovo

South Korea (also known as The Republic of Korea)

Turkey

USA

Contact Us

Contact us to discuss any of the planning opportunities mentioned in this guide.

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Employer Scheme