HMRC - RDRM32250 - Dual Residents - Treaty Non-Resident

It is possible for individuals to be resident both in the UK and in another country or countries in a tax year. In such a case we look to the provisions of existing Double Taxation Agreements (DTAs) to determine in which country the individual is resident for treaty purposes. So a person may be resident in the UK under UK law, but regarded as ‘treaty resident’ elsewhere and consequently treated for tax purposes as ‘not resident’ in the UK.

An individual who is, under the terms of a DTA, resident in the other country or territory but is also a long-term resident RDRM32200 in the UK (that is someone who has been resident in the UK in at least seven out of the previous nine tax years) and claims the remittance basis is, if their un-remitted foreign income and gains is £2,000 or more, liable to pay the £30,000 remittance basis charge, or for 2012/13 or later the £30,000 or £50,000 remittance basis charge.

In determining the number of years in which an individual has been resident in the UK for the purposes of the long-term resident provisions, you count all years where the individual is resident in the UK under UK domestic law even if the individual was treaty resident in another territory in some or all of those years.

In most cases, an individual resident both in the UK and in another country and who under the Double Taxation Agreement with the other country is treated as resident in that other country (for the purpose of applying the provisions of the DTA) will be chargeable to tax in the other country on income and gains that originate in that other country and not in the UK. The treatment of any income and gains that originate in third countries (not the UK or the country of treaty residence) will depend upon the terms of the DTA between the UK and the country of residence.

Where, exceptionally, an individual is chargeable to tax in the UK on such income or gains, they will need to consider whether a claim for the remittance basis of taxation is in their best interests or if, instead, they should pay tax on the arising basis and in the usual way, claim a credit for the tax charged in the other territory.

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