

# Non-residents - relief under Double Taxation Agreements

## **i** Contacts

Please phone:

- the number printed on page TR 1 of your tax return
- the SA Helpline on **0845 9000 444**
- the SA Orderline on **0845 9000 404** for helpsheets

or go to  
[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

## Who needs this helpsheet?

This helpsheet explains how non-residents can obtain relief from UK tax under Double Taxation Agreements (DTAs) entered into by the UK.

If you:

- have completed box 1 or box 3 on the *Residence, remittance basis etc.* pages, and
- are resident for tax purposes in a country with which the UK has a DTA you should read this helpsheet before filling in the rest of your tax return.

If you want to claim relief from UK tax, you must complete the claim form on pages 6 to 8 of this helpsheet.

You can find a digest of the UK's DTAs at [www.hmrc.gov.uk](http://www.hmrc.gov.uk) Look for *DT Digest* or *Double Taxation Digest* within the *Search* facility.

## What is the purpose of this helpsheet?

This helpsheet enables a non-UK resident to get full or partial relief from UK tax, where appropriate, on UK income where the relevant DTA reduces the rate at which tax is to be charged below that provided by UK domestic tax law.

For example, the UK might, under its domestic law, levy a withholding tax of 20% on interest paid to a non-resident. If the DTA provides that where the recipient of that interest is a resident of the other country, the rate of UK tax should be limited to 15%, the non-resident recipient is entitled to relief of 5%.

## How do Double Taxation Agreements work?

A DTA is an arrangement entered into by the governments of two countries. It consists of a series of detailed provisions designed to eliminate or relieve the taxation of the same income or gains in more than one country. This is achieved by the UK in its DTAs in a variety of ways.

### **Full relief**

Income or gains may be fully relieved from tax in the country where the income or gains arise. In other words, the source state gives up all its taxing rights in favour of the country of which the recipient is a resident.

### **Partial relief**

The country in which the income arises charges the income derived by a resident of the other country at a rate lower than its normal domestic rate. In these circumstances the source state gives up only part of its taxing rights.

## Credit

Where the income or gains remain taxable in both countries, so that the source state retains its taxing rights, the country in which the recipient is resident gives credit for the source country's tax against its own tax. If you want to claim credit relief, you will have to make your claim to your country of residence and not to us. The form in this helpsheet does not therefore provide for such a claim.

All these basic methods feature in DTAs between the UK and other countries. But many provisions in DTAs require certain conditions to be fulfilled before relief can be given. Because all DTAs are different it is essential to consult the relevant articles of the particular DTA. Your HMRC office can supply forms to allow you to make an application to allow future payments of interest, royalties, pensions and annuities to be paid together with the appropriate amount of double taxation relief. The form can also be downloaded from our website. Go to [www.hmrc.gov.uk](http://www.hmrc.gov.uk) and look for *Claims under double taxation treaties* within the *Search* facility.

## Certificate of overseas residence

If you:

- were resident for tax purposes in a country other than the UK, and
- want to claim relief from UK tax, under the terms of a DTA between the UK and that other country, as a resident of that country

then you need to obtain a certificate from the overseas tax authority stating that you are resident there for tax purposes for the period in question, which must be stated on the certificate.

Where necessary the certificate must also show that you are subject to tax in your country of residence either on the whole or on part of the income for which relief is claimed (see 'Other conditions for relief' on page 3).

Where only part of the income is taxed in your country of residence then that amount of income must be shown on the certificate.

You should attach the certificate to this helpsheet and submit it with your return.

## Special case – the United States of America

Special rules apply where the other country is the United States of America (US), if you are claiming to be a resident of the US. Statements concerning residence should not normally be sought from the US Internal Revenue Service. This is because the US operates a special system whereby it taxes its 'citizens' on their worldwide income, wherever they may be resident.

Article 4(2) of the Double Taxation Convention (DTC) provides that a citizen or green card holder will be treated as a resident of the US for purposes of the DTA, and thereby entitled to treaty benefits, only if two conditions are met:

- first, you must have a substantial presence (see below), permanent home or habitual abode in the US
- second, you must not be treated as a resident of a state other than the UK under any treaty between the UK and a third state.

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## **Substantial presence test**

You will have a substantial presence if:

- you were present in the US on at least 31 days in the calendar year under test, and
- the sum total of days on which you were present in the US in the year under test and in the two preceding years adds up to at least 183 days. For the purposes of this calculation a day spent in the US in the year preceding the year under test counts as  $\frac{1}{3}$ , and a day in the year before that counts as  $\frac{1}{6}$ . Part days of presence in the US should be treated as if they were whole days for this purpose.

### **Example**

If you spent 48 days in the US in 2012, 250 days in 2011 and 365 days in 2010, the calculation would be as follows:

Year of test - 2012 (more than 31 days spent in the US)

2012	48 days	$\times \frac{1}{1}$	=	48
2011	250 days	$\times \frac{1}{3}$	=	84
2010	365 days	$\times \frac{1}{6}$	=	61
				193

Both legs of the substantial presence test are passed and you will be regarded as resident in the US under that country's domestic law.

## **Other conditions for relief**

Some articles in DTAs require other conditions to be fulfilled before relief from UK tax is granted. For example, relief is sometimes only available if the recipient is the 'beneficial owner' of the income or is 'subject to tax' in the other country for the income in question, whether for the whole of that income or just for income received in the country of residence. Also, employment income for duties carried out in the UK is sometimes exempted from UK tax depending on the fulfilment of certain conditions. You therefore need to check the precise terms of the particular treaty with which you are concerned, and obtain sufficient evidence to demonstrate that the necessary conditions are met, before making a claim for relief from UK tax. You must keep this evidence in case it is needed later to support your claim.

If any part of your claim relates to trust income, it is necessary to detail the nature (for example, dividend, interest and so on) and the amounts of each underlying source of the trust income concerned. The name of the trust and our office and reference number for the trust should be shown in the 'Additional information' box on page 8 of the claim form.

## **Vouchers**

You should keep all the vouchers (originals, not photocopies) certifying the amount of UK tax or tax credit as shown in your claim (at 3(b), column D on page 7 of this helpsheet). These may be needed later to support your claim.

## How to claim relief using this helpsheet

### **Full relief**

Fill in 3(a) on page 6 of this helpsheet to claim full relief from UK tax where the DTA provides this for a person who is a resident of the other country. Where full relief is claimed and shown in the helpsheet, exclude such income or gains and any tax deducted at source from other parts of your UK tax return. Where UK tax has been deducted at source, enter the amount of the tax deducted in box 21 of the *Residence, remittance basis etc.* pages unless:

- the tax has already been repaid, or
- you have already made a separate claim to us for repayment of that tax.

But see the next paragraph if you also claim partial relief.

### **Partial relief**

Complete 3(b). In the income section enter particulars of all items of income for which you are claiming relief from UK tax under a DTA, but exclude any item of income for which an in-year claim has already been made to HMRC. If there is insufficient space on the claim form use a separate sheet to itemise the income and carry the total relief due to the box at the foot of the 'Partial relief claimed' column. Enter the amount in box 21 of the *Residence, remittance basis etc.* pages.

Now fill in the relevant pages of your tax return, entering all items of UK income other than those you have entered on the claim form.

Send us your completed tax return including:

- the *Residence, remittance basis etc.* pages showing the amount of treaty relief claimed in boxes 20 and 21, and
- the completed claim form at the back of this helpsheet.

If you want to calculate your tax you will need the *Tax calculation summary* pages and *notes*, available from [www.hmrc.gov.uk](http://www.hmrc.gov.uk) and the SA Orderline.

The figure of treaty relief entered in boxes 20 and 21 of the *Residence, remittance basis etc.* pages should be entered in the 'Foreign Tax Credit Relief' box, box A204 in the Working Sheet in the *Tax calculation summary notes*.

### ***Dividends from UK companies and dividend distributions from UK authorised unit trusts and open-ended investment companies ('UK dividends') paid after 5 April 1999***

This note is for claimants who receive UK dividends and who are resident in a country with which the UK has a DTA that provides for payment of tax credit on UK dividends.

Since 6 April 1999 the amount of tax credit on UK dividends is  $\frac{1}{9}$  of the dividend paid. This means, for example, that a UK dividend of £900 carries a tax credit of £100.

DTAs that provide for payment of tax credit on UK dividends still give the right to claim payment of tax credit. However, if you claim payment of tax credit on a UK dividend paid after 5 April 1999, we will have nothing to pay to you.

This is because UK dividends no longer carry enough tax credit to cover the amount of tax which the UK retains under the terms of the DTA. (The amount retained is usually 15% of the total of the dividend plus the tax credit.)

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## Example

UK dividend	£900
Tax credit	£100
<b>Total</b>	<b>£1,000</b>
Amount retained ( $£1,000 \times 15\%$ ) =	£150

The amount retained is more than the tax credit so there is no tax credit left to pay you. In order to exclude the dividend income from your return, you should complete 3(b) of the claim form on page 7 of this helpsheet and enter '0' in the box headed 'Partial relief claimed' as we have nothing to pay you.

### ***If you were born before 6 April 1947***

If you were born before 6 April 1947, enter in the 'Any other information' box, box 19 on page TR 6 of your tax return, the total gross income you have entered in the 'Gross amount of income' column in 3(b) on page 7 of this helpsheet (excluding income on which the maximum rate of UK tax under the DTA is nil). For example, if this total is £100 enter: 'I have claimed partial relief for DTA purposes on gross income of £100 which is not included in this tax return'. This will enable us to make the adjustments required for age-related allowances taking into account your DTA income. If you are calculating your tax, add the partially relieved income to the amount entered at box B1 in the Working Sheet in the *Tax calculation summary notes* when calculating your income for age-related personal allowances.

## **Real Estate Investment Trusts (UK-REIT)**

Since 1 January 2007 it has been possible for a UK-REIT to pay a property income distribution out of its tax exempt income. Property income distributions are paid to investors with basic rate Income Tax (currently 20%) taken off. If you live in a country with which the UK has a double taxation treaty and have been paid a property income dividend, it is possible that you are entitled to claim repayment of some or all of this tax. Any claim should be made at 3(a) or 3(b) of this form.

These notes are for guidance only and reflect the position at the time of writing. They do not affect any rights of appeal. Any subsequent amendments to these notes can be found at [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

Claim by a non-UK resident for relief from UK tax under the terms of a Double Taxation Agreement

- 1(a) I was not resident in the UK for the whole of 2011-12 and have ticked box 1 on the *Residence, remittance basis etc.* pages

☐
- 1(b) I have claimed split-year treatment by ticking box 3 on the *Residence, remittance basis etc.* pages

☐

Period treated as not resident in the UK during 2011-12 DD MM YYYY

 to 

- 2 I was resident for tax purposes, during the period referred to in 1(a) or 1(b), in a country with which the UK has a Double Taxation Agreement

Name of country of residence

Period resident there during 2011-12

 to 

- 3(a) Having considered the provisions of the Double Taxation Agreement between the UK

and  I claim to be a resident of

Accordingly I am:

- deducting any earnings and tax stated below in arriving at the amounts entered in boxes 1 and 2 of the *Employment* page
- excluding any other income or gains stated below from my UK tax return on the grounds that they are exempt from UK tax under the terms of the Double Taxation Agreement above.

Type of income/gains	Period or date income/gains arose*	Amount of income/gains	UK tax** deducted at source (if any)	Article number of DTA under which exemption claimed
	/ / to / /	£	£	
	/ / to / /	£	£	
	/ / to / /	£	£	
	/ / to / /	£	£	
	/ / to / /	£	£	

\* If a period is not relevant, enter the date only on the left-hand side.

\*\* Exclude any UK tax already repaid to you or included on a separate claim already made to HMRC.

Total UK tax deducted at source

£

Include this figure in box 21 on the *Residence, remittance basis etc.* pages

3(b) I also claim partial relief from UK tax for the following items of income under the provisions of the

Double Taxation Agreement between the UK and

indicated below.

Accordingly I am excluding this income from my UK tax return.

Nature of income (if UK dividends — see note under 'Partial relief' on page 4)	Gross amount of income	Maximum rate of UK tax chargeable under DTA	Amount of UK tax	UK tax paid** at source (tax or tax credit)	Partial relief claimed	Article number of DTA under which partial relief claimed
	A	B	C (A x B)	D	D minus C	
	£	%	£	£	£	
	£	%	£	£	£	
	£	%	£	£	£	
	£	%	£	£	£	
	£	%	£	£	£	

\*\* Exclude any UK tax already repaid to you or included on a separate claim already made to HMRC.

**Total partial  
relief claimed**

£

**Include this figure  
in box 21 on the  
Residence,  
remittance basis  
etc. pages**

4 Has an application for full or partial relief at source been previously submitted to, and approved by, HMRC?

No

☐

Yes

☐

If Yes, what is their reference?

If No, do you want to make such an application for the future?

No

☐

Yes

☐

5(a) Is your UK source income (that is, excluding the income shown in the table above, and any income for which an in-year claim has been separately made to HMRC) less than personal allowances claimed by you?

No

☐

Yes

☐

*If you tick Yes, we will consider whether any additional repayment is due.*

5(b) Have you submitted any other claim to HMRC for the year ended 5 April 2012?

No

☐

Yes

☐

6 Were you born before 6 April 1947?

No

☐

Yes

☐

If Yes, please read the note 'If you were born before 6 April 1947' on page 5.

Additional information (see 'Other conditions for relief' on page 3)

**Declaration**

- I am beneficially entitled to the income shown in the tables on pages 6 and 7.
- To the best of my knowledge and belief all the particulars given on this form are correct.
- I claim relief from UK tax as shown in the tables on pages 6 and 7.

Signature

Date *DD MM YYYY*