

Non-resident entertainers and sportspersons

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

Read this helpsheet before you refer to any other printed material to save time and reduce the risk of error.

Why this helpsheet is important

Some tax rules, and treaty provisions in Double Taxation Agreements, apply only to non-resident entertainers and sportspersons. The sorts of income you get and the expenses you incur may be different from other taxpayers. Also, you may visit the UK infrequently and your UK income may have suffered Withholding Tax in full or in part. You may therefore require specific help in several areas. This helpsheet will help you to understand the special rules and give you some guidance about various sorts of income, the expenses you can deduct and how to complete the relevant parts of the tax return.

How the helpsheet should be used

We suggest you use it as a signpost to direct you to the relevant parts of the tax return in respect of your UK activity as an entertainer or sportsperson. You can return to this helpsheet after each step in the process is completed for the next set of directions.

If you have some non-performance UK income, for example, interest, rents, etc. some general advice will also be given towards the end of this helpsheet.

What help is available

The special rules for non-resident entertainers and sportspersons are the responsibility of a specialist office – the Foreign Entertainers Unit (FEU), whose address, phone and fax numbers are:

HMRC Personal Tax International
Foreign Entertainers Unit
St. John's House
Merton Road
LIVERPOOL
L75 1BB
Phone **0151 472 6488** Fax **0151 472 6483**

The staff of the Unit have experience of all areas of entertainment and sport and they can be contacted by phone or fax to discuss any questions you may have concerning your UK liability.

In addition, other helpsheets are available on specific topics which give more detailed information about particular tax rules. These are available from the SA Orderline or go to **www.hmrc.gov.uk** The relevant helpsheets will be referred to in the computational advice section as each point is covered and they will be summarised at the end of this helpsheet.

Computational advice

This helpsheet is only relevant if you are a non-resident entertainer or sportsperson. Your starting point should therefore be to check your UK tax residence status using the *Residence, remittance basis etc.* pages and the *notes* provided with them.

If, having worked through the 'Considering your residence status' section of the *Residence, remittance basis etc.* notes, you find that you are regarded as resident in the UK for tax purposes, ignore the remainder of this helpsheet. Use the tax return guide to help you complete your tax return.

If you find that you are regarded as non-resident in the UK for tax purposes, put 'X' in box 1 of the *Residence, remittance basis etc.* pages. You may return to this helpsheet after you have completed the remaining relevant boxes on pages RR 1 and RR 2. However, bear in mind that the special rules applying to non-resident entertainers and sportspersons generally make ordinary residence and domicile irrelevant as far as their performance income is concerned.

The information in Tables 1 and 2 on pages 62 and 63 of HMRC6 *Residence, domicile and the remittance basis* is modified by the UK's entertainers and sportspersons rules which also provide for:

- withholding at source as a payment on account of final liability
- the creation of a separate notional UK trade for tax purposes in respect of activity in this country
- income paid to certain third parties, for example, a personal service company, to be treated as made to an entertainer or sportsperson personally.

You can find booklet HMRC6 at www.hmrc.gov.uk/cnr/hmrc6.pdf

When you have completed the *Residence, remittance basis etc.* pages you are ready to complete other parts of your tax return.

To target the information to your particular needs and to minimise the amount of material you have to read, the rest of this helpsheet has been split into three parts:

Part A – the self-employed individual

Part B – the employee

Part C – partnerships and partners

Please decide which of these options best describes your status in relation to your activity as a non-resident entertainer or sportsperson and follow the guidance in the relevant part.

Part A – the self-employed individual

As a self-employed person you should complete *Self-employment (full)* pages using the *Self-employment (full) notes* provided, with the following modifications. Box numbers refer to the *Self-employment (full)* pages.

Accounting period

The basis of assessment is the profit from UK activity arising in the year ended 5 April. In practice, UK activity by non-resident entertainers and sportspersons is usually limited to one or more short periods in the year and the receipts and expenses can be easily identified and summarised. The accounting period should, however, generally be shown as starting on 6 April and ending on 5 April.

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If your worldwide trade, profession or vocation commenced or ceased in 2011–12 complete box 6 or 7, otherwise they may be left blank. Boxes 10, 11, and 13 may be ignored.

Turnover

This should include amounts applicable to UK activity, for example and where appropriate, performance income, appearance fees, bonuses for UK performance, exhibition income, box office percentage, broadcasting/media fees, tournament winnings, prize money, venue merchandising income, transfer of assets and sponsorship/endorsement monies. If any amounts are paid under a contract covering several countries, or assets are transferred, you may contact the FEU for advice on the amount to be included in turnover.

Expenses

You should claim specific expenses and a proportion of any expense common to several countries, including the UK. When expenditure common to several countries has been incurred contact the FEU for advice on the amount to claim. Helpsheet 229 *Information from your accounts* may add to the general guidance on turnover, allowable expenses and taxable profit or loss given in the *Self-employment (full) notes*. Any expenses met on your behalf and not reimbursed by you should be included in turnover and claimed separately as expenditure.

Overseas tax

You should claim any tax which you pay in the UK on your performance-related income in your home state if it has a Double Taxation Agreement with the UK. Your home state tax is not deductible in arriving at your performance-related profit for UK tax purposes.

Capital allowances

Helpsheet 222 *How to calculate your taxable profits* explains how capital allowances and balancing charges are calculated. You may only claim capital allowances for assets used for the UK notional trade. If you have purchased assets for your worldwide trade but they are not used in connection with your UK activity, allowances should not be claimed. If assets are used in your worldwide trade including UK activity, do a separate computation for each asset so used. The allowances must be restricted to take account of the use of the asset in non-UK territories and private use. One way to do this would be to restrict the allowances using the fraction:

$$\frac{\text{Number of days asset used for UK activity}}{365}$$

The helpsheet also gives guidance on the calculation of an allowance or charge when an asset, on which allowances have been given, is sold.

Adjustments to arrive at the taxable profit or loss

Your basis period will begin on 6 April 2011 (unless your worldwide trade, profession or vocation commenced after that date when the date of commencement should be used) and will end on 5 April 2012

(or the date your worldwide trade, profession or vocation ceased, if earlier). You may ignore boxes 12 and 67 to 71. Take the figure in box 63 to box 72 if it is a profit or take the figure in box 64 to box 76 if it is a loss.

Losses

Helpsheet 227 *Losses* provides information on how you may claim relief on losses. It will help you to decide which of the boxes 73 to 77 to complete if box 76 shows a loss or there is a loss brought forward from a previous year.

Profit summary

To finalise page SEF 4 for your activity as an entertainer or sports person, if there was a net profit figure in box 72 complete boxes 73, 74 and 75.

Pages SEF 4 and SEF 5 entries

Non-residents are exempt from Class 4 National Insurance contributions, so put 'X' in box 99 and leave boxes 100 and 101 blank.

You should use box 81 to record the Withholding Tax paid on your income as an entertainer or sports person. Unless you have prepared a balance sheet specifically for the UK notional trade, you may leave boxes 82 to 98 blank.

Next steps

When you have completed the *Self-employment (full)* pages of your tax return consider whether other supplementary pages are required, then go back to page TR 2 in the tax return.

If you identify any UK source income or capital gains not previously returned, from your reading of the guidance, you should refer back to Tables 1 and 2 on pages 62 and 63 of HMRC6 *Residence, domicile and the remittance basis* to see if the relevant item is liable to UK tax. If it is, then ask the SA Orderline for the relevant supplementary pages. You should fill in any supplementary pages before you go back to page TR 2 in your tax return.

The *Residence, remittance basis etc. notes* will also help you to decide whether allowances are due to you. They do not, however, explain which of the reliefs are not available to non-residents or are only available in certain circumstances. You can get guidance on this aspect direct from the FEU.

The remaining questions on your tax return should be completed as appropriate.

If you want to calculate your own tax, you will need the *Tax calculation summary* pages and *notes*; include UK Withholding Tax in box A227 on the Working Sheet. In calculating the payment due on 31 January 2013 you may wish to discuss the effect of Withholding Tax payments. The FEU will be happy to advise you on this or any other question you have on the completion of the return.

The helpsheets available to help self-employed non-resident entertainers and sports persons referred to in this section are:

- Helpsheet 222 *How to calculate your taxable profits*
- Helpsheet 227 *Losses*
- Helpsheet 229 *Information from your accounts.*

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Part B – the employee

If you are employed by a company or individual(s) in connection with your activity as an entertainer or sportsperson, answer the following questions to determine how to proceed.

Was the money from your entertainment or sporting activity paid to:

- a person, for example, a company, you control No ☐ Yes ☐
- a person resident in a country where the rate of tax on profits does not exceed 25% No ☐ Yes ☐
- a trust or other settlement partly or wholly set up by you No ☐ Yes ☐
- a person with whom you have a contract which will or may give you an amount approximating to the net profit from the activity No ☐ Yes ☐

If you answered ‘No’ to all of these questions and you regard yourself as an employee, you will need to complete the *Employment* (and perhaps the *Additional information*) pages using the notes for these and Helpsheet 211 *Employment - residence and domicile issues* available from the SA Orderline.

The aim of the notes and helpsheet is to isolate the money or benefits in respect of your UK activity. If you have a multi-territory employment contract, you may wish to contact the FEU for advice on how your money from the company and benefits should be apportioned into and out of UK liability. When you have completed the *Employment* page, and the *Additional information* pages, if relevant, go to the ‘Next steps’ section on page 7.

If you have answered ‘Yes’ to any of these questions, the receipts and expenses linked to your activity in the UK are treated as made to/by you personally. The *Employment* page should not be used for your entertainment or sporting activity. Instead, you should complete the *Self-employment (full)* pages using the *Self-employment (full) notes* with the following modifications.

Accounting period

For non-resident entertainers and sportspersons this will generally be 6 April to the following 5 April. If your employment commenced or ceased during the year, complete boxes 6 or 7, otherwise they can be left blank. Boxes 10, 11 and 13 may be ignored.

Turnover

This should include payments for UK activity no matter who has received it, for example and where appropriate, performance income, appearance fees, bonuses for UK performance, exhibition income, box office percentage, broadcasting/media fees, tournament winnings, prize money, venue merchandising income, transfer of assets and sponsorship/endorsement monies. If any amounts are paid under a contract covering several countries or assets were transferred, you may contact the FEU for advice on the amount to be included in turnover.

Expenses

Ascertain the expenses which have arisen as a result of your activity. They may be expenses which have arisen wholly in the UK, for example, hotel expenses or a proportion of any expense common to several countries.

When expenditure common to several countries has been incurred contact the FEU for advice on the amount to claim. The *Self-employment (full) notes* provide general guidance on turnover, allowable expenses and taxable profit or loss.

If a promoter or independent third party has met expenses on your employer's behalf without reimbursement, for example, travel, you should include the amount in turnover and claim separately as expenditure.

Overseas tax

You should claim any tax paid in the UK on your performance-related income you should claim in your home state if it has a Double Taxation Agreement with the UK. Your home state tax is not deductible in arriving at your performance-related profit for UK tax purposes.

Capital allowances

Helpsheet 222 *How to calculate your taxable profits* and Helpsheet 252 *Capital allowances and balancing charges* shows how these allowances are calculated. Capital allowances can only be claimed in your calculations if assets are used for the UK activity. If the assets acquired by yourself or your employer are used for worldwide entertainment or sporting activity but they are not used in the UK, allowances should not be claimed. If assets are used in several territories including the UK, a separate computation is required for each asset. The allowances must be restricted to take account of use of the asset in non-UK territories and private use. One way to do this would be to restrict the allowances using the fraction:

$$\frac{\text{Number of days asset used for UK activity}}{365}$$

Helpsheet 252 also gives guidance on the calculation of an allowance or charge when an asset on which allowances have been given is sold.

Adjustments to arrive at the taxable profit or loss

The Income Tax basis period will begin on 6 April 2011 (unless your employment commenced after that date when the date of commencement should be used) and end on 5 April 2012 (or the date your employment ceased, if earlier). You may ignore boxes 12 and 67 to 80. Take the figure in box 63 to box 72 if it is a profit or take the figure in box 64 to box 76 if it is a loss.

Losses

Helpsheet 227 *Losses*, tells you how you may claim tax relief on losses. It will help you to decide which of the boxes 73 to 77 to complete if box 76 shows a loss or there is a loss brought forward from a previous year.

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Profit summary

To finalise page SEF 4 for your activity as an entertainer or sportsperson, if there was a net profit figure in box 72 complete boxes 73, 74 and 75.

Pages SEF 4 and SEF 5 entries

Non-residents are exempt from Class 4 National Insurance contributions, so put 'X' in box 99 and leave boxes 100 and 101 blank.

You should use box 81 to record the Withholding Tax paid on your activity as an entertainer or sportsperson. As you do not have a balance sheet for the UK activity, you may leave boxes 82 to 98 blank.

Before you move on, please enter the following information in the 'Any other information' box, box 102, in the *Self-employment (full)* pages:

- the name and tax reference of the company who employs you if it is registered or managed and controlled in the UK
- the amount of any money paid, or to be paid to you, by the company in respect of your UK activity.

This information will enable the FEU to make any other adjustments required under the special entertainers and sportspersons rules.

Next steps

When you have completed the relevant pages of your tax return for your entertainment or sporting activity, consider whether other supplementary pages are required. We have sent you the tax return guide to help you.

If you identify any other UK source income or capital gains, you should refer back to Tables 1 and 2 on pages 62 and 63 of HMRC6 *Residence, domicile and the remittance basis* to see if the relevant item is liable to UK tax. If it is, then request the relevant supplementary pages from the SA Orderline. You should fill in any supplementary pages before you go back to page TR 2 of your tax return.

If no further supplementary pages are required you will only have to complete either box 8 and box 1 (if the *Employment* page was completed) or box 8 and box 2 modified to read 'were you treated as self-employed' (if you were directed to complete pages SEF 1, etc.) leaving box 1 blank before proceeding to the reliefs/allowances sections.

The *Residence, remittance basis etc. notes* will also help you to decide whether allowances are due to you. They do not, however, explain which of the reliefs are not available to non-residents or are only available in certain circumstances. You can get guidance on this aspect direct from the FEU.

The remaining questions on the tax return should be completed, as appropriate.

If you want to calculate your own tax, you will need the *Tax calculation summary* pages and *notes*; include all UK Withholding Tax in box A227 on the Working Sheet.

The helpsheets available to help employed non-resident entertainers and sportspersons referred to in this section are:

- Helpsheet 211 *Employment – residence and domicile issues*
- Helpsheet 222 *How to calculate your taxable profits*
- Helpsheet 227 *Losses*.

Part C – partnerships and partners

A partner, who is not resident in the UK, is taxable on their share of the profits arising to the partnership from the activity which the partnership carried on in the UK. Helpsheet 380 *Partnerships: foreign aspects*, gives advice on who should make a Partnership Tax Return and what it should include. The advice contained in this section assumes your partnership consists solely of individuals who are all entertainers or sportspersons. If the partners include a company, a trustee or any person who is not an entertainer or sportsperson, please contact the FEU for advice before proceeding further, as special rules exist which may require their share of receipts and expenses to be treated as made to some or all of the remaining partners.

Partnership Tax Return

The partnership return of profit from UK activity should be completed by the partner nominated to complete the tax return using the Partnership Tax Return and Guide with the following modifications.

Foreign income and chargeable assets

The reference here is to items chargeable to UK tax.

Accounting period

You may ignore the references to the return period and accounting periods in the guide as the basis of assessment is the profit from UK activity arising in the year ended 5 April. In practice, UK activity by non-resident entertainers is usually limited to one or more short periods within the year and the receipts and expenses can be easily identified and summarised. The accounting period should, however, generally be shown as starting on 6 April and ending on 5 April.

You should only complete boxes 3.7 and 3.8 of the Partnership Tax Return if the partnership commenced or ceased in the year. Boxes 3.10, 3.11, 3.12 and 3.13 may be ignored.

Turnover

This should include amounts applicable to UK activity, for example, and where appropriate, performance income, appearance fees, bonuses for UK performance, exhibition income, box office percentage, broadcasting/media fees, tournament winnings, prize money, venue merchandising income, transfer of assets and sponsorship/endorsement monies. If any amounts are paid under a contract covering several countries, or assets are transferred, you may contact the FEU for advice on the amount to be included in turnover.

Expenses

You should claim UK specific expenses and a proportion of any expense common to several countries, including the UK. When expenditure common to several countries has been incurred contact the FEU for advice on the amount to claim. The Partnership Tax Return Guide provides general guidance on turnover, allowable expenses and taxable profit or loss. Any expenses met on behalf of the partnership and not reimbursed by it should be included in turnover and claimed separately as expenditure.

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Overseas tax

Any tax which the partnership pays in the UK on its performance-related income should be claimed in the partner's home state if it has a Double Taxation Agreement with the UK. Home state tax is not deductible in arriving at the partnership's performance-related profit for UK tax purposes.

Capital allowances

Helpsheet 222 *How to calculate your taxable profits* is available to explain how these allowances are calculated. The partnership may only claim capital allowances for assets used for the UK notional trade. If it has purchased assets for its worldwide trade but they are not used in connection with its UK activity, allowances should not be claimed. If assets are used in the partnership's worldwide trade including UK activity, do a separate computation for each asset so used. The allowances must be restricted to take account of use of the assets in non-UK territories and private use. One way to do this would be to restrict the allowances using the fraction:

$$\frac{\text{Number of days asset used for UK activity}}{365}$$

Helpsheet 222 also gives guidance on the calculation of an allowance or charge when an asset on which allowances have been given is sold.

Adjustments to arrive at the taxable profit or loss

Use box 3.98 to record any UK Withholding Tax paid on the partnership income from entertainment or sporting activity.

As the partnership is unlikely to have prepared a separate balance sheet for the notional UK trade, boxes 3.99 to 3.115 can be left blank.

Question 7 – other income

This is another reference to items chargeable to UK tax. The tables on pages 62 and 63 of HMRC6 *Residence, domicile and the remittance basis* will indicate situations when a 'Yes' answer will be appropriate and boxes 7.7A to 7.9A require completion.

Partnership Statement

This is a summary of the main boxes on previous pages plus an allocation of those items between the partners. Use the basis period already identified on the Partnership Tax Return (generally 6 April 2011 to 5 April 2012); tax withheld should go in box 24A.

Other information

You should complete question 10 on page 8 of the Partnership Tax Return giving details of provisional figures and any other additional information you consider relevant.

Partner's returns – *Partnership (full)* pages

When the Partnership Tax Return is finalised, you will be in a position to complete the *Partnership (full)* pages using the notes provided with the following modifications.

Your basis period for your entertainer/sports partnership will be the one identified on the Partnership Tax Return (generally 6 April 2011 to 5 April 2012).

Your share of profit or loss for 2011–12 should be the one shown on the Partnership Tax Return and can be carried to the net profit box 14 or allowable loss box 19, as appropriate, without adjustment.

Losses

Helpsheet 227 *Losses* provides information on how the partnership may claim tax relief on losses. It will help you to decide which of the loss boxes to complete if you have made a loss from the partnership or there is a partnership loss brought forward from a previous year from relevant UK activity.

Class 4 NICs

Non-residents are exempt from Class 4 National Insurance contributions, so put 'X' in box 23 and leave boxes 24 and 25 blank.

FEU2 tax

Your share should be entered in box 79.

Next steps

When you have completed the *Partnership (full)* pages of your tax return, consider whether other supplementary pages are required. If you identify any UK source income or capital gains not previously returned from your reading of the guides, you should refer back to Tables 1 and 2 on pages 62 and 63 of HMRC6 *Residence, domicile and the remittance basis* to see if the relevant item is liable to UK tax. If it is, then request the relevant supplementary pages from the SA Orderline. You should fill in any supplementary pages before you go back to page TR 2 of your tax return.

If no further supplementary pages are required you will only have to complete question 4 and question 8 on page TR 2 of your tax return before proceeding to the reliefs/allowances sections.

The *Residence, remittance basis etc. notes* will also help you to decide whether allowances are due to you. They do not, however, explain which of the reliefs are not available to non-residents or are only available in certain circumstances. You can get guidance on this aspect direct from the FEU.

The remaining questions on your tax return should be completed, as appropriate.

If you want to calculate your own tax, you will need the *Tax calculation summary* pages and *notes*; include UK Withholding Tax in box A227 on the Working Sheet. In calculating the payment due on 31 January 2013 you may wish to discuss the effect of Withholding Tax payments. The FEU will be happy to advise you on this or any other query you have on the completion of the return.

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The helpsheets available to help non-resident entertainers and sportspersons referred to in this section are:

- Helpsheet 222 *How to calculate your taxable profits*
- Helpsheet 227 *Losses*
- Helpsheet 380 *Partnerships: foreign aspects.*

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