

# Working in the UK

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## > Working in the UK

Working in the UK can present many issues that should be considered in advance of a move. Some advance planning can save a company and an employee problems that may arise at a later stage.

This guide is intended to provide an awareness of such matters.

### **Overall position**

The position in the UK is that UK tax residents are taxed on their worldwide income and gains. However, for individuals that are not domiciled within the UK, the remittance basis may be claimed whereby non UK income and gains are only taxed to the extent they are paid in or remitted to the UK. Non-residents are only liable to tax on income and gains that are UK sourced.

Two options are available for UK resident individuals who are not domiciled in the UK:

- they can either be taxed on the 'arising basis', or
- the 'remittance basis'.

The options can be changed each tax year.

### **Options:**

**Arising:** If an individual is taxed on the arising basis they are subject to UK tax on their worldwide income.

**Remittance:** Individuals taxed on the remittance basis may exclude some non-UK income and gains from UK tax where these are received outside of the UK and are not subsequently remitted to the UK (although this would result in losing their personal allowance as well as the capital gains tax annual exemption). If an individual is taxable on the remittance basis, they will be subject to UK tax on UK source income and on any non-UK source income remitted to the UK.

### **Pay As You Earn (PAYE):**

In some situations an employee of a non-UK employer may be subject to UK Pay As You Earn (PAYE) tax and / or National Insurance contributions (NIC) withholding while they spend time working in the UK.

We would recommend that a review is undertaken to establish whether or not the non-UK employer has a branch or permanent establishment in the UK, in order to ascertain whether PAYE will need to be operated. Where an employee is seconded to work in the UK at a group company, the 'economic employer' rules may well apply – broadly as the individual is working for the benefit of the UK business, rather than for the benefit of the contractual employer, the liability to operate PAYE falls on the UK entity rather than the contractual employer.

HMRC's position is that there must be a degree of control of the employee by the UK host employer to bring the employee within the scope of PAYE. If the contractual employer has no UK place of business, in certain instances the liability to tax may be transferred to the individuals. An employee's taxable employment income can cover earnings and benefits, such as:

- Salaries and wages
- Bonuses and commissions
- Foreign service and cost of living allowances
- Tax reimbursements and other liabilities met by their employer
- Provision of benefits, for example company car, medical benefit, mobile phone etc

The employees UK tax residence determines which earnings are taxed in relation to the time they are earned. For UK resident individuals, this will also depend on whether they are taxed on the arising basis or the remittance basis.

**Tax allowances:**

If the employee is resident in the UK for all or part of a tax year, they *maybe* entitled to claim a full UK personal allowance, (2017/18, £11,500), if their taxable income does not exceed £100,000 and they have not claimed the remittance basis for that tax year.

**Tax treatment of benefits/expenses:**

This is an area that is often overlooked for tax implications at a later stage and we recommend seeking advice first to avoid any issues arising at a later stage.

- Cash Allowances  
If cash allowances are provided to employees (regardless of how they actually spend the money) this counts as earnings.
- Company Car/Medical Insurance  
Benefits such as a company car or the provision of medical costs will be taxable on the employee (via a restriction in their PAYE coding notice/P11D form), whereas bonuses and car allowances are taxed via their payroll.
- Reimbursed benefit or contract directly with provider?  
Where the employer reimburses the employee for a benefit contracted directly with the employee, then their costs will be subject to tax and National Insurance, e.g. mobile phones. *A company mobile phone with the company contracting with the provider however will be exempt from Tax and National Insurance.*

**Pensions:****Employers**

- requirements by law placed on employers to automatically enrol certain workers into a pension scheme
- "staging date" notified to the employer by the UK Pensions Regulator, may defer up to 3 months
- Preliminary assessment required confirming which employees should be enrolled.
- Employees have option to opt out once enrolled
- Other duties as well as automatic enrolment, including the provision of certain information to their workforce.
- From 1 October 2017, auto-enrolment responsibilities will start at the same time as PAYE responsibilities.

In order to be eligible for auto enrolment, employees must:

- Be between 22, but under the State Pension age
- Earn over £10,000 a year
- Are not already in a suitable workplace pension scheme
- Work in the UK

**Rate of contributions**

The auto enrolment minimum will increase in stages over time as follows:

Date	Employer minimum contribution	Total minimum contribution
Staging date to 05/04/18	1%	2% (including 1% staff cont)
06/04/18 — 05/04/19	2%	5% (including 3% staff cont)
06/04/19 onwards	3%	8% (including 5% staff cont)

**National Insurance:**

Additional matters that will require consideration include whether or not the employee remains in the home-country social security system, and whether the employee may remain tax-resident in the home country. Broadly employees posted to the UK for:

- Less than 24 months can remain in their home country social security scheme.
- In excess of two years the employees can apply to remain on their home country scheme on an exceptional basis but the authorities of the relevant countries are not under any obligation to grant such exceptions.
- If the employees are to be employed for the duration of the contract, it is likely that they will therefore likely pay contributions in the UK for the duration of their secondment.

If appropriate an employee's home country will issue them with a certificate to confirm that whilst working in the UK they should continue to pay contributions to that country and are exempt from paying UK NIC. An employee who has been sent to work in the UK won't have to pay NICs in the UK if they are from another EEA country or Switzerland and hold an A1 issued by the authorities, and will continue to pay contributions in the other country for the period covered by the form.

**Other information – UK reliefs available****Temporary workplace relief:**

HMRC will allow relief from income tax for travel and subsistence payments if they are incurred in the performance of employment duties. There could be significant tax breaks available to help reduce both employment costs and employee taxes.

To qualify, an individual must be working away from their normal location for a maximum period of 24 months.

- Typically applicable to employees who are 'seconded' to the UK for a fixed-term assignment
- Does not apply to individuals who move to the country to take up a new UK employment (there needs to be an existing relationship with a home country employer).

Individuals who qualify for the relief can claim certain expenses, including:

- The cost of travelling from home (or anywhere else) to the temporary workplace
- The reasonable cost of accommodation near the temporary workplace (including utilities)
- Daily subsistence costs.

#### **Non-domiciled with business travel outside UK:**

An individual who is non-domiciled and moves to the UK can claim UK tax exemption on the proportion of their income relating to days spent working outside the UK, for the year of transfer and the next two tax years, by using overseas work relief (OWR). This allows the employee to limit their tax liability to their UK source income provided that:

- The employment income related to their non-UK workdays is paid offshore
- This income is not brought or remitted to the UK. The remuneration may, however, be paid from the UK (by a UK employer) but must be directly deposited into a non-UK bank account.

If the employee is not resident in the UK, for instance, because they come to work in the UK for a short time, they are only liable to UK tax on their employment income for duties performed in the UK. Income relating to non-UK workdays is exempt irrespective of where received or transferred. The employee may be able to claim a total exemption from UK tax on their employment income if

there is a tax treaty between the UK and their country of residence.

#### **Home visits for non-domiciles**

Where a non-domiciled employee is posted to the UK it is possible to obtain tax relief on return flights to their home country from the UK. This can still apply even where they perform no duties outside of the UK. This would apply if they are working in the UK on a temporary or permanent basis.

For the employee themselves, relief can be claimed for flights home for a period of up to five years from the date they first arrive in the UK and there is no limit on the number of flights. Additionally, they can claim relief for two return trips in a year for their spouse and children.

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