HM Revenue & Customs

Residence, Domicile and the Remittance Basis

Part 5 of this guidance was updated in February 2010 to reflect legislative changes made to the remittance basis rules.

The other parts of this guidance were revised in December 2010. This revised version will apply from this publication.

HM Revenue & Customs does not consider that the latest revisions have altered the current position in most cases. However you can continue to use the wording in the previous version of HMRC6 for any tax liability that arises before 5 April 2011.

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1 Introduction

This guidance replaces the IR20 *Residents and non-residents: Liability to tax in the United Kingdom*. Any practices associated with the IR20 – whether overtly expressed or not – will not apply from 6 April 2009, unless provided for outside the IR20 (in statute law, in case law, in published extra-statutory concession, or in a guidance note).

This guidance outlines our (HM Revenue & Customs) application and interpretation of legislation and case law. The material is provided for your guidance. It sets out the main factors that are taken into account based on the rulings of the courts. Whether any section of this general guidance is applicable to you depends on your particular facts, as each set of circumstances will be different. It also seeks to give practical examples of what the relevant law means; these are only illustrative examples.

Many of the technical terms used in this guidance are explained in the glossary at part 12.

Any practices described in this guidance are subject to periodic review and may subsequently be altered or withdrawn. If practices were to be changed or revoked this would not normally be done so retrospectively.

You do not need to read this guidance if you live in the UK and pay UK tax on your UK income and chargeable gains and you plan to remain in the UK, and either:

- have never received foreign income or foreign chargeable gains or
- have had foreign income or chargeable gains in the past and you paid UK tax on the foreign income or gains in the years when these arose/accrued.

Earned income would include income you receive as a salary or from a business while investment income would include interest received from a bank. Details of these are found in part 10 of this guidance.

Your residence position is one of the factors that determines what UK tax you need to pay on what types of income and gains. If you are resident and ordinarily resident in the UK you will be liable to UK tax on all your income wherever it arises (unless you claim the remittance basis because you are not UK-domiciled). This includes earned income from employment and self-employment, as well as your UK investment income such as dividends or interest from a bank or building society. You will also pay Capital Gains Tax on any gains you have from the disposal of certain assets which belong to you.

Even if you are resident (or ordinarily resident) in another country you may also be resident (or ordinarily resident) in the UK. This is sometimes referred to as *dual residence*.

You can find your local tax office in *The Phone Book* or go to **www.hmrc.gov.uk** Details of specialist offices dealing with particular individuals are set out in part 13 of this guidance.

The terms of a Double Taxation Agreement might affect your final tax position. If you are at all unsure of your position then this guidance should help by providing a starting place to get the information you need. If you need more help please contact us, or speak to your tax adviser.

The purpose of this guidance

This guidance is designed to help you as an **individual**. It explains how – when you have connections outside the UK – your particular circumstances will affect what UK tax you need to pay. It applies only to individuals so it does not cover trustees (except in their capacity as individuals), companies, clubs, societies or other types of legal person. Nor does it cover **Inheritance Tax**.

The booklet *Customer Guide to Inheritance Tax* is available to help you on Inheritance Tax matters. You can find it at **www.hmrc.gov.uk**

This guidance does not affect your right of appeal against any HM Revenue & Customs (HMRC) decision.

You are responsible for your own tax affairs in the UK. You should keep supporting documents. We might ask you about your tax affairs at some time.

This guidance will tell you the main factors to take into account when deciding your residence, ordinary residence and domicile status, and the potential consequences for your UK tax position. It is **general** guidance which is designed to help you reach a decision yourself. Depending on your circumstances this might not be straightforward and our guidance may not cover all of the issues which affect you. If this is the case you might need to contact us to obtain further information or, alternatively, seek the services of a professional tax adviser.

1.1 Self Assessment in the UK and how to appeal

Guidance is available on our website to help you decide if you need to complete a Self Assessment tax return. There is also guidance to help you work out your tax liability. We ask you to give us enough detail of your income and circumstances to allow us to check your return.

Further guidance on domicile and UK ordinary residence can be found at 12.5 and 12.15.

Depending on your circumstances, you may have to complete a Self Assessment tax return. The date for filing a paper return is normally 31 October following the end of the tax year for which you are making the return. If you file your tax return online, the deadline for filing is normally 31 January following the end of the tax year for which you are making the return, and the filing process assists you with the tax calculation process. Not all the Self Assessment pages relevant to this guidance are available in our online system. If you need to fill in one that is not available you will have to use externally supplied software or submit a paper tax return.

After processing, we may select your completed return for further examination.

The Self Assessment system requires that you make a decision on whether or not you **are** resident in the UK. If you are resident you may also have to decide whether you are not domiciled and/or not ordinarily resident in the UK as this may affect how any foreign income and/or gains that you have are taxed in the UK. If you decide that you are not resident, or not ordinarily resident, or not domiciled in the UK, we may ask you to provide evidence in support of this.

You can obtain factsheet HMRC1 about reviews and appeals at **www.hmrc.gov.uk**

You can also obtain the factsheet by visiting your nearest HMRC Enquiry Centre or by phoning the HMRC Helpline whose number you will find in *The Phone Book*.

You can find more information about the appeals process at **www.hmrc.gov.uk**

Your dealings with us will normally be routine. But there may be occasions when you disagree with a decision made by us. If this happens, you may be able to challenge the decision by appealing.

In most cases your appeal will be settled by reaching an agreement with us. But if you can't agree, you can ask for either of the following:

- a review by us, or
- your appeal to be heard by an independent tribunal.

When we write to you with a decision we will also tell you:

- if you have a right to appeal
- how to appeal
- what time limits apply
- where to send your appeal.

You must send your appeal to us in writing, normally within 30 days of the date of the decision you disagree with. You can either use an appeal form (which you may have been sent with the decision letter) or you can appeal by letter.

You can find out how this system works, how to ask for a review, or how to appeal to the tribunal, by looking at factsheet HMRC1.

Full details on being not ordinarily resident in the UK, being not domiciled in the UK and on how to claim the remittance basis and the affects of doing so can be found in parts 3, 4 and 5 of this guidance.

An explanation of what we mean by:

- accrue is at 12.2,
- arising basis is at 12.3 and
- remittance basis at 12.20.

1.2 An introduction to residence

The terms '**residence**' and '**ordinary residence**' are not defined in the Taxes Acts. Our guidance on these terms is largely based on rulings of the Courts. This guidance tells you the main factors to take into account when deciding your residence and ordinary residence status. Your status is determined by the facts of your particular case. It is **not** simply a question of the number of days you spend in the country.

If you are resident in the UK you are normally taxed on the '**arising basis**' (see 12.3). This means that you will pay UK tax on all of your income as it arises and on your gains as they accrue, wherever that income and those gains are in the world. There are some exceptions to this covered in this guidance.

It is possible to be resident in the UK, but **not ordinarily resident** here (see 12.15) and/or **not domiciled** here (see 12.5). If at least one of these circumstances applies to you, you have a choice of whether to use the arising basis of taxation or the '**remittance basis**' of taxation. Full details of the remittance basis can be found in part 5 of this guidance.

2 Residence in the UK

It is important that you understand what we mean by 'resident in the UK' because this will determine what UK tax you have to pay. There is no statutory definition of 'residence'. Instead, it takes its normal, everyday meaning.

Special treatment applies to people when they first arrive in the UK and when they leave the UK - see 2.4

It is possible to be resident in the UK under our tax rules and at the same time be resident in another country under that country's rules. This is sometimes referred to as 'dual residence'.

If you are resident in the UK and another country, you will need to look at the guidance in part 9 which tells you about **Double Taxation Agreements (DTAs)**. If a DTA exists between the UK and the other country there may be provisions in the agreement to determine where you will pay tax. If you are also resident in another country, you should note that UK and foreign tax years might not be the same.

2.1 UK residence – tax liability

When you are resident in the UK you are normally taxed on the 'arising basis of taxation', meaning you will pay UK tax on:

- your income which arises in the UK, and
- your income which arises outside the UK, and
- gains which accrue on the disposal of your assets anywhere in the world.

But, if you are resident in the UK and you are:

- not domiciled in the UK and/or
- not ordinarily resident in the UK

there are special rules which might apply to your foreign income and gains. These allow you to pay UK tax only on the amount of your foreign income and gains that you, or another relevant person, brings (or 'remits') to the UK. Even if these special rules do apply to you, you will still have to pay UK tax on any of your income and gains which arise/accrue in the UK. This method of dealing with your foreign income and/or gains is called 'the remittance basis'.

More information about the remittance basis can be found in part 5 of this guidance. You can also find information about what we mean by domicile in part 4 and what we mean by ordinary residence in part 3.

2.2 UK residence

Guidance specific to people when they come to or depart from the UK is available in parts 7 and 8.

For information about a UK tax year see 12.26. For what counts as a day see 2.2.1.

There are many different factors which will determine whether you are resident in the UK. With one exception (explained in the next paragraph), it is not simply a question of the number of days you are physically present in the UK during a tax year, although this is an important consideration.

The only occasion when the number of days that you are physically present in the UK will determine your residence status is when you are here for 183 days or more during a tax year. If you are here for 183 days or more in a tax year, you are resident in the UK. **There are no exceptions to this.**

You can also be resident in the UK if you are present here for fewer than 183 days in a tax year. This will depend on how often and how long you are here, the purpose and pattern of your presence and your connections to the UK. These might include the location of your family, your property, your work life and your social connections.

The following are examples, but they are not a complete list. These and any other relevant factors must all be considered together to give a complete picture.

- Family ties include having a spouse, civil partner, children or other family members you are close to, in the UK.
- Social ties include membership of clubs and societies and events that you regularly attend or host. It also includes any regular recreational engagement, such as returning each year for an annual sporting season.
- Business ties include owning or being a director of a business based in the UK, or having employment, including self-employment, in the UK. Regular employment duties in the UK are a tie and you need to consider the extent, frequency and nature of those duties. It does not matter if the duties themselves are not taxed, for example because of a DTA.
- Property ties include a house or apartment that you own or lease, or property held primarily for investment but that also provides you with accommodation when you are in the UK. A house or apartment provided for your use for the duration of your time in the UK as part of an employment package is 'available accommodation' and is a tie to the UK.
- If you think you may just be visiting the UK then part 7 will help you consider the pattern of your visits, but you must also consider the purpose of those visits. For instance, a short term one-off employment assignment to complete a project for a foreign employer might not in itself make you resident. But if you repeatedly come to the UK for regular business meetings then your visits have a non-temporary purpose. You need to look at the frequency of those visits alongside your other ties to the UK.

If the nature and degree of your ties to the UK show that it is usual for you to live in the UK, you are resident in the UK. It does not matter whether you live here for employment, leisure, or just because you like being in the UK.

If you have previously been resident in the UK then to become not resident you must leave the UK, either by making a definite break or by taking up full-time work abroad – see part 8.

2.2.1 Days of presence

When you count the number of days that you have been present in the UK during a tax year you must include all of the days in which you have been in the UK at the end of the day (that is, midnight). It is the number of days counted in this way that is important, not the number of visits you make to the UK. This applies from 6 April 2008.

This is the general practice, but it will not necessarily be appropriate in all cases. If you spend very significant amounts of the year travelling internationally, you should keep a record both of the days you were present in the UK and of those days where you are here at midnight. Both will be factors when looking at the pattern and purpose of your visits.

For **tax years before 6 April 2008**, you would not normally count any days on which you arrived in or departed from the UK.

Days you have spent in the UK because of exceptional circumstances beyond your control may be disregarded. This does not apply if total days in the UK, including those due to exceptional circumstances, are equal to or exceed 183 days. See 8.6 for more information about exceptional circumstances.

2.3 Passengers travelling through the UK

Foreign countries include the Channel Islands and the Isle of Man, see 12.1.

Under the rules which apply from 6 April 2008, if you are a passenger travelling between two foreign countries via the UK, and you arrive in the UK on one day and leave for your next foreign destination on the following day, you will not have to count the day you arrived in the UK. This applies even though you were still in the UK at midnight at the end of that day. Neither will you count the day you leave the UK. But this does not apply if you engage in any activities while in the UK that are not substantially related to completing travel to a foreign destination. So if you attend a business meeting, visit a property you own, arrange to meet people socially or attend social activities, you must count that day as a day of presence if you are in the UK at the end of the day.

Example

You are resident of the Isle of Man and travel to the UK as part of a journey to the USA. You have to stay overnight in the UK before catching a flight to the USA the following day. Your being in the UK for that one night would **not** count as a day of presence in the UK. But, if you were to carry out an activity such as attending a business meeting, visiting the theatre or visiting family before catching the flight to the USA, the exception **would not** apply and the night spent in the UK **would** be counted as a day of presence.

2.4 Residence – Years of arrival in and departure from the UK

You can find information on extra-statutory concessions (ESC) in the following guidance. Extra-statutory concessions and statements of practice **www.hmrc.gov.uk/thelibrary/esc.htm**

More information on what you must consider when you come to or leave the UK can be found in parts 7 and 8 of this guidance.

Strictly, you are taxed as a UK resident for the whole of a tax year when you are resident here for any part of it. But, if you leave or come to the UK part-way through a tax year, the year may, by concession, be split (extra-statutory concession A11). This means that the UK Income Tax you should pay because you are resident here is calculated on the basis of the period you are living here rather than the whole of that tax year. This has the effect of splitting the tax year into resident and not resident periods for the purposes of calculating the tax due.

This split-year treatment will apply to individuals who:

- come to the UK to take up permanent residence or to stay for at least two years, or
- leave the UK to become permanently resident abroad, or
- leave the UK for full-time service under a contract of employment for at least a complete UK tax year and any interim visits to the UK in the period do not amount to 183 days or more in any tax year or an average of 91 days or more in a tax year.

There is a further extra-statutory concession (A78) which also allows split-year treatment if you are accompanying your spouse or civil partner when they leave the UK to work full-time abroad, or in the year of return to the UK.

You can find more information about Capital Gains Tax at **www.hmrc.gov.uk**

Although the rules for capital gains are significantly different from those for income, there is a split-year concession which relates to the chargeable gains of people who come to, or leave, the UK during a tax year (extra-statutory concession D2).

3 Ordinary residence in the UK

3.1 How ordinary residence affects UK tax liability

When you are resident in the UK, whether or not you are 'ordinarily resident' in the UK is generally relevant only if you have **foreign income** during a tax year.

If you are resident but not ordinarily resident in the UK you may claim the remittance basis for your foreign income. But you will always pay income tax on your UK income.

You can find more information about how foreign income is taxed in the UK in part 10.

You can find more information on the remittance basis in part 5.

When you are resident in the UK but not ordinarily resident you cannot use the remittance basis of taxation in respect of your foreign gains unless you are not domiciled here.

The main exceptions to this general position relate to the application of the anti-avoidance legislation on transfers of assets abroad and the statutory provisions dealing with the attribution of income and gains to settlors or beneficiaries of trusts. These are complex matters which are not dealt with in this guidance. If they apply to you, you might wish to obtain professional advice.

Even if you are not resident in the UK, you may be ordinarily resident, and if so, you may be liable to Capital Gains Tax on the disposal of UK and/or foreign assets.

3.2 What does ordinary residence mean?

Ordinary residence is different from 'residence'. The word 'ordinary' indicates that your residence in the UK is typical for you and not casual. It is important not to confuse ordinary residence with domicile (see part 4).

If you have always lived in the UK then you are ordinarily resident here.

When you come to the UK you do not have to intend to remain in the UK permanently or indefinitely in order to be ordinarily resident here. It is enough that your residence has all the following attributes.

- Your presence here has a settled purpose. This might be for only a limited period, but has enough continuity to be properly described as settled. Business, employment and family can all provide a settled purpose, but this list is not exhaustive.
- Your presence in the UK forms part of the regular and habitual mode of your life **for the time being**. This can include temporary absences from the UK. For example if you come to live in the UK for three years or more then you will have established a regular and habitual mode of life here from the start.
- You have come to the UK voluntarily. The fact that you chose to come to the UK at the request of your employer rather than seek another job does not make your presence here involuntary.

The pattern of your presence, both in the UK and overseas, is an important factor when you are deciding if you are ordinarily resident in the UK. You will also need to take into account your reasons for being in, coming to, or leaving the UK and your lifestyle and habits. Parts 7 and 8 will help you with this, as they explain the considerations for those coming to and departing from the UK.

You can be ordinarily resident in the UK and, at the same time, be ordinarily resident in another country.

It is possible to be resident in the UK and be not ordinarily resident here. This means that although you are resident in the UK during a tax year, your residence does not have one or more of the factors that would make you ordinarily resident.

It is also possible (but unusual) to be not resident in the UK but remain ordinarily resident here. If you normally live in the UK you might become not resident solely for one tax year. As you would usually be resident in the UK and this is where you have your normal home, family ties and other social connections, you might still be ordinarily resident here.

Guidance on what you need to consider when arriving in or departing from the UK can be found in parts 7 and 8.

3.3 Examples of ordinary residence

These examples are only illustrative. You will need to consider all the facts in your own case, including the purpose of any previous visits, any emerging patterns and your total and average day counts. It is not possible to cover every eventuality in this guidance and you may like to contact us or take professional advice if your circumstances are not obviously covered in this part of the guidance. If any of the facts in the examples are changed then the status of the individuals might change.

Example 1

Sarah is a British citizen who has lived in the UK most of her life. She has homes in London, California and France and has spent substantial amounts of time at her other homes or travelling on business.

The opportunity arises for Sarah to travel more on business, especially in North America and she therefore spends less time in the UK and more time in her California home. Sarah's partner and their children are based in the UK and the family spends the summer together in France. During the year ended 5 April 2010 Sarah is present in the UK at the end of 43 days, although she typically arrives in the UK in the morning and leaves in the evening so many of the days she is in the UK do not get counted for the 183 day test.

Sarah's 'end of day' counts for the years ended 5 April 2011, 5 April 2012 and 5 April 2013 are 85, 110 and 90 respectively. The average for the four years to 5 April 2013 is just under 82 days.

Although Sarah has been present in the UK at the end of the day for an average of less than three months during the four years under review, she has remained resident and ordinarily resident here. This is because her presence in the UK in all years shows a pattern indicating residence here and that such residence is 'ordinary' for her. There is nothing casual about her residence - Sarah has a home and family in the UK to which she returns whenever she wishes and her business allows. Sarah's residence in the UK continues. Her presence in the UK is an integral part of the regular pattern of her life. The precise amount of time that Sarah spends in the UK does not affect this fundamental point.

Sarah has been and remains resident and ordinarily resident in the UK. It is possible that Sarah is resident in France or the USA for the purposes of French or US federal and state income taxes. This does not affect her residence in the UK. If she is dual resident for any period it might be necessary to decide where Sarah is treaty resident for the purposes of the relevant Double Taxation Agreement.

For further information about double taxation see part 9.

Example 2

Juan is a Spanish citizen and is seconded by his Spanish employer to work on a project in the UK for approximately nine months from early June 2009. Juan's wife and family remain in Spain and he returns there to visit them every two weeks. He takes two weeks holiday in August 2009 which he spends outside the UK and another two weeks at Christmas which he spends in Spain with his family.

When he first arrives in the UK, Juan stays in hotels but he then takes a six-month lease on an apartment here that he extends for two months in early 2010. The project is completed and Juan returns to Spain in mid-March 2010.

Juan has spent more than 183 days in the UK. He is resident for the year ended 5 April 2010 but he is not ordinarily resident.

Juan takes up a new employment in Spain in July 2010. His new employer seconds him to their UK business to resolve a crisis in the business. His wife and family again remain in Spain, but he is not able to visit them very often and they visit him in the UK once a month. Between early September 2010 and 5 April 2011 Juan spends over 183 nights in the UK, either in a company flat or in various hotels. His secondment ends and he returns to Spain at the end of May 2011.

Juan is resident in the UK for the year ended 5 April 2011 but he is not ordinarily resident here. His residence in the UK does not yet have a sufficiently settled purpose; it is still not 'ordinary' for him.

4 Domicile

4.1 How does domicile affect your UK Income Tax and Capital Gains Tax liability?

Your domicile status may also be relevant for Inheritance Tax and you should refer to the booklet *Customer Guide to Inheritance Tax* for more details.

If you require more detailed information on domicile for Income Tax and Capital Gains Tax purposes you should refer to the *Residence, Domicile and Remittance Basis Manual* which can be found at **www.hmrc.gov.uk**

For Income Tax and Capital Gains Tax purposes, whether or not you are domiciled in the UK is generally relevant only if you have foreign income and/or gains during a tax year. If you do not have foreign income and/or gains then your domicile status has no bearing on your UK Income Tax or Capital Gains Tax position and you do not need to consider it. The information in this guidance does not cover Inheritance Tax.

The guidance we provide here will help you, when your affairs are straightforward, to reach a decision on your domicile status. If your affairs are more complex, we direct you to where you can obtain further guidance. We also recommend that you speak to us so we can give you further guidance or that you seek advice from a professional tax adviser.

The fact that you were born in the UK, have lived here for most of your life or are now living here permanently gives a good indication that you might be domiciled in the UK, but this is a complicated, legal issue and you might want to seek professional advice if you are unsure about your domicile status.

If you have foreign income and/or gains then your domicile might have a bearing on what UK tax you pay on those foreign income and/or gains. If you are resident but are not domiciled in the UK, although you will still have to pay UK tax on any income and/or gains which arise or accrue here, you might wish to claim the remittance basis of taxation for your foreign income and/or gains (see part 5).

We are unlikely to challenge any person who says they have a UK domicile. But if you say that you have a non-UK domicile, we might want to enquire whether or not that is correct, particularly if you were born in the UK. By its very nature an enquiry aimed at establishing your domicile will be an in-depth examination of your background, lifestyle and intentions over the course of your lifetime. Any enquiry of this sort will extend to areas of your life, and that of your family, that you might not normally think are relevant to your UK tax affairs. We will need to ask these questions and sometimes ask you to provide us with evidence as part of an enquiry into your domicile status.

4.2 What does domicile mean?

Domicile is a matter of general law; not of tax law. There are many things which affect your domicile. Some of the main points you should consider if you are claiming not to be domiciled in the UK are:

- you cannot be without a domicile
- you can only have one domicile at a time
- you are normally domiciled in the country where you have your permanent home
- your existing domicile will continue until you acquire a new one
- domicile is distinct from nationality and residence, although both can have an impact on your domicile
- the fact that you register and vote as an overseas elector is not normally taken into account when deciding whether or not you are domiciled in the UK.

The UK has three territories for domicile: England and Wales, Scotland; and Northern Ireland.

Any references we make to being 'domiciled in the UK' are references to being domiciled in **any** part of the UK.

4.3 What types of domicile are there?

There are three types of domicile. These are:

- domicile of origin
- domicile of choice
- domicile of dependence.

4.3.1 Domicile of origin

You normally acquire a domicile of origin from your father when you are born (see also 'domicile of dependence'). It need not be the country in which you were born – for example you might have been born in a country which was not the country in which your father was domiciled at the time of your birth. A domicile of origin may change as a result of adoption, but otherwise is not easy to displace, although it can occur. If you leave the country of your domicile of origin, you will continue to be domiciled there until you acquire a domicile of choice elsewhere (see 4.3.2).

The fact that you were born in the UK does not automatically mean that you are domiciled here. You might have been born in the UK to a non-UK domiciled father and then moved to another non-UK country. Regardless of the fact that you were born in the UK, your domicile of origin would be the same as your father – non-UK. If you return to the UK and are not planning to remain here permanently or indefinitely, then you will continue to be domiciled outside the UK.

If your parents were not married at the time of your birth, you would acquire your domicile of origin from your mother.

Example – domicile of origin

If you were born in the UK and your father was a non-UK domiciled soldier of a foreign nation serving in the UK, your domicile of origin would be the same as your father - non-UK and in the place your father was domiciled.

If your non-UK domiciled father dies when you are a child, and you are adopted by a UK domiciled father, your domicile of origin will change to a UK domicile as a result of your adoption. Your original domicile of origin has been changed.

4.3.2 Domicile of choice

You have a legal capacity to acquire a new domicile at the age of 16 (earlier in Scotland). Broadly, to acquire a domicile of choice, you must leave your current country of domicile and settle in another country. Or, if you are already living in a country other than that of your domicile, you will acquire a domicile of choice there if you intend to remain permanently or indefinitely. In either case you need to provide strong evidence that you intend to live there permanently or indefinitely. The following factors will be relevant, though this list is not exhaustive:

- your intentions
- your permanent residence
- your business interests
- your social and family interests
- your ownership of property
- the form of any Will you have made.

Example – domicile of choice when not living in the country of your domicile of origin

If you were born in the UK and your father was a non-UK domiciled person working in the UK while you were a child your domicile of origin would be the same as the non-UK domicile of your father.

You were brought up, educated and start work in the UK. When you are 21 your father retires from his job and decides to return to his country of domicile. You have since bought a home and married and you have made the UK your permanent home which you do not intend to leave. You will not be joining your father abroad for anything other than an occasional visit. By deciding to stay in the UK permanently or indefinitely you have established a domicile of choice in the UK.

4.3.3 Domicile of dependence

Until you have the legal capacity to change it, your domicile will follow that of the person on whom you are legally dependent. If the domicile of that person changes, you will automatically acquire the same domicile, and your domicile of origin will become dormant. Before 1974, a married woman automatically acquired her husband's domicile. As a married woman, who married before 1974, you would retain your husband's domicile until you legally acquire a new domicile. But, if you are a woman who married on or after 1 January 1974, your domicile is not necessarily the same as your husband's. Your domicile will be decided in the same way as any other individual who is able to have an independent domicile.

An exception to the general position up to 31 December 1973 is given by the Double Taxation Agreement between the UK and the USA, which provides that a marriage before 1974 between a woman who is a US national and a man domiciled within the UK is deemed to have taken place on 1 January 1974.

Example – domicile of dependence

You are a woman with a domicile of origin outside the UK who married a man domiciled within the UK in January 1970. Upon marriage you became UK domiciled - your 'domicile of dependence' being the same as your husband's domicile.

As from 1 January 1974 you can acquire an independent domicile of choice, which could be different from your husband's domicile by settling elsewhere.

4.4 Domicile flowcharts

The following flowcharts have been included to help you understand domicile.

Notes to domicile flowcharts

1 Domicile is a general law concept. It is not defined in tax law. It can be a complex subject, so the charts can give you no more than a likely indication of your domicile. In the UK, only a court may make a formal ruling on your domicile.

2 Your domicile status depends on the facts of your individual case. It is therefore not possible to set out in this guide something that will provide a definitive answer in all circumstances. But the following flowchart gives as strong an indication as possible, based on various generic factors. The chart will give the right answer for the majority of people, but it may not for you if your affairs are more complicated.

3 Your domicile may be dependent on someone else's domicile (usually your father). But defining domicile status based on domicile as a starting point might not seem helpful. So, the chart provides a sequence of questions without reference to domicile itself.

4 If, using the chart, you arrive at the conclusion that you are 'domiciled in the UK' or 'probably domiciled in the UK' you may simply accept that conclusion. If you do, you should not tick the 'non-domiciled' box on the SA 109. You will then be taxed on the arising basis. Conversely, if the chart leads you to the conclusion that you are 'domiciled abroad' or 'probably domiciled abroad', you may feel that this confirms your own view. Or, you may consider consulting more detailed guidance or a tax adviser. Either way, you are still responsible for ensuring that any declarations you make are correct.

5 If your parents were not married at the time of your birth, references to 'father' should be read as 'mother'.

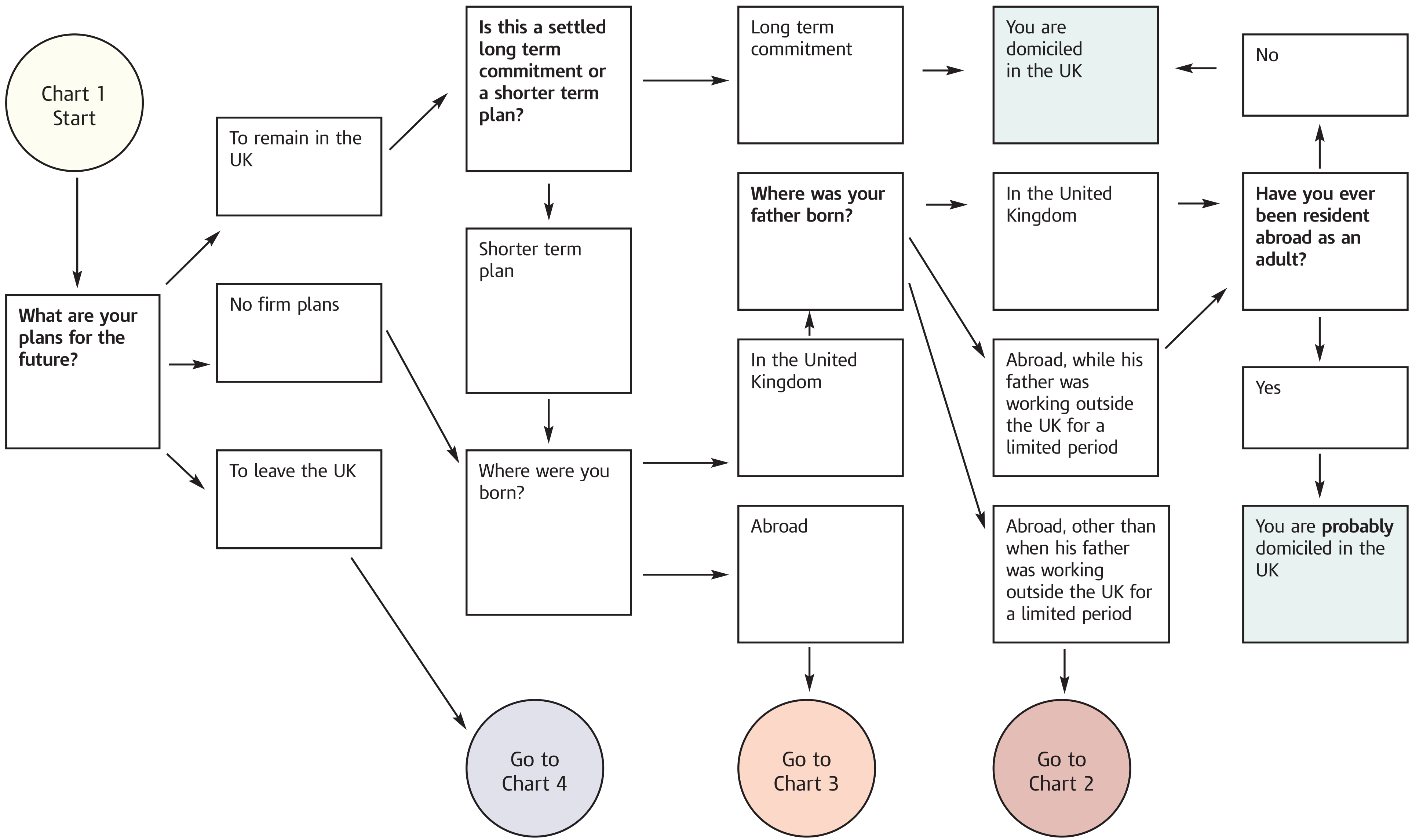
6 If you were adopted, 'father' should be read as 'adopted father'.

7 If your father's domicile changed when you were a child, you should not use the chart, as the apparent conclusion could be misleading.

8 Your domicile relates to a particular territory. In most cases, this will be a country, but in federal countries it relates to the individual state. The UK is not a federal system, but it has three territories for domicile: England and Wales; Scotland; and Northern Ireland.

These tables are indicative only. You should not rely on them alone if you are making a legal declaration about your domicile.

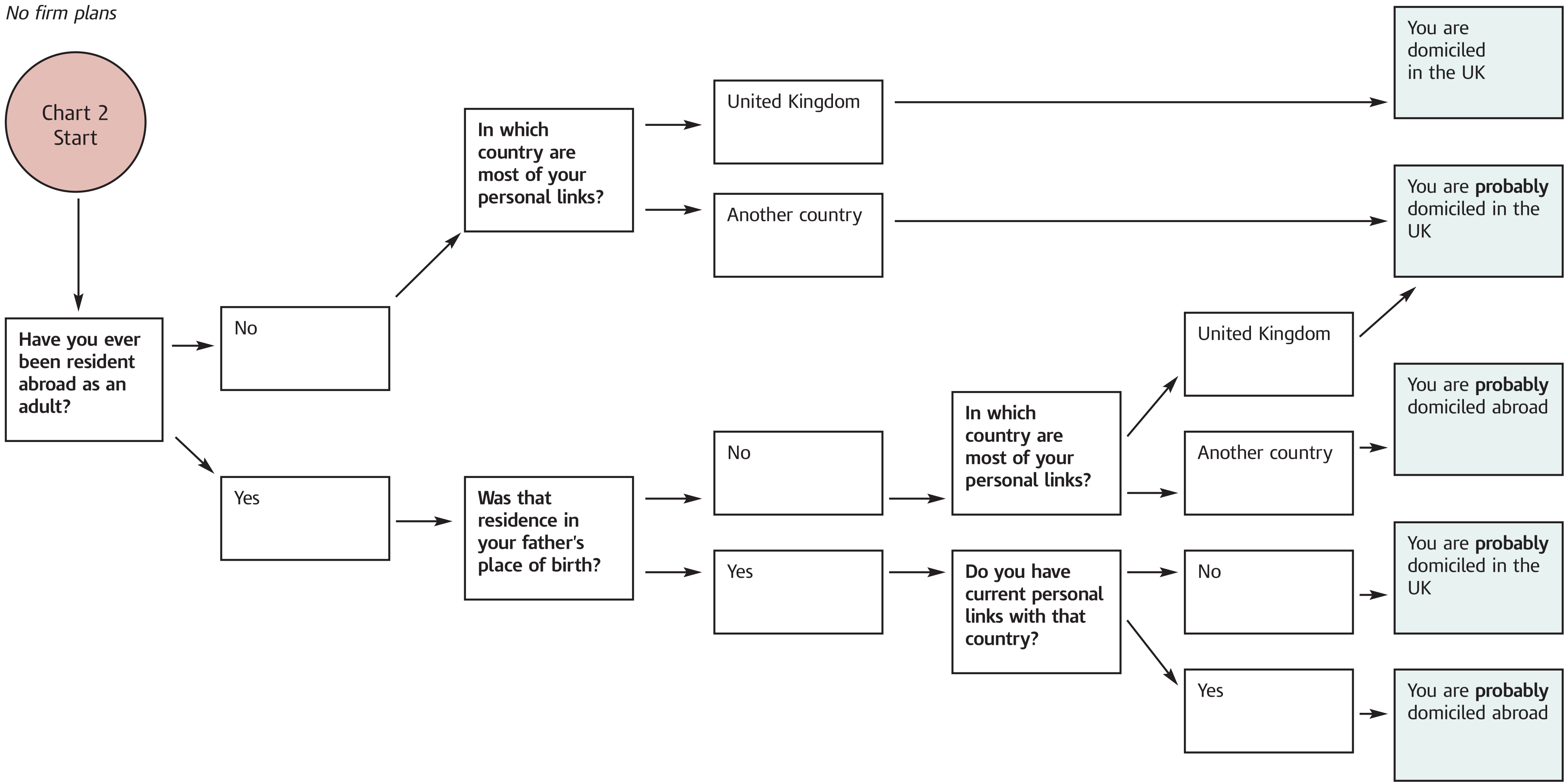
Where is my domicile?



These tables are indicative only. You should not rely on them alone if you are making a legal declaration about your domicile.

These tables are indicative only. You should not rely on them alone if you are making a legal declaration about your domicile.

Where is my domicile?
Born in the United Kingdom
Father born abroad
No firm plans



These tables are indicative only. You should not rely on them alone if you are making a legal declaration about your domicile.

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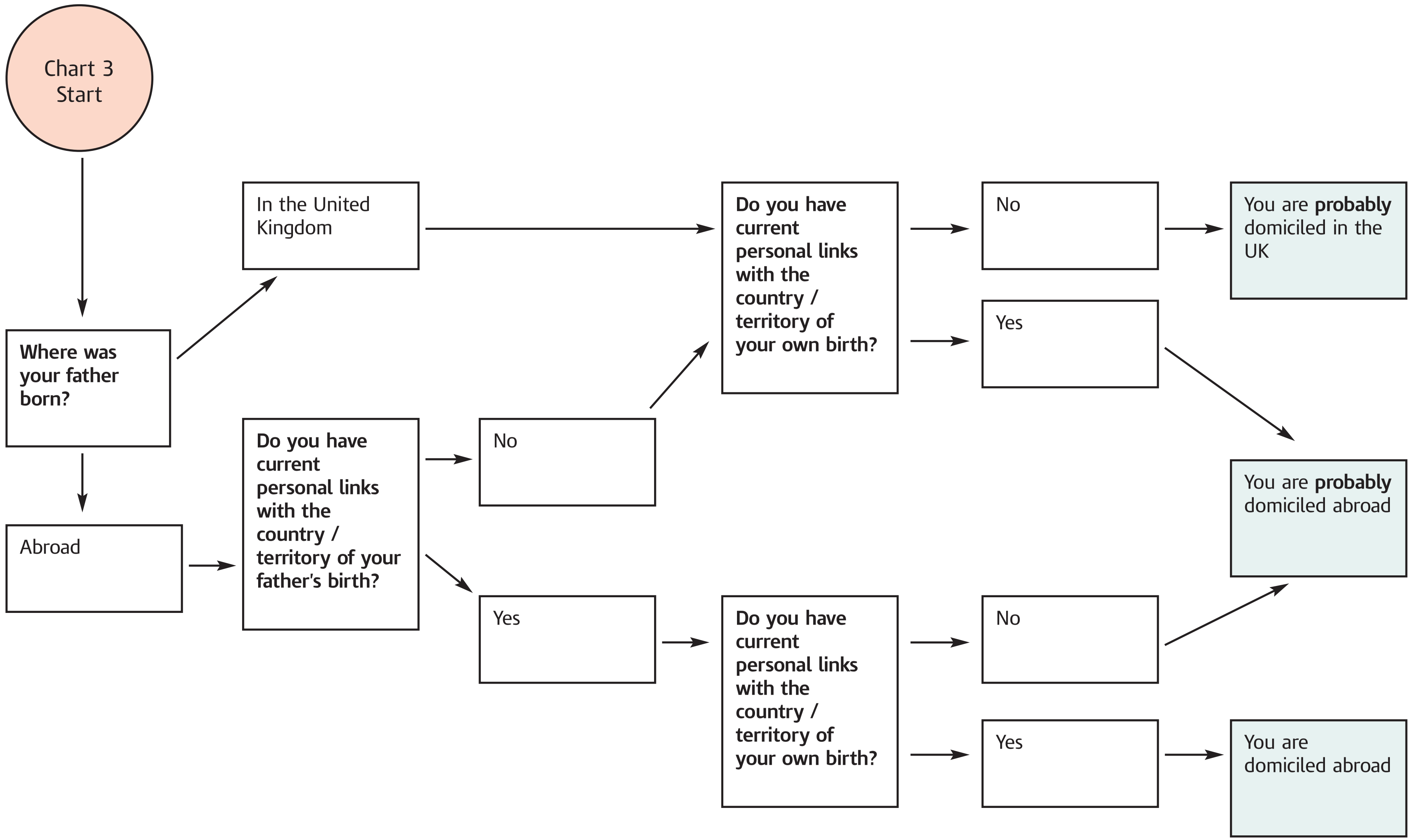
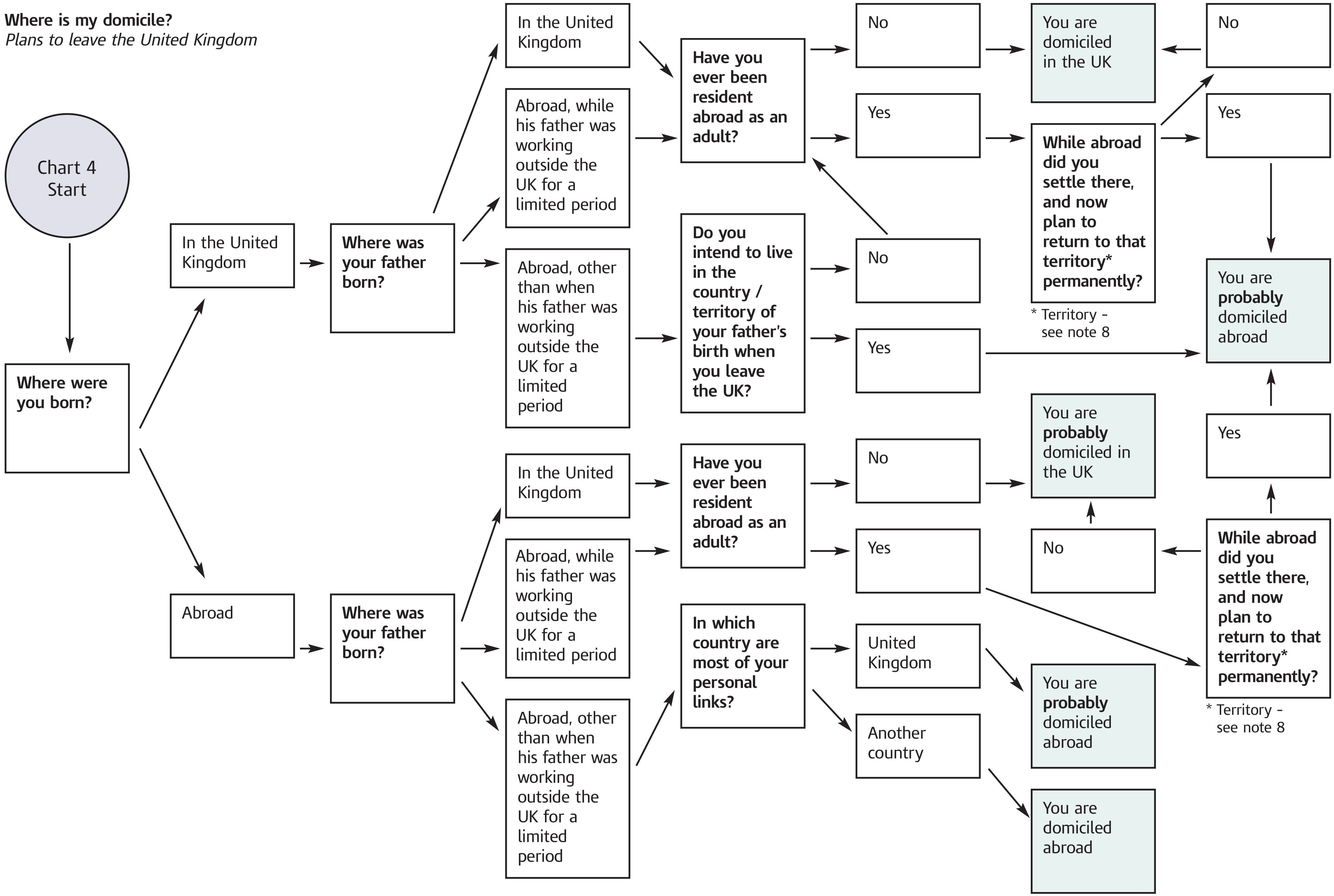
Where is my domicile?
Born abroad
No firm plans



These tables are indicative only. You should not rely on them alone if you are making a legal declaration about your domicile.

These tables are indicative only. You should not rely on them alone if you are making a legal declaration about your domicile.

Where is my domicile?
Plans to leave the United Kingdom



These tables are indicative only. You should not rely on them alone if you are making a legal declaration about your domicile.

Examples relating to the domicile flowcharts

The flowcharts present a simplified process that should both give you an indication of your domicile and the degree of likelihood that you need to seek further guidance. They are designed to assist the majority of users but cannot cover all possibilities that might exist. You need to exercise caution in using the flowcharts and to take account of the relevant facts as illustrated by the examples below.

You cannot assume that, because you or your father was born outside the UK, you are not domiciled in the UK.

Stefan is typical of the majority of individuals who come to live and work in the UK without intending to remain here indefinitely. He will be here for a few years and will then return to his homeland. Workers in other business sectors will be internationally mobile and will not come to the UK from their homelands or return to them upon leaving the UK. But, the flowcharts will, in the majority of cases, give such individuals the guidance they need. Colin, Louise and Alun have more complicated personal histories and circumstances and they are likely to need to look at detailed guidance or consult a professional adviser.

Stefan is an electrician who was born in Poland and who intends to return there in three or four years. His family background is Polish and his immediate family live in Poland.

Colin is an investment banker who was born in New York and who intends to retire to France at the age of sixty, just over five years from now. He has lived in London for much of his life, although he has spent several periods living abroad because of his employment.

Both Stefan and Colin consider flowchart 1 and conclude that they should go to flowchart 4.

Both were born abroad and so each has to consider his father's place of birth. Stefan's father was born in Poland because Stefan's grandfather lived his entire life in Poland, just as several generations of his family had done. Colin's father was born in Ireland, into a wealthy family the members of which divided their time between Ireland and England.

Stefan believes that most of his personal links are with Poland and concludes that he is domiciled outside the UK. This is an uncontroversial conclusion.

Colin has personal links with England, Ireland, France and New York. He thinks that, on balance, most of his personal links are with England but reaches the conclusion that he is probably domiciled abroad. But, Colin should bear in mind that this is only an indication of his domicile and he might therefore wish to consider the issue in more detail, particularly in view of his lifelong links with England. This might include consulting more detailed guidance or seeking the views of a professional adviser.

Louise is a musician who is living in the UK without any firm plans about her future. Louise was born in Scotland but her father was born in Sweden. Louise's grandfather was Swedish, as were Louise's ancestors as far back as she can trace them. Louise's father was an international business executive and so the family lived in various countries during her childhood, of which the UK was one. Louise has lived in several countries as an adult, although not yet in Sweden. Louise is an only child. Her parents are both dead and she has only one surviving aunt. Louise rarely visits her small extended family in Sweden. Louise's background, profession and lifestyle mean that she has always tended to develop links with the place in which she is living for the time being. Louise concludes that she is probably domiciled in the UK, on the basis of flowchart 2. As this is only a probability, and given the possibility that neither she nor her father has ever settled anywhere outside Sweden, Louise might wish to consult more detailed guidance or seek the opinion of a professional adviser.

Alun was born in New South Wales. At present he intends to remain in England for at least another two years and goes from flowchart 1 to flowchart 3. Alun's father was Greek but Alun has retained very few links with Greece; he visits his extended family once every two or three years. Alun's two sisters have lived in Western Australia for many years. After Alun's father's death, Alun's mother went to live with his elder sister. Alun owns property in Western Australia and has an interest in a business there. The family has very little remaining connection with New South Wales, although Alun is in touch with a couple of friends from his childhood who live there. Alun finds it difficult to reach a conclusion about his domicile, as he has links with Australia but not specifically with New South Wales. Alun consults more detailed guidance and realises that his current intentions should not be considered in isolation. His residence in the UK for over three decades and his intentions during that period have to be taken into account. Alun concludes that he is domiciled in the UK, which is the conclusion to which flowchart 1 would have led him if he had considered his long-term commitment to the UK from the outset. This conclusion is reinforced by Alun's relative lack of links with the territory of his birth.

John was born in the UK and has lived here all his life apart from a year spent travelling around Europe and annual holidays spent abroad. His father was also born in the UK. John plans to retire to France and has already purchased a house there which he, and his entire family visit whenever they can. While John has clear and firm plans to move to France he is currently domiciled in the UK and flowchart 4 leads him to that answer.

5 The remittance basis

5.1 What is the remittance basis?

An explanation of the arising basis can be found at 12.3.

If you require more detailed information on the operation of the remittance basis and how the remittance basis worked before 5 April 2008 you should refer to the *Residence, Domicile and Remittances Manual* at **www.hmrc.gov.uk**

If you are **resident** in the UK you will normally be taxed on the arising basis. This means that you are liable to pay UK tax on your worldwide income and gains, wherever those arise or accrue.

The remittance basis is an alternative tax treatment available to people who are resident in the UK **and** who are either:

- not domiciled in the UK, or
- not ordinarily resident in the UK.

The remittance basis is relevant only if you have foreign income and/or gains. **If you do not have foreign income and/or gains then the remittance basis is not relevant to you.**

The guidance given on the remittance basis in this chapter describes how the remittance basis operates from 6 April 2008. It provides an overview of the remittance basis to help you if you have straightforward tax affairs. If your tax affairs are more complex, you should refer to our more detailed guidance on the remittance basis or seek advice from a professional tax adviser.

5.1.1 What about small amounts of foreign income?

If you are employed in the UK but are not domiciled here and you only have small amounts of foreign income, you can benefit from an exemption. If you meet all of the following criteria for a tax year you will be automatically taxed on the arising basis for that year and you will not need to complete the Self Assessment tax return in respect of your foreign income for that tax year.

In these circumstances you will not be liable to UK tax on your foreign income, either when it arises or when it is brought to the UK.

The criteria are:

- you are resident in the UK
- you are not domiciled in the UK
- you are employed in the UK
- you are a basic rate taxpayer (based on your worldwide income and gains)
- your income from overseas employment for the tax year is less than £10,000
- if you have overseas bank interest for the tax year it is less than £100
- all your overseas employment income and interest is subject to foreign tax
- you have no other overseas income or gains
- you are not otherwise required to complete the Self Assessment tax return (see 5.5.1).

But if your circumstances are such that you would prefer to be taxed on the remittance basis, you will need to complete a Self Assessment tax return.

5.2 How does the remittance basis work?

The remittance basis will affect your liability to UK tax on your **foreign income and/or gains.**

When you are eligible and choose to use the remittance basis, you will be liable to UK tax on **all** of your UK income and gains as they arise or accrue each year but you will only be liable to UK tax on your foreign income and/or gains if and when you bring them (remit them) to the UK (see 5.9 for an introduction to what constitutes a remittance).

See 5.5.1 and 5.7 for details of what happens if you claim the remittance basis and pay the Remittance Basis Charge.

Even if you are eligible to use it, you do not have to use the remittance basis. You can use the arising basis and pay UK tax on your worldwide income and/or gains. The decision is yours to make and will depend on your own personal circumstances as using the remittance basis might mean you pay more tax. Some things you might wish to consider in reaching your decision will include:

- how much of your foreign income and/or gains you leave outside the UK (unremitted foreign income and/or gains)
- how long you have been resident in the UK
- whether or not you will be able to claim Double Taxation Relief.

More information about Double Taxation Relief is available in part 9 of this guidance.

The answer to these questions will help you determine whether or not you have to make a claim to use the remittance basis by completing a Self Assessment tax return – see 5.6, what UK tax allowances and reliefs from Income Tax you are entitled to receive – see 5.5 and 6.5, whether you are entitled to the Annual Exempt Amount for Capital Gains Tax – see 12.4 and whether or not you might have to pay the Remittance Basis Charge (RBC) – see 5.7. If you decide to use the arising basis you will need to make a Self Assessment tax return giving information about your foreign income and/or gains.

5.3 Who can use the remittance basis?

More information on:
- residence in the UK - see part 2
- ordinary residence - see part 3
- domicile - see part 4
- foreign income/gains - see part 10.

To use the remittance basis you must have foreign income and/or gains during the tax year and be resident in the UK, and either:

- **not domiciled** in the UK (when you can use the remittance basis in respect of both foreign income and/or gains), or
- **not ordinarily resident** in the UK (when you can use the remittance basis in respect of foreign income, but cannot use it in respect of foreign gains unless you are also not domiciled in the UK).

If you have used the remittance basis in earlier years and you bring any of those earlier years' foreign income and/or gains to the UK at a later date, you may still be liable to UK tax upon this remittance.

5.4 What UK tax will you have to pay on the remittance basis?

This table allows you to compare liability to UK tax on both the arising and remittance bases, and provides an overview depending on individual circumstances. More detailed information about the taxation of employment income, including foreign employment income, can be found in part 10, particularly at 10.10.1.

RB is remittance basis and **AB** is arising basis.

	UK resident and domiciled	UK resident but not domiciled
UK ordinarily resident	Not eligible to the **RB**. All UK and foreign income and gains are liable to UK tax on the **AB**.	Eligible to use **RB**. If **RB** used all UK income and gains are liable to UK tax on the **AB**. Foreign income and gains are liable to UK tax on the **RB**.
UK not ordinarily resident	Eligible to use the **RB**. If **RB** used all UK income and gains are liable to UK tax on the **AB**. Foreign gains are liable to UK tax on the **AB**. Foreign income is liable to UK tax on the **RB**.	Eligible to use the **RB**. If **RB** used all UK income and gains are liable to UK tax on the **AB**. Foreign income and gains are liable to UK tax on the **RB**.

5.5 What happens when you choose to use the remittance basis?

If you are employed in the UK, have only small amounts of foreign income and meet the rest of the criteria listed at 5.1.1, then you might prefer to be taxed on the arising basis.

What you have to do when you want to use the remittance basis will depend on how much unremitted foreign income and/or gains you actually have during the tax year.

5.5.1 Less than £2,000 unremitted foreign income and/or gains arising or accruing in the tax year

Unremitted foreign income and/or gains are your foreign income and/or gains which you leave outside the UK - see 12.28.

Details of exchange rates can be found at **www.hmrc.gov.uk**

If your unremitted foreign income and/or gains arising or accruing in the tax year are less than £2,000 you can use the remittance basis without having to make a claim or complete a Self Assessment tax return (see 5.6).

If this is the case then you:

- will be automatically taxed on the remittance basis (unless the rules at 5.1.1 apply instead)
- will not lose your entitlement to UK personal tax allowances or to the Annual Exempt Amount for Capital Gains Tax
- will **not** have to pay the Remittance Basis Charge.

If you do not meet the criteria in 5.1.1, but you have less than £2,000 unremitted foreign income and/or gains which you choose to be taxed on the arising basis, then you will need to tell us in writing.

You will also need to complete a Self Assessment tax return to declare your foreign income and/or gains on the arising basis.

In certain circumstances you might still have to complete a UK Self Assessment tax return to tell us about your UK income and gains and about any foreign income and/or gains which you have remitted to the UK during the tax year. See the Self Assessment guidance on our website if you think this may apply.

To work out whether your unremitted foreign income in a tax year is below £2,000, you should deduct the total foreign income you have remitted during the tax year from the total foreign income received, for each currency, during the tax year. The balance left is your unremitted foreign income. This should then be converted into **pounds sterling** at the rate of exchange prevailing on the last day of the tax year to calculate whether your unremitted foreign income is below the £2,000 limit.

This applies only for the purposes of deciding whether unremitted foreign income is below the £2,000 limit.

Foreign gains are always calculated in **pounds sterling** using the rates of exchange prevailing at the time when the gain is calculated and when allowable expenditure was incurred.

Example

If you had £5,500 foreign income and/or gains in the tax year and you remitted £4,000 to the UK, your unremitted foreign income and/or gains in the tax year would be £1,500.

5.5.2 £2,000 or more unremitted foreign income and/or gains in the tax year

More detailed information is available in the *Residence, Domicile and Remittances Manual* at **www.hmrc.gov.uk**

We revised our guidance on the calculation of unremitted foreign income under £2,000 from August 2009.

If desired, the treatment previously advised can be applied for 2008-09 only. See chapter 1 of the *Residence, Domicile and Remittances Manual* for more information about exchange rates.

Details of exchange rates can be found at **www.hmrc.gov.uk**

If your unremitted foreign income and/or gains arising or accruing in a tax year are £2,000 or more, you will have to make a claim if you want the remittance basis to apply to you otherwise you will be liable to UK tax on the arising basis.

If you do claim the remittance basis then, in most cases, in any tax year you claim, you will lose your entitlement to UK personal allowances and reliefs for Income Tax and to the Annual Exempt Amount for Capital Gains Tax. But you might not lose your entitlement to UK personal tax allowances and reliefs, if you are 'dual resident' – that is resident in the UK and also resident in certain other countries – see 6.5.

Depending on how long you have been resident in the UK, you might also have to pay the £30,000 RBC.

In some cases you may find that the loss of your personal allowances and Annual Exempt Amount and payment of the RBC where appropriate, would outweigh any savings in tax on your unremitted income or gains so you may prefer to be taxed on the arising basis. That decision is yours and we cannot give you advice on what you should do. You might want to consider seeking advice from a professional tax adviser.

Example

If you had £80,000 foreign income and/or gains in the tax year and you remitted £70,000 to the UK, your unremitted foreign income and/or gains for the tax year would be £10,000.

5.6 How to make a claim for the remittance basis

If you do not currently receive a Self Assessment tax return and want to claim the remittance basis you will need to ask us for a return and for any supplementary pages you require.

You should ask any tax office or any HMRC helpline to issue the forms to you. Details of the helplines can be found in *The Phone Book* or at **www.hmrc.gov.uk**

If you decide to make a claim to be taxed on the remittance basis you must complete a Self Assessment tax return, including the SA109 *Residence and remittance basis etc. supplementary pages*. If you are not domiciled in the UK and are using the remittance basis in respect of foreign gains, you might also require the SA108 *Capital Gains supplementary pages*.

The residence supplementary pages of the Self Assessment tax return contain questions covering the status conditions for making a claim for the remittance basis and allows you to make a declaration which covers:

- residence status
- ordinary residence status
- domicile status
- making your claim for the remittance basis
- cases where the individual is under 18 years of age at 5 April
- nominations of foreign income and/or gains which are required for your claim to the remittance basis to be valid.

If you are using the remittance basis but have less than £2,000 unremitted foreign income and/or capital gains you will need to complete these pages if you are a Self Assessment taxpayer for any other reason.

Overseas losses election

As losses on overseas assets are relevant to chargeable gains, any claim to offset losses is made on the SA108 *Capital Gains supplementary pages* of a Self Assessment tax return. You can make the election in the white space provided on the form.

If you are not domiciled in the UK and wish to offset any overseas losses (from the disposal of overseas assets) against your chargeable gains you **must** make an election in order to do so. Once an election has been made foreign losses may be set against UK gains as well as against foreign gains, subject to special ordering rules.

You can only do this if you are resident but not domiciled in the UK and the election must be made **for the first year for which you claim the remittance basis** from 2008–09 onwards, whether or not you have chargeable gains or overseas losses in that year.

Once made, the election cannot be revoked. If you choose not to make an election your foreign losses for the year and for all future years (in which you remain not domiciled in the UK) will not be allowable losses.

You can find the *Capital Gains Tax Manual* at **www.hmrc.gov.uk**

For more information on foreign losses see the HMRC *Capital Gains Tax Manual*. Or you should consult a professional adviser.

Exceptions to making a Self Assessment tax return claim for the remittance basis

Normally if you want to claim the remittance basis, you have to complete a Self Assessment tax return. There are two exceptions to this which you will need to consider. These are:

- when your unremitted foreign income and/or gains are less than £2,000 – see 5.5.1
- when you have been resident in the UK for fewer than seven of the previous nine tax years or are aged under 18 and you:
  - have no foreign income or gains and no UK income or gains in the tax year (except taxed UK investment income of less than £100), and
  - make no taxable remittances of foreign income and/or gains in the tax year.

If either of these cases applies, you will not lose your entitlement to UK personal allowances, reliefs to Income Tax or to the Annual Exempt Amount for capital gains. You might have to complete a Self Assessment tax return for a purpose other than claiming the remittance basis. You must complete any return you receive from us.

5.7 The Remittance Basis Charge (RBC)

If you decide to claim the remittance basis and have been a 'long term' resident in the UK, you may have to pay the RBC.

The RBC is an annual tax charge of £30,000. It is tax on a part of the foreign income and/or gains which you leave outside the UK and is payable in addition to any UK tax that you have to pay on either UK income and/or gains or foreign income and/or gains remitted to the UK.

You must pay the RBC if, in a tax year, you have £2,000 or more from overseas income and/or gains arising or accruing which you have not remitted to the UK and:

- you make a claim to use the remittance basis
- you are aged 18 or over at the end of the tax year
- you are a 'long term' resident of the UK.

The rules on the RBC are complicated and if you think you need to pay the RBC you should see the *Residence, Domicile and Remittances Manual* or consult a professional adviser.

This example will help you see when the RBC is due.

Martha is 42 years old and resident in the UK in 2008-09. Her unremitted foreign income and/or gains for that year are £250,000. Martha's residence status for the preceding years was as follows:

1999-2000	-	Not UK resident
2000-01	-	Not UK resident
2001-02	-	UK resident
2002-03	-	UK resident
2003-04	-	UK resident
2004-05	-	UK resident
2005-06	-	UK resident
2006-07	-	UK resident
2007-08	-	UK resident

So, in addition to being resident in 2008-09 when she considers making a claim for the remittance basis, Martha has been resident in the UK for seven of the preceding nine tax years. She will have to pay the RBC if she decides to claim the remittance basis in 2008-09.

You are a 'long term' resident in the UK if you have been resident here in 7 or more of the previous 9 UK tax years.

When you count the number of years you have been resident in the UK for this purpose, you must include all tax years even those before 6 April 2008 and those when you were under 18 years old.

You must also include any years in which you were resident in the UK and entitled to 'split-year treatment' for either Income Tax or Capital Gains Tax purposes and any years in which you were resident but 'treaty non-resident'.

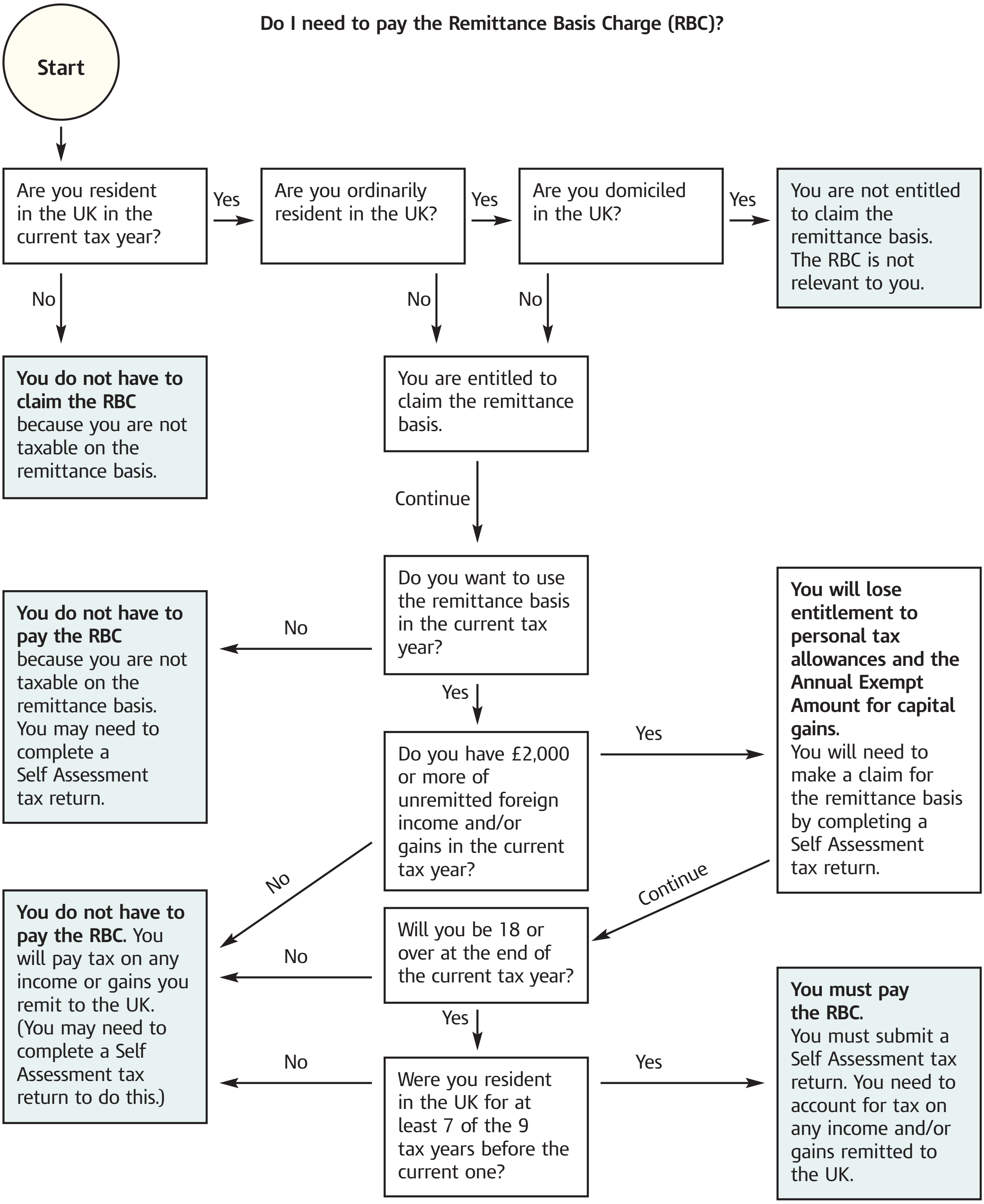
To find out more on this subject - see *Residence, Domicile and Remittances Manual*.

Nominations of foreign income and/or gains when paying the RBC can be complex. The notes to help you complete your Self Assessment tax return will help you.

More detailed information on nominating foreign income and/or gains is available in the *Residence, Domicile and Remittances Manual* at **www.hmrc.gov.uk**

The RBC will be due if it is appropriate to your circumstances as declared on a Self Assessment tax return when you claim the remittance basis. The charge will be Income Tax, Capital Gains Tax or a combination of the two. As part of your claim for the remittance basis you will be asked to nominate how much of your foreign income and/or how much of your foreign gains the £30,000 tax charge is in respect of.

Do I need to pay the Remittance Basis Charge (RBC)?



Note: The flowchart is a broad guide to help you decide if you need to pay the Remittance Basis Charge. You have a choice each year whether to claim the remittance basis. If, in a particular year, it would be more beneficial for you to pay tax on your worldwide income and gains than to pay the RBC, you may choose not to claim the remittance basis.

5.8 Paying the RBC

If you pay the RBC using untaxed foreign income and/or gains from outside the UK, the payment might be regarded as a remittance and charged to UK tax. To avoid this happening, if you do pay the RBC from outside the UK, the payment should be made direct to HMRC and paid by:

- a cheque (drawn on a foreign bank account), or
- an electronic transfer of funds.

You might need to demonstrate that the payment was made direct to HMRC and you should keep sufficient records to support this, such as a copy of the cheque drawn on the foreign bank account.

If the RBC is later repaid to you by HMRC, it will be regarded as a remittance when the repayment is made and will be subject to UK tax at that point.

5.9 What is a remittance?

More detailed information on what constitutes a remittance and the meaning of 'remittance' are available in the *Residence, Domicile and Remittances Manual* at **www.hmrc.gov.uk**

A remittance is any money or other property which is, or which derives from, your offshore income and gains which are brought, either directly or indirectly, into the UK for your benefit or for the benefit of any other relevant person.

A relevant person includes:

- your spouse or civil partner
- a cohabitee, that is a person with whom you live as a spouse or civil partner
- your minor children or minor grandchildren who are under 18 years of age
- your spouse's or civil partner's or cohabitee's minor children or minor grandchildren who are under 18 years of age
- trustees when you are, or another relevant person is, a beneficiary of the trust
- close companies when you are, or another relevant person is a participant in the close company – for example as shareholders
- a company which is a 51% subsidiary of a close company in which you are, or another relevant person is, a participant. (This applies from 22 April 2009.)

There is also a remittance when a service provided in the UK to you or any other relevant person is paid for outside the UK with your foreign income and/or gains.

Money or property does not have to be physically imported from overseas for a remittance to occur. It might be received in the UK from another UK resident, in return for money or assets representing income and/or gains being transferred to him or her overseas. The precise method of 'remittance' makes no difference. A remittance may be made via a commercially recognised form of money such as cash, notes, cheques, promissory notes, bills of exchange or financial credit.

There are also rules relating to debts which are brought into the UK or are used to provide goods and services in the UK and rules relating to gifts of foreign income and/or gains later remitted to the UK by the recipient when you, or another relevant person, benefit.

Exemptions

More detailed information on these exemptions is available in the *Residence, Domicile and Remittances Manual* at **www.hmrc.gov.uk**

In certain circumstances, some services which are paid for, or property which was purchased out of your relevant foreign income, foreign employment income or foreign chargeable gains can be brought to the UK without being chargeable to UK tax.

These exemptions include:

- Certain items of clothing, footwear, jewellery that are brought to the UK for your personal use. If you sell the items in the UK they will no longer qualify for the exemption and will be a remittance.
- Works of art and similar items which you bring to the UK for public display or repair. Also any such items that are only in the UK temporarily.
- Certain items with a notional value of less than £1,000.

5.10 Mixed funds

More detailed information on mixed funds can be found in the *Residence, Domicile and Remittances Manual* at **www.hmrc.gov.uk**

A mixed fund is an overseas fund of money and/or other property which contains, or consists of:

- more than one type of income or gains, or
- income or gains from more than one tax year.

A typical example is a bank account into which different types of income, such as bank interest, dividends and earnings, or gains are paid. Another example of a mixed fund is an asset which has been purchased using a mixture of income and capital monies.

You do **not** have a mixed fund if you have a separate account for each different form of income from each tax year.

If you use the remittance basis and you make a remittance from a mixed fund, there are strict rules that must be applied to decide the order in which amounts of income and chargeable gains within the mixed fund are remitted to the UK.

The order in which remittances from a mixed fund will be regarded as remitted is:

1 employment income (other than overseas employment income)
2 foreign income which has not been taxed in another country
3 foreign chargeable gains which have not been taxed in another country
4 foreign income which has been taxed in another country
5 foreign chargeable gains which have been taxed in another country.

The ordering starts with income and gains and capital from the latest year first, and then from each previous year in turn.

This is a complex area and is mentioned here for your information. If you have remitted money from a mixed fund, you should either refer to the *Residence, Domicile and Remittances Manual* for further guidance or speak to a professional tax adviser.

Note: In certain specified circumstances, employees who are **resident but not ordinarily resident** in the UK and who perform the duties of an office or employment both inside and outside the UK do not have to apply the mixed fund rule in respect of transfers from a particular account. If you think that this applies to you, you will need to read Statement of Practice SP1/09 *Employees resident but not ordinarily resident in the UK* which is available at **www.hmrc.gov.uk**

5.11 Temporary non-residents and the remittance basis

If you have been resident in the UK, go to live abroad and then return to the UK at a later date which is less than five full tax years since your date of departure from the UK, you will have been temporarily non-resident in the UK. It is possible that any 'relevant foreign income' which you brought to the UK during the time you were not resident in the UK, will be chargeable to UK tax in the year you become resident again in the UK.

This rule will apply if you were resident in the UK for at least four of the last seven tax years before you left the UK.

'Relevant Foreign Income' (RFI) is any foreign income which arises from a source outside the UK and is not from your employment. It includes:

- dividends from foreign companies
- profits of a property business (rental income)
- the profits of a trade, profession or vocation which is carried out wholly outside the UK
- pensions and annuities
- interest
- royalties.

Example

You return to the UK during the tax year 2011-12 after a period of residence abroad.

You originally left the UK to become resident abroad on 2 September 2006 and so your 'year of departure' was 2006-07. You had been resident in the UK for the seven years before your departure and claimed the remittance basis in those years.

While you were resident abroad you remitted to the UK the following relevant foreign income:

• £15,000 RFI from 2003-04	RB claimed	remitted in 2008-09
• £18,000 RFI from 2004-05	RB claimed	remitted in 2008-09
• £18,000 RFI from 2005-06	RB claimed	remitted in 2009-10
• £20,000 RFI from 2006-07	RB claimed	remitted in 2010-11

Total £71,000

As you were not resident in the UK, this income was not taxed when remitted here.

On your return to the UK in 2011-12, you will have been temporarily non-resident because there have been fewer than five full tax years between your year of departure and your year of return to the UK. You will be liable to UK tax on these earlier remittances when you were temporarily non-resident. They will be chargeable to UK tax in the tax year of your return (2011-12).

Note: If the year of return had been 2012-13 the temporary non-resident provisions would not apply.

6 UK personal tax allowances

6.1 What are UK tax allowances?

You can find details of current and previous years' tax allowances and rates of tax at **www.hmrc.gov.uk** or by contacting the HMRC helpline whose number you will find in *The Phone Book*.

To find out what is a UK tax year - see 12.26.

If you are taxed on the remittance basis and have less than £2,000 in unremitted foreign income and/or gains, you can still claim personal allowances.

Almost all people who are resident in the UK are entitled to an Income Tax Personal Allowance. This is the amount of income you can receive each tax year without having to pay tax on it. Depending on your circumstances, you may be able to claim other allowances such as Blind Person's Allowance or one of the age related levels of Personal Allowance.

6.2 When can't you claim UK tax allowances?

For tax years from 6 April 2008, if you are resident in the UK and:

- not domiciled (see part 4) and/or not ordinary resident (see part 3) in the UK, and
- have £2,000 or more in unremitted foreign income and/or gains, and
- claim the remittance basis (see part 5)

then, in most cases, you **will not** be entitled to UK personal tax allowances. In this case, legislation removes your entitlement to UK allowances and reliefs under domestic law. The only exception to this affects some people who are 'dual residents' – that is resident in the UK and also resident in another country under that country's rules (see part 9). This exception does not affect all dual residents; only those who qualify for allowances under certain Double Taxation Agreements (see 6.5).

The allowances you will not be entitled to when you make a claim to use the remittance basis for a tax year include:

- all levels of the Personal Allowance
- Blind Person's Allowance
- tax reductions for married couples and civil partners.

You will also lose tax reliefs for certain payments for life assurance premiums and the Annual Exempt Amount (AEA) which is an allowance you set against any capital gains you make during a tax year when disposing of assets.

6.3 How do you receive UK tax allowances?

If you already pay UK tax through your job or pension, or if you complete a Self Assessment tax return, you should receive a Personal Allowance if you are entitled to one. If you are an employee in the UK, you will have tax deducted at source from your wages or salary under the 'Pay As You Earn' (PAYE) system. Your employer will deduct tax on the basis of code numbers which we issue to them for each employee. The code we issue for you should take into account the tax allowances and reliefs you are entitled to.

If you need to claim UK tax allowances, you must do so no later than 31 January, 5 years after the end of the tax year to which the claim for allowances relates. From 1 April 2010 the time limit changes to four years from the end of the year of assessment. For example, if you are claiming for the tax year 2010-11 (6 April 2010 to 5 April 2011), you have until 5 April 2015 to claim.

6.4 What should you do if you have UK tax allowances and use the remittance basis?

From 6 April 2008 onwards, if you have claimed the remittance basis (see part 5) and your unremitted income and/or gains is £2,000 or more you will **not** be entitled to the allowances listed in paragraph 6.2.

If you decide during a tax year that you are going to use the remittance basis and you are still receiving personal allowances through the PAYE system, you may not be paying enough UK tax. If you let us know, we can arrange to adjust your PAYE code so that you are not left with a tax bill at the end of the year because you have received personal allowances which were not due because you were using the remittance basis. Otherwise we shall ask you to pay the additional tax through the Self Assessment system.

If you want us to adjust your PAYE code you should contact the office which deals with your PAYE and ask for a tax code to be issued which does not give relief for personal allowances. This will reduce the amount of tax you may have underpaid at the end of the tax year. Your employer can't do this for you as your tax affairs are confidential between you and HMRC. Until they receive a new tax code from us, your employer will continue to deduct tax from you based on the code we originally issued before you told us you were claiming the remittance basis.

6.5 Are you entitled to UK tax allowances when using the remittance basis?

Some people who claim use of the remittance basis are still entitled to UK personal allowances. If you are resident in the UK and, at the same time are resident in one of the countries shown (that is you are 'dual resident') you will be able to receive UK personal allowances in any year that you claim the remittance basis.

The Double Taxation Agreements (DTAs) between the UK and the countries listed make specific provision for the residents of those countries to be given entitlement to UK personal allowances. This specific provision does not appear in other DTAs and only those people who are dual resident in the UK and one of the countries listed here are entitled to UK personal allowances in a tax year when the remittance basis is claimed.

Although these DTAs allow you to claim the remittance basis and still receive UK personal allowances, you will need to consider carefully whether, in your particular case, it actually makes sense to do so. The terms of the DTA might mean that there is, in fact, no benefit in claiming the remittance basis as the non-UK country may tax any foreign income or gains not remitted to the UK.

More information about Double Taxation Agreements and dual residence can be found in part 9.

More information about the remittance basis can be found in part 5.

Countries where a DTA with the UK entitles you to UK personal allowances when claiming the remittance basis:

- Austria
- Belgium
- Burma (Myanmar)
- Fiji
- Germany
- Greece
- Ireland
- Kenya
- Luxembourg
- Mauritius
- Namibia
- Netherlands
- Portugal
- Swaziland
- Sweden
- Switzerland
- Zambia

6.6 Allowances for non-UK residents

If you are not resident in the UK and you wish to claim UK tax allowances you should contact your tax office.

Even if you are not resident in the UK, you may be able to claim personal tax allowances if you are any one of the following:

- a Commonwealth citizen *
- a citizen of a state within the European Economic Area (EEA) (this includes a British Citizen), that is a citizen of a Member State of the European Union, Iceland, Liechtenstein or Norway
- a current or a former employee of the British Crown (including a civil servant, member of the armed forces, etc.)
- a UK missionary society employee
- a civil servant in a territory under the protection of the British Crown
- a resident of the Isle of Man or the Channel Islands
- a former resident of the UK who lives abroad for the sake of your own health or the health of a member of your family who lives with you
- a widow, widower or the surviving civil partner of an employee of the British Crown
- a National and/or resident of a country with which the UK has a Double Taxation Agreement which allows such a claim.

* This category applies only until 5 April 2010. From 6 April 2010, you do not qualify for personal allowances solely by virtue of being a Commonwealth citizen. But, you may still qualify for these allowances under other provisions or through a relevant double taxation treaty.

6.7 Allowances when coming to or leaving the UK

More information can be found in part 7 *Coming to the UK* and part 8 *Departing from the UK*.

If you become or if you cease to be resident in the UK during a tax year, you will still be able to claim full allowances and reliefs in the year of your arrival or departure. This will be subject to any claim you have made to the remittance basis of taxation as outlined earlier in this part of the guidance.

7 Coming to the UK

This information is to help you understand your tax position when you first come to the UK. You can find other, general information, on things you might need to do when you first come to the UK at **www.hmrc.gov.uk/migrantworkers/**

If you come to live here permanently or to work here for an extended period, or with no particular end date, you will become resident in the UK. But not everyone who comes to the UK becomes resident here. For example, those who are in the UK on holiday or for a short period of work will generally not become resident in the UK.

In most cases it will be clear whether you become resident or not, but sometimes it needs careful consideration of a number of factors. These include:

- whether you have been resident in the UK before
- how many days you spend here
- the pattern of your presence in the UK or absence from it over a period of years
- whether your purpose for being in the UK is settled or temporary
- your family, social and work ties to the UK
- your accommodation arrangements.

Deciding whether you are resident in the UK is not just a matter of counting days, unless you are here for 183 or more days in a tax year, as this makes you UK resident for that tax year.

The following sections will help you to consider various factors in order to decide if, and when, you have become resident in the UK, and what this means for the tax you pay.

If you become UK resident **in** a particular tax year, by law you are resident **for** the whole of that tax year. But, if you come to the UK part way through a tax year, the year may by concession be split (extra-statutory concession A11). This means that the UK Income Tax you should pay because you are resident here is calculated on the basis of the period you are living here rather than the whole of that tax year. This has the effect of splitting the tax year into resident and not resident periods for the purposes of calculating the tax due. The following guidance assumes that this split-year treatment applies.

For more information about split-year treatment see paragraph 2.4.

7.1 Residence and your purpose in coming to the UK

In order to work out what UK tax you will have to pay, you need to establish whether you are resident here. To do this you must consider why you have come here, and how often and how long you will be here.

- Have you come to the UK to live here permanently or indefinitely, or to live or work for three years or more? If you have, read paragraph 7.2
- Have you come to the UK as a student for a course of study or education? If you have, read paragraph 7.3.
- Have you come to the UK for less than three years? If you have, read paragraphs 7.4 through to the end of this part of the guidance.
- Have you come to the UK as part of a series of visits? If you have, read paragraphs 7.4 through to the end of this part of the guidance.

Depending on your circumstances you may need to follow two or more of the above references.

7.2 When you come to the UK permanently, indefinitely, or to live or work for three years or more

Part 2 explains what we mean by resident in the UK while part 3 explains what we mean by ordinarily resident in the UK. You should read both parts of the guidance.

'From the date you arrive' means from the beginning of the tax year, but you will not normally be charged tax for the period up to your arrival in the UK. (See the note at the beginning of this part of the guidance.)

More information on the UK Income Tax liability of people who have been temporarily non-resident in the UK can be found in part 5 of this guidance - see 5.11 For information on capital gains, go to **www.hmrc.gov.uk**

All people who work in the UK and pay NICs need a National Insurance number (NINO). If you do not already have one you can apply by phone to the Jobcentre Plus National Insurance number allocation service on **0845 600 0643**. Lines are open from 8.00am to 6.00pm, Monday to Friday.

You can get more information at **www.hmrc.gov.uk/migrantworkers/self-employed.htm** or by phoning the Self-employed Helpline on **0845 915 4515**. Lines are open from 8.00am to 8.00pm, Monday to Friday and 8.00am to 4.00pm on Saturday.

If your home has been abroad and you have come to the UK to live here permanently or indefinitely, you will be resident and ordinarily resident from the date you arrive.

You will also be resident and ordinarily resident from the date you arrive if you have come to the UK to remain here for three years or more. This is because you are not simply visiting but have settled in the UK for the time being.

If you have previously been resident in the UK and are returning after a period abroad, you will need to consider whether or not your absence from the UK was a period of non-residence. You may not have been entitled to the split-year treatment. If you **were** not resident you may have been 'temporarily not resident' and this might affect your liability to UK tax when you become resident in the UK again.

Whether or not you have lived here before, if you have come to the UK to live or work permanently, indefinitely, or for three years or more, you should tell us immediately so that you can make sure that you are paying the correct amount of tax as soon as possible.

- If you work for an employer in the UK, they will give you the forms you need to complete for us and will deduct tax from your earnings on our behalf under PAYE – see part 6. The forms might include form P46.
- If you have been seconded to work in the UK while employed by a foreign employer, they should give you the form P46 (Expat) to complete. We will send you any other forms you need.
- If you are going to work for yourself – that is, as a self-employed person – you can find out what you need to do if you go to **www.hmrc.gov.uk** or you can phone our Self-employed Helpline. The helpline will be able to give you the advice you need to make sure that you pay the right amount of UK tax at the right time.
- If you have come to the UK to live (permanently or indefinitely or for three years or more) but do not intend to work here, you must tell us if you have any taxable income and/or gains.

Paragraphs 7.4, 7.5 and 7.6 explain what you need to consider if you have come to the UK and will not be staying here for three years or more, or permanently or indefinitely.

7.3 When you come to the UK as a student

If your home has been abroad and you have come to the UK for less than two years for a period of study or education, you might not be resident in the UK (see paragraphs 7.4 and 7.5). If you have come to the UK for more than two years but less than four years for study or education, you will be resident in the UK while you are here. But you will **not** usually be ordinarily resident if:

- you do not own or buy accommodation here
- you do not acquire accommodation here on a lease of three years or more
- when you leave the UK you do not plan to return here regularly for visits which average 91 days or more in a tax year (to calculate your average visits to the UK – see paragraph 7.6).

If, while you are studying in the UK, you get a job to help support yourself, you might have to pay UK tax on your earnings. This is because your earnings are from a UK source and are liable to UK tax whether or not you are resident in the UK. If you are going to work in the UK you will usually need a UK National Insurance number. Information about this and other details of working in the UK can be found in paragraph 7.2.

How much tax you have to pay will depend on the amount you earn during a tax year. You may be entitled to UK personal tax allowances which reduce the amount of any UK tax you have to pay. This is explained in part 6.

As a student from outside the UK, you should check if there is a Double Taxation Agreement (DTA) between the UK and your own country. Most DTAs make provision for the tax treatment of the money paid from abroad for course fees and your support while you are studying here. It is important that you check your position as this will affect what, if any, UK tax you need to pay on foreign income and/or gains that you bring into the UK.

Part 2 explains what we mean by resident in the UK while part 3 explains what we mean by ordinarily resident in the UK. You should read both parts of the guidance. Remember that if you are in the UK for 183 days or more during a tax year you are resident here.

If you are an international student and have come to the UK to study on a student visa, you **do not** have to tell us that you are here unless you think that you might have to pay UK tax.

If you are an international student and have a student visa you are able to work while in the UK but there are rules about the type of work you can do. To find out more go to the UK Border Agency website at **www.ukba.homeoffice.gov.uk**

More information about Double Taxation Agreements can be found at paragraph 12.6 and part 9 of this guidance.

7.4 When you come to the UK temporarily

If you are simply visiting the UK, then you might not be resident. But you are not simply visiting the UK if you have a purpose for being here which is not temporary. The nature and extent of your connections to the UK may indicate that your purpose in the UK is not temporary.

If you are here temporarily read paragraphs 7.5 and 7.6. You may also need to read paragraph 7.7.

If you remain in the UK for a period that spans two tax years and are resident in the second year then you will need to consider whether you were also resident in the first tax year. This will depend on all the facts.

It is possible that after you first come to the UK your circumstances change and you are going to live here permanently or indefinitely, or you are going to remain here for three years or more from the date of your arrival. In such a situation, you will become resident and ordinarily resident in the UK and you should read paragraph 7.7. If your circumstances change and you become resident in the UK, you should tell us as soon as possible to make sure that you are paying the correct amount of tax.

Part 2 explains what we mean by resident in the UK while part 3 explains what we mean by ordinarily resident in the UK. You should read both parts of the guidance. Remember that if you are in the UK for 183 days or more during a tax year you are resident here.

You can find out what counts as a day spent in the UK for this purpose in paragraph 2.2.1.

You may become resident for many reasons during your visit(s), see part 2 for what we mean by resident.

You can find out how to contact us in part 13.

7.5 Short term, one-off or repeated visits – residence and ordinary residence

This section applies to you only if you are in the UK temporarily (see paragraph 7.4).

You can find out what counts as a day spent in the UK for this purpose in paragraph 2.2.1.

If you are making a one-off visit to the UK and leave before you have been here for 183 days in a tax year and you do not intend to return, you will not usually be resident or ordinarily resident in the UK.

But, if you are going to make a number of separate visits to the UK you need to consider whether this will make you resident and/or ordinarily resident here. It does not matter whether the visits are for the same purpose or different purposes, or varying lengths of time.

You can find out how to calculate the average number of days you visit the UK in paragraph 7.6.

If you are making a number of separate visits, part 2 explains that you need to look at the pattern and regularity of your visits. The length of time required to establish a pattern will depend on your circumstances but after three years it will usually be possible to judge the pattern that has emerged.

You may not know how long you will continue to visit when you first arrive in the UK. If, after three complete tax years, a pattern has emerged that these visits total more than 91 days on average and your visits continue, then you will become resident and ordinarily resident in the UK from the start of the next tax year.

You may become resident for many reasons during your visit(s), refer to part 2 for what we mean by 'resident in the UK' while part 3 explains what we mean by 'ordinarily resident in the UK'.

But there are situations where you might become resident and ordinarily resident in the UK **before** you have been visiting for four years, for example:

- where you know, when you start visiting the UK that your visits here will be for an average of 91 days or more per tax year. In these cases, you will be resident and ordinarily resident from 6 April of the tax year in which you first start making your visits.
- when you realise after starting to visit the UK regularly that your visits are going to be for an average of 91 days or more. In these cases you will be resident and ordinarily resident from 6 April of that tax year.
- when your circumstances change so that your purpose for being in the UK is no longer temporary.

It is possible that after you first come to the UK to visit, or after you have made a number of visits here, your circumstances change so that you are going to live here permanently or indefinitely, or are going to remain here for three years or more from the date of your first arrival. If this is the case, you will become resident **and** ordinarily resident in the UK and should read paragraph 7.7.

If your circumstances change and you become resident in the UK you should tell us as soon as possible so that you can make sure that you are paying the correct amount of tax.

7.6 How to calculate your average days in the UK

Residence is not purely a matter of day counting. The number of days spent in the UK is one factor which needs to be considered alongside others. Part 2 of this guidance explains what we mean by 'resident in the UK' while part 3 explains what we mean by 'ordinarily resident in the UK'. You should read both parts of this guidance.

You can find out what counts as a day spent in the UK for this calculation in paragraph 2.2.1 and 2.3.

Calculating your annual average days in the UK is a useful indication of the extent of your connection to the UK. It may also indicate if – when you have visited the UK frequently – you have become resident here.

If you need to calculate your annual average days in the UK, you do so like this:

$$\frac{\text{Total days in the UK}}{\text{Relevant tax years (in days)}} \times 365 = \text{annual average visits}$$

The annual average is calculated over the number of years you have been visiting the UK, up to four years after which only the last four years are included in the average. (But if the pattern of your visits varies substantially year by year, it might be appropriate to look at the periods with different patterns separately and to calculate average days in the UK for each distinct period).

Example

This is for illustrative purposes only and any calculation you make would be based upon your own circumstances - the day that **you** actually started to visit the UK and the days that you have been here in the period.

If you arrived in the UK on 20 May 2008 and were in the UK for:
79 days in the tax year 2008-09 (320 days in the remainder of the tax year)
91 days in the tax year 2009-10 (365 days in the tax year)
98 days in the tax year 2010-11 (365 days in the tax year)
79 days in the tax year 2011-12 (366 days in the tax year)

The average of your visits would be:
2008-09 – 79÷320 x 365 = **90.1**
2009-10 – (79+91)÷(320+365) x 365 = **90.6**
2010-11 – (79+91+98)÷(320+365+365) x 365 = **93.2**
2011-12 – (79+91+98+79)÷(320+365+365+366) x 365 = **89.4**

For further information about passengers travelling through the UK see 2.3.

You should count a day as one spent in the UK if you are here at midnight at the end of the day. Do not include days of transit, if you arrive from another country on one day and leave the UK the next day and do not engage in any activities unrelated to your journey while in the UK.

This is the general practice, but it will not necessarily be appropriate in all cases. If you spend very significant amounts of the year travelling internationally, you should keep a record both of the days you were present in the UK and of those days where you are here at midnight. Both will be factors when looking at the pattern and purpose of your visits.

7.7 If you come to the UK for more than 183 days but remain here less than three years from your arrival

You can find out how to calculate the average number of days you visit the UK in paragraph 7.6. Residence is not purely a matter of day counting. The number of days spent in the UK is one factor which needs to be considered alongside others.

Part 2 explains what we mean by resident in the UK while part 3 explains what we mean by ordinarily resident in the UK. You should read both parts of this guidance.

You will always be resident in the UK if you are here for 183 days or more in the tax year.

As explained in paragraph 7.5, if you are in the UK on a regular basis it is possible that you will become resident and ordinarily resident in the UK before you have been visiting for four years.

7.7.1 Residence

You may become resident for any of the reasons described in part 2.

If you remain in the UK for a period that spans two tax years and are resident in the second year then you will need to consider whether you were also resident in the first tax year. This will depend on all the facts.

If you have come to the UK and will be remaining here for at least two years but for not more than three years, you will be resident from the date of your arrival (even if you are here for fewer than 183 days in the first tax year). This does not necessarily mean that you will also be ordinarily resident.

You can find out what counts as a day spent in the UK for this purpose in paragraph 2.2.1.

'From the date of your arrival' means from the beginning of the tax year, but you will not normally be charged tax for the period up to your arrival in the UK - see the note at the beginning of this part of the guidance.

7.7.2 Ordinary residence

Your ordinary residence status may affect what UK tax you have to pay and this status may change while you remain in the UK.

Ordinary residence is different from domicile and it is important not to confuse the two terms. (Domicile is covered in part 4).

Generally, you become ordinarily resident in the UK when it becomes normal ('ordinary') for you to be resident in the UK. Sometimes it is clear that you become ordinarily resident as soon as you arrive in the UK, but sometimes ordinary residence is established only after you have been here for a while.

If you come to the UK for less than three years, you might not be ordinarily resident here but there are many factors to consider. You should read part 3 of this guidance which explains what is meant by 'ordinarily resident in the UK'.

If your circumstances change after you first arrive in the UK, it is possible that your ordinary residence status might change as a result.

7.7.3 Ordinary residence when you arrive

If you have come to the UK for a settled purpose, for example to live or work in the UK for three years or more, you will be ordinarily resident from when you first arrive.

If you own or acquire accommodation on a long-term lease of three years or more in the year you arrive this is an indication that your presence in the UK forms part of the regular and habitual mode of your life for the time being. Such a mode of life means you are ordinarily resident from when you arrive.

But the ownership of accommodation **by itself** will not make you ordinarily resident provided you dispose of it and leave the UK within three years of your arrival.

You can still be ordinarily resident in the UK even if you leave within three years, for example if your purpose for being here was settled when you first came here.

7.7.4 Ordinary residence after arrival

Examples of a settled purpose can be found in part 3.

If you do not have a settled purpose on arrival you can still become ordinarily resident. You will become ordinarily resident with effect from the start of the tax year in which:

- you first have a settled purpose
- you decide to stay here for three years or more from the date of your arrival
- you remained for more than three years from the date of your arrival.

Factors that indicate you have made a decision to stay in the UK for more than three years include acquiring a lease on accommodation or accepting an employment contract lasting more than three years from the date of your arrival.

As explained above, if you have remained for more than three years from the date of your arrival you will be ordinarily resident here from the start of the tax year in which the third anniversary falls. While this applies to the vast majority of cases, there could be exceptions, where particular facts – that you would need to support with evidence – might indicate the contrary. For example, if you marginally overstayed a three-year period and then left the UK, perhaps because a project you were working on over-ran or a house purchase fell through, you might still be not ordinarily resident for the duration of your stay. (If you later return to the UK and become resident again, within two years of having left, you are very likely to become ordinarily resident on your return.)

In very unusual circumstances you may be resident in the UK for three years or more but remain not ordinarily resident. If this is the case, you will need to demonstrate that your residence in the UK is not 'ordinary' for you and that you have no settled purpose here. The circumstances in which this would apply and when you will become ordinarily resident will be taken on the facts of each case. You may wish to take professional advice if you think this applies to you.

If you are ordinarily resident in the UK, leave and return within two years, you will usually be ordinarily resident from the date of your return.

7.8 Supporting examples

These examples assume for the sake of clarity, that you have not previously spent time in the UK. If this is not the case then you will need to consider all the facts, including the purpose for your previous visits, any emerging patterns and your total and average day counts.

These are illustrative examples to support the guidance outlined in 7.7.4. The examples are not exhaustive or definitive but will help you understand your ordinary residence status when you have come to the UK. Your ordinary residence in the UK will be based on your individual circumstances.

7.8.1 Example 1 – Ordinary residence when you have remained in the UK for three years or more

When you arrived in the UK on 6 June 2009, in the tax year 2009-10, you did not think that you would be staying here for three years or more. Since then you have not bought any accommodation here or leased any accommodation for three years or more. The accommodation you have used has been on short-term leases.

On 7 June 2012 (tax year 2012-13) you are still in the UK. This is three years and a day since you first arrived here.

You will be ordinarily resident in the UK from 6 April 2012. This is because you have now been in the UK for a long enough period of time for your being here to be considered 'ordinary' for you. 6 April 2012 is the start of the tax year 2012-13 in which the third anniversary of your arrival in the UK occurred.

7.8.2 Example 2 – Ordinary residence when your circumstances change and you remain in the UK for longer than originally planned

When you arrived in the UK on 6 June 2009 you came on a fixed term appointment for a period of 18 months and did not think that you would be staying here for more than three years. In October 2010 you accepted a two year extension to your employment contract. You are contracted to remain in the UK until the end of 2012 which will be more than three years from the date you arrived here.

You will be ordinarily resident in the UK from 6 April 2010. This is because you are now going to be in the UK for a longer period than you first thought and the period is now long enough for your being here to be considered 'ordinary' for you. 6 April 2010 is the start of the tax year in which you made the decision to remain in the UK for longer than you originally planned.

If you had decided in December 2009 - in the same tax year as you arrived here, that you would be remaining in the UK until 2015 you would be ordinarily resident from 6 June 2009 which is the date you arrived in the UK. This is because - although you did not think you would be staying when you first arrived - you have decided to stay within the same tax year. The period for which you are now going to be here is long enough for your presence in the UK to be considered 'ordinary' for you.

Special treatment applies to people when they first arrive in the UK and when they leave the UK - see 2.4.

7.8.3 Example 3 – Ordinary residence when you buy or lease accommodation for three years or more

When you arrived in the UK on 6 June 2009 you did not think that you would be staying here for three years or more. In May 2010 you buy a house in the UK to live in.

You will be ordinarily resident in the UK from 6 April 2010. This is because buying the house here shows that your being in the UK is now 'ordinary' for you. 6 April 2010 is the start of the tax year in which you bought the house.
but
If buying the house was the only reason you were ordinarily resident, and you sold the house and left the UK before 6 June 2012, you would be able to say that you were not ordinarily resident for the period you were here. The period of ownership was sufficiently short not to be classed as for a settled purpose of living in the UK.

8 Departing from the UK

If you emigrate from the UK you will stop being resident here. This would mean that you leave, set up home elsewhere, and substantially cut your ties to the UK.

If you leave for shorter periods, for occasional residence abroad, or with no settled purpose abroad, it is likely that you will remain resident in the UK – even if you become resident in another country under that country's rules.

You can also get form P85 at **www.hmrc.gov.uk** You cannot complete the form online but you are able to download and print the form which you can then send to your tax office.

You will find the address of your tax office and your HMRC reference number on any correspondence you have received from us, including your most recent form P60 and form P45.

If you are unsure you can contact your local HMRC office who will be able to help you. You can find your local tax office in *The Phone Book* or at **www.hmrc.gov.uk**

The terms *residence* and *ordinary residence* are explained in parts 2 and 3 of this guidance. You should read both parts.

8.1 Leaving the UK permanently or indefinitely

If you are leaving the UK permanently or indefinitely, either to work or for another reason, you must tell us by contacting your tax office. We will give you form P85 to complete so that you can get any tax refund you are owed. We will also tell you if you will need to complete a UK tax return after you have left the country.

Leaving the UK 'permanently' means that you are leaving the country to live abroad and will not return here to live. Leaving 'indefinitely' means that you are leaving to live abroad for a long time (at least three years) but you think that you might eventually return to live here, although you do not currently have plans to do so.

The act of leaving the UK does not necessarily make you not resident and not ordinarily resident. You must also make a definite break from the UK and any remaining ties you have with the UK must be consistent with not being resident here. If you say that you are no longer resident and ordinarily resident in the UK, we might ask you to give some evidence to show that you have left the UK permanently or indefinitely and that there has been a clear change in the pattern of your life. For example, we would expect you to show that when you left the UK you had acquired accommodation abroad to live in as a permanent home. If you still have property in the UK which you can use after you leave, we might want you to explain how retaining that property is consistent with leaving the UK.

You will **not** cease to be resident in the UK simply because you become resident elsewhere. You can become resident in another country and remain resident in the UK.

If you are leaving the UK permanently or indefinitely you will become not resident and not ordinarily resident from the day **after** the day of your departure.

8.1.1 The year you leave

You can find out what is a tax year at 12.26.

Although the normal rule in law is that you are taxed as a resident for the whole of the tax year in which you are UK resident, there is an extra-statutory concession (ESC A11) that allows the tax year to be split. The effect of this concession is that you have to pay UK tax as a resident only for the part of the tax year before you finally leave.

You can find information on all ESCs in the following HMRC guidance: Extra-statutory concessions and statements of practice at **www.hmrc.gov.uk/thelibrary/esc.htm**

ESC A11 has particular conditions; it does not apply in all cases. If you were ordinarily resident in the UK before your date of departure you have to cease to be ordinarily resident here in order to benefit from the concession. Part 3 explains what we mean by ordinarily resident in the UK. ESC A11 will never apply if your date of departure and date of return fall in successive tax years. You will always need to be not resident for at least a whole tax year for it to apply.

An extra-statutory concession will not be given in any case where an attempt is made to use it for tax avoidance.

8.2 Leaving the UK for shorter periods of time

You will still be treated as resident in the UK if any periods of time you spend outside the UK are for occasional residence abroad only. Occasional residence means you have no settled purpose for a continuing absence from the UK. 'Occasional' does not mean that your absence must be isolated or of short duration. A series of business trips abroad is an example of periods of occasional residence abroad.

If you normally live in the UK and go abroad regularly, for example on extended holidays, you will continue to be resident here. This type of absence does not stop you being resident and ordinarily resident in the UK, because you have not made a definite break from the UK.

8.2.1 Evidence of a definite break

For information about dual residence see 12.7.

If you do not make a definite break and cut your UK ties then you remain resident in the UK. You could also be dual resident – that is resident in the UK and another country.

You might not have evidence of a definite break from the UK for some time after you leave the UK. In this situation you will need to review your residence status later to confirm whether you have become not resident, and when this happened.

For example, if you have travelled in and out of the UK fairly frequently, the exact timing of the end of your residence here could be difficult to establish. You should therefore keep evidence relating to your lifestyle before and after the date on which you think you ceased to be resident.

If the circumstances of your life change gradually, then you will become not resident only when you have sufficiently reduced your ties to the UK and are more than occasionally resident abroad.

The evidence that you will be able to show that you have made a definite break will depend on the extent of your UK ties initially. If you had few initial connections with the UK you will have less evidence to show you have made a definite break.

In those circumstances strong ties to another country, including a home and settled purpose for your presence there throughout a complete tax year, would be more of a factor in deciding if you have left the UK permanently or indefinitely.

8.3 Complete absence from the UK

Residence is connected to physical presence. If you live outside the UK for a complete tax year and do not set foot in the UK you will not be resident in the UK for that tax year, unless your absence from the UK is for the purpose of occasional residence abroad only. For example, if your absence was for a one-off year long holiday after which your residence in the UK resumed its previous pattern, you would remain UK resident during your absence.

If you became not resident simply because of a complete absence from the UK, it is unlikely that your presence in the UK on your return is for a temporary purpose only if any of your UK ties remained throughout your period of absence. You would most likely become resident again on your return.

Even when you are absent for a whole tax year and so become not resident, you might remain ordinarily resident in the UK. You will need to consider the pattern of your residence over a number of years and the purpose and pattern of any ordinary residence abroad.

8.4 Special rules for certain employees and offices

There are special rules for some employees who work abroad or hold certain offices. These are explained in brief below with links to further guidance where applicable. Some groups of employees are dealt with in specialist tax offices and where this is the case the office is shown in part 13 *Contacting HMRC*. Where no specialist office is shown individuals should contact their own tax office.

Crown employees

A Crown employee is someone who holds an office or employment under the Crown such as a member of the UK armed forces, a civil servant or a diplomat. It does not include all public servants such as doctors and nurses, who work for their local NHS Trust, or teachers who work for the Local Education Authority. Nor does it include employees of government agencies and non-departmental public bodies.

Crown employees are always taxed in the UK in full on their Crown employment income whether the duties of the employment are carried out in the UK or overseas. As a result residence is irrelevant in determining their tax liability on their Crown employment income.

UK merchant navy seafarers

Seafarers working on UK ships, who usually live in the UK when they are not at sea, are resident in the UK. But while they are working as seafarers wholly or partly outside the UK, they may be entitled to the 'Seafarer's Earnings Deduction' which can reduce the tax they have to pay. Full details can be found at **www.hmrc.gov.uk/cnr/seafarerstax.htm**

Certain oil and gas workers

Where an individual works in the oil or gas exploration/extraction industry within the UK's territorial waters, or other designated areas, they are taxed in full in the UK on those earnings irrespective of their residence status. Different rules can apply for those working outside the designated areas or those working for non-UK employers. Further guidance can be found at **www.hmrc.gov.uk/manuals/eimanual/EIM40208.htm**

Entertainers and sportspeople

Specialist tax rules for entertainers and sportspeople are administered by the Foreign Entertainers Unit (FEU). More details about the rules can be found at **www.hmrc.gov.uk/feu/feu.htm**

Entertainers or sports people who are not resident in the UK but perform or compete in the UK are still taxable in the UK on any payments received in connection with that UK work. Normally the person paying the entertainer or sportsperson will withhold tax from the payments.

Students

The UK has entered into Double Taxation Agreements with many countries that provide special rules for students who come to the UK to study, or go from the UK to study abroad. Under these rules certain income is not taxable in the country of study if it is used only for the maintenance and education of the student. Further general guidance for students can be found at **www.hmrc.gov.uk/students/**

People seconded to work in the UK by their employer

If you are seconded to work in the UK by your employer, and continue to undertake duties abroad, you should keep records of work done in the UK and abroad, covering both the nature of the work and its extent. In recording working days, part days are included for these purposes, not just those days where you are in the UK at midnight.

Employees of the European Union

If someone from one Member State goes to live in another Member State to work for the European Union their residence status does not change and they will retain the residence status of the last state they were resident in.

So if Mr Adams was resident and ordinarily resident in the UK and went to Luxembourg to work for the European Union he would remain resident and ordinarily resident in the UK.

Members of the UK Parliament and House of Lords

A member of the House of Lords is someone who is entitled to receive a writ of summons. An MP is a person who has been elected to the UK Parliament and taken the oath upon taking their seat.

Members of the House of Commons ('MPs') and House of Lords ('Peers') are resident, ordinarily resident and domiciled in the UK for Income Tax, Inheritance Tax and Capital Gains Tax. This will apply to the whole of each tax year in which a person is a member of either House, starting in 2010–11. This applies even if that person is a member for only part of the tax year and regardless of whether or not they are on a leave of absence. It does not apply to the Lords Spiritual or Peers who are disqualified from sitting and voting as a result of becoming a Member of the European Parliament or a judge.

8.5 Leaving the UK to work abroad as an employee

What we mean by *full-time employment*: UK tax law does not give a definition of *full time employment*. The decision on whether or not you are employed abroad full-time will depend on the particular circumstances of your case.

If you say that you are working abroad full-time, we would expect you to be able to show that your employment:

- has a standard pattern of hours which can be compared to a typical UK working week

or

- if your employment does not have a formal structure or fixed number of working days, it can, by looking at the local conditions and practices of the particular occupation, be compared to similar full-time employment in the country where you are working.

If you are leaving the UK to work abroad full-time, you will only become not resident and not ordinarily resident from the day after the day of your departure, as long as:

- you are leaving to work abroad under a contract of employment for at least a whole tax year
- you have actually physically left the UK to begin your employment abroad and not, for example, to have a holiday until you begin your employment
- you will be absent from the UK for at least a whole tax year
- your visits to the UK after you have left to begin your overseas employment will
  - total less than 183 days in any tax year, and
  - average less than 91 days a tax year. This average is taken over the period of absence up to a maximum of four years.

To calculate your annual average visits to the UK:

$$\frac{\text{Total days visiting UK}}{\text{Tax years you have visited (in days)}} \times 365 = \text{annual average visits}$$

Example

This is for illustrative purposes and any calculation you make would be based upon your own circumstances – the day that you actually left the UK and the days that you have visited the UK in the period.

If you were to leave the UK on 20 May 2008 to work full-time abroad and you visit the UK for:
79 days in the tax year 2008-09 (320 days in the remainder of the tax year)
91 days in the tax year 2009-10 (365 days in the tax year)
98 days in the tax year 2010-11 (365 days in the tax year)
79 days in the tax year 2011-12 (366 days in the tax year)

The average of your visits would be:
2008-09 – 79÷320 x 365 = **90.1** therefore treated as **not resident from 21 May 2008** (subject to split year treatment applying)
2009-10 – (79+91)÷(320+365) x 365 = **90.6** therefore **not resident**
2010-11 – (79+91+98)÷(320+365+365) x 365 = **93.2** therefore **resident**
2011-12 – (79+91+98+79)÷(320+365+365+366) x 365 = **89.4** therefore **not resident**

The calculation of average visits for the year 2012-13 will not include the visits or relevant days for the year of departure. The rolling period of four years is maintained by excluding the oldest year at each annual review.

Any days you spend in the UK because of exceptional circumstances beyond your control, for example an illness which prevents you from travelling, are not normally counted for this purpose.

If you do not meet all of these conditions, you will remain resident and ordinarily resident in the UK unless paragraph 8.1 applies to you.

If your employment comes to an end and you do not return to the UK it will be necessary to consider if you continue to be not resident and not ordinarily resident in the UK.

8.6 Returning to the UK after working abroad

More information on the UK tax liability of people who have been temporarily non-resident in the UK can be found in part 5 of this guidance - see 5.11.

If you were not resident and not ordinarily resident when you were working abroad and you return to the UK when your employment ends, you will be not resident and not ordinarily resident in the UK until the day **before** you return to the UK. You will become resident and ordinarily resident on the day you return to the UK unless you can show that your return was simply a short visit to the UK between two periods of full-time employment abroad.

However, if you have previously been resident in the UK and are returning to become resident here again after a period of residence abroad, you might need to consider whether your absence from the UK was a period of 'temporary non-residence'. If you were temporarily non-resident in the UK, this may affect your liability to UK tax when you return to become resident in the UK again.

8.7 Changes to your employment when abroad

If your circumstances change while you are abroad, for example there is a break in full-time employment, you might no longer meet the requirements of paragraph 8.5 and so remain resident and ordinarily resident in the UK. You must tell us about such changes by contacting your tax office.

You can find your local tax office in *The Phone Book* or go to **www.hmrc.gov.uk**

You must also tell us when you return to the UK at the end of an overseas employment, even if you are planning to go abroad again to work under a new contract of employment. You must do this even though you see your return to the UK as temporary and for a very short period. You should tell us this information by contacting your tax office.

8.8 Leaving the UK to become self-employed abroad

If you are leaving the UK to work abroad for yourself in a trade, profession or vocation, then as long as your working circumstances are similar to those outlined in paragraph 8.5, you will be taxed in the same way.

8.9 Leaving the UK with your spouse or partner

When your husband, wife or civil partner leaves the UK to work abroad within the terms of paragraphs 8.5 or 8.8, you are able to receive the same tax treatment if you accompany or later join them abroad. This treatment is by concession (extra-statutory concession A78) and means that even when you yourself are not in full-time employment abroad, you will also be not resident and not ordinarily resident in the UK from the day after your departure. This treatment will apply as long as:

- you will be absent from the UK for at least a whole tax year, and
- your visits to the UK after you have left
  - total less than 183 days in any tax year, and
  - average less than 91 days a tax year. This average is taken over the period of absence up to a maximum of four years – see 8.5 which will show you how to work out this average. Any days you spend in the UK because of exceptional circumstances beyond your control, for example an illness which prevents you from travelling, are not normally counted for this purpose).

You will remain not resident and not ordinarily resident in the UK until the day **before** you return to the UK. You become resident and ordinarily resident on the day you return to the UK.

More information in this guidance

You can find more information on what happens to you when you leave the UK, elsewhere in this guidance:

- tax treatment in the year you leave the UK – part 2, paragraph 2.4
- personal tax allowances in the year you leave the UK – part 6, paragraph 6.7
- investment (unearned) income – part 10
- earned income – part 10.

9 Double Taxation Relief (DTR) and Double Taxation Agreements (DTAs)

Detailed information about individual DTAs can be found in our *Double Taxation Relief Manual* and *Digest of Double Taxation Agreements* at **www.hmrc.gov.uk**

Different countries and states have their own tax rules and laws. When you have income and gains from one country and you are resident in another, or you are resident in both, you may be liable to pay tax in both countries under their different tax laws. To avoid 'double taxation' in this situation, the UK has negotiated Double Taxation Agreements with a large number of countries.

DTAs are designed to protect against the risk of an individual or a corporate entity being taxed twice where the same income is taxable in two countries.

If you are resident in more than one country it is likely that your tax affairs are complex. The way DTAs affect you will depend upon your individual circumstances and the terms of the relevant DTA.

DTAs also provide details of other things which can affect your liability to UK tax, such as whether or not you are able to claim personal tax allowances, and for what types of income and at what rate you will receive relief from tax.

To obtain relief from UK tax under the terms of a DTA it will be necessary for you to make a claim under the relevant DTA.

A table showing the countries with which the UK has a DTA in force can be seen at 9.3. This table is correct as at April 2010 and does not show the individual content of each DTA, simply the fact than an agreement exists.

9.1 Non-UK residents

If you are a resident of a country with which the UK has a DTA and not resident in the UK, you may be able to claim exemption or partial relief from UK tax on certain types of income from UK sources. You may also be able to claim exemption from Capital Gains Tax on the disposal of assets.

The precise conditions of exemption or relief can be found in the relevant DTA. It is not possible to give full details here as they vary from DTA to DTA.

9.1.2 Income which can receive relief under a DTA

Detailed information about individual DTAs can be found in our *Double Taxation Relief Manual* and *Digest of Double Taxation Agreements* at **www.hmrc.gov.uk**

Normally, you will receive some relief from UK tax on the following sources of income under a DTA:
- pensions and some annuities (other than UK Government pensions – see 9.1.3)
- royalties
- dividends – see 9.1.9
- interest.

Some agreements state that you must be:
- subject to tax in the other country in question, or
- the beneficial owner of the income in the other country in question before you get relief from UK tax.

9.1.3 UK Government pensions

If you receive a pension paid by the UK for service to the UK Government or to a local authority in the UK, it will usually be taxed only by the UK.

9.1.4 Relief under a DTA when carrying on a trade or business

A *permanent establishment* will usually include a place of management, a branch or an office, among other things.

If you are carrying on a trade or running a business through a permanent establishment in the UK, you may not qualify for relief from UK tax on royalties, interest or dividends connected with the permanent establishment. DTAs will often define what is included in *permanent establishment*.

9.1.5 Earnings from employment and professional services

The detail of each DTA is different and you should always check the content of the DTA which is specific to your particular circumstances.

Some DTAs have different rules for company directors. You should check the content of the DTA which is specific to your particular circumstances.

You should keep records of any work done in the UK, covering both the nature of the work and the extent. For these purposes part days are recorded as work days, not just those days where you are in the UK at midnight. This is especially important if you are working both in the UK and abroad.

Remuneration is what you are paid for your work or services.

The guidance in this section will not apply if you are an entertainer, sportsman or sportswoman. Different rules apply to people in those categories – see 9.1.8.

If you are not resident in the UK, and you are not an entertainer, sportsman or sportswoman, you may be able to claim exemption from UK tax under most DTAs on:

- earnings from an employment in the UK, and
- profits or earnings for independent, personal or professional services carried out in the UK.

Usually there are conditions to be met before relief is given under a DTA. These are:

- for employments
  - you must not be in the UK for more than 183 days in the period specified in the DTA (often twelve months), and
  - your remuneration must be paid by (or on behalf of) an employer who is not resident in the UK, and it must not be borne by a UK branch of your employer
- for independent, personal or professional services
  - you must not operate from a fixed base in the UK (or, in the case of some DTAs, spend more than a specified number of days in the UK).

9.1.6 Teachers and researchers

The detail of each DTA is different and you should always check the content of the DTA which is specific to your particular circumstances.

Under many DTAs, if you are a teacher or professor who comes to the UK to teach in a school, college, university or other educational establishment for a period of two years or less, you are exempt from UK tax on your earnings from the teaching post. Temporary absences from the UK during this period normally count as part of the two years.

Some agreements cover persons who engage in research. Where this is so, the rules are normally the same as for teachers.

If you stay for more than two years then under most of these DTAs you cannot claim the exemption and you will be liable to tax on the **whole** of your earnings from the date you arrived. Some DTAs allow exemption to be given only if the earnings are liable to tax in your home country. If you have already received exemption for a visit (or visits) of up to two years, some DTAs will not allow you to claim the exemption again if you make a further visit at a later date.

9.1.7 Students and apprentices

Under most DTAs, if you are an overseas student or apprentice visiting the UK solely for full-time education or training, you will not pay tax on payments from sources outside the UK for your maintenance, education or training.

A number of DTAs also provide that students or apprentices visiting this country will be exempt from UK tax on certain earnings from employment here. Individual DTAs impose various restrictions on this relief, including monetary limits and conditions as to the type of employment.

9.1.8 Entertainers, sportsmen and sportswomen

For guidance on how your income as an entertainer, sportsman or sportswoman is taxed in the UK you should contact the Foreign Entertainers Unit. The address and contact details can be found in part 13 *Contacting HMRC*.

Under most DTAs, if you are not resident in the UK **any payments you receive directly or indirectly connected to performances in the UK will be liable to UK tax**. This includes actors and musicians performing on stage or screen, and those participating in all kinds of sports.

The exemption described in 9.1.5 does not apply to entertainers, sportsmen and sportswomen.

9.1.9 Dividends

UK residents are entitled to a tax credit when they receive a dividend from a company resident in the UK. We charge Income Tax on the total of the dividend and the tax credit. The tax credit is available to reduce their tax liability.

If you are **not resident** in the UK, you will not receive payment in respect of a tax credit when you receive a dividend from a UK company.

UK DTAs negotiated since April 1999 do not provide for payment of tax credit.

From 6 April 1999, those DTAs that still provide for payment of a tax credit on dividends paid by UK companies continue to give a right to claim a tax credit in excess of the amount which the UK is entitled to retain. Because the rate of tax credit was reduced from 6 April 1999 from 20% to 10%, the amount which the UK is entitled to retain under those agreements will, in practice, cover the whole of the tax credit. So if you make a claim under such a DTA, where a dividend has been paid on or after 6 April 1999, there will be no balance of tax credit left for us to pay to you.

You may also have the right to a tax credit if you receive UK personal tax allowances and reliefs through a claim under a DTA – see 6.6. But if you can only claim these allowances because of the terms of a DTA, whether or not you are entitled to the tax credit will also depend on the terms of the agreement.

9.1.10 Capital gains

The detail of each DTA is different and you should always check the content of the DTA which is specific to your particular circumstances.

Under many DTAs, if you are a resident of another country, you may be liable to tax only in that country on any gains you make from disposing of some types of assets. In that case, you will be exempt from Capital Gains Tax in the UK even if you are ordinarily resident here. But if you are resident in another country on a temporary basis, and then return to be resident in the UK, you may be charged Capital Gains Tax on disposals you made when you were not UK resident and not ordinarily resident.

But if you are carrying on a trade or running a business through a permanent establishment in the UK, any gains you make from disposing of assets connected with the permanent establishment will continue to be chargeable to Capital Gains Tax in the UK.

9.2 UK residents

If you are resident in the UK and have foreign income or gains which are taxable in the country in which they arise or accrue, you may qualify for relief against UK tax on those income or gains for all or part of the foreign tax you have paid. Even if there is no DTA between the UK and the other country concerned, you may still be entitled to relief under special provisions in the UKs tax legislation.

9.3 The UKs DTAs

These are the countries with which the UK has a DTA in force covering taxes on income and/or capital gains. The list does not include limited agreements which are concerned solely with air transport and shipping.

The list is complete as at April 2010.

Antigua and Barbuda	France	Libya	Serbia
Argentina	Gambia	Lithuania	Sierra Leone
Australia	Georgia	Luxembourg	Singapore
Austria	Germany	Macedonia	Slovak Republic (Slovakia)
Azerbaijan	Ghana	Malawi	Slovenia
Bangladesh	Greece	Malaysia	Solomon Islands
Barbados	Grenada	Malta	South Africa
Belarus	Guernsey	Mauritius	Spain
Belgium	Guyana	Mexico	Sri Lanka
Belize	Hungary	Moldova	Sudan
Bolivia	Iceland	Mongolia	Swaziland
Bosnia-Herzegovina	India	Montenegro	Sweden
Botswana	Indonesia	Montserrat	Switzerland
Brunei	Ireland (Republic of)	Morocco	Taiwan
Bulgaria	Isle of Man	Namibia	Tajikistan
Burma (Myanmar)	Israel	Netherlands	Thailand
Canada	Italy	New Zealand	Trinidad and Tobago
Chile	Ivory Coast (Cote d'Ivoire)	Nigeria	Tunisia
China	Jamaica	Norway	Turkey
Croatia	Japan	Oman	Turkmenistan
Cyprus	Jersey	Pakistan	Tuvalu
Czech Republic	Jordan	Papua New Guinea	Uganda
Denmark	Kazakhstan	Philippines	Ukraine
Egypt	Kenya	Poland	USA
Estonia	Kiribati	Portugal	Uzbekistan
Falkland Islands	Korea (Republic of)	Romania	Venezuela
Faroe Islands	Kuwait	Russian Federation	Vietnam
Fiji	Latvia	St Kitts and Nevis	Zambia
Finland	Lesotho	Saudi Arabia	Zimbabwe

9.4 Dual residence

Helpsheet 302 is available at **www.hmrc.gov.uk/helpsheets/hs302.pdf**

You can be regarded as a resident of more than one country ('dual resident').

There is a HMRC helpsheet that explains how most DTAs resolve the question of dual residence and how liability to UK tax can be affected by the outcome. Since not all DTAs are the same, it is essential when considering whether any relief from UK tax may be due, to look at the text of the particular agreement concerned, as they vary from agreement to agreement.

9.4.1 Residence for the purposes of a Double Taxation Agreement – consequences for tax liability

The residence part of most modern DTAs provides 'tie-breaker' rules for determining in which of the two countries an individual who is dual-resident under the respective domestic laws should be treated as resident for the purposes of the Agreement. The most commonly found tie-breaker tests are:

- permanent home
- centre of vital interests
- habitual abode
- nationality.

If all these tests prove inconclusive DTAs normally provide for the tax authorities of the two countries to settle the matter by negotiation. In practice, very few claims reach this stage.

If the tie-breaker rules award residence for the purposes of the DTA to the other country, UK tax liability is usually affected. If the tie-breaker rules award residence for the purpose of the DTA to the UK, you will remain liable to UK tax as a UK resident. You may, however, be entitled to relief from tax in the other country as a resident of the UK for the purposes of the DTA.

10 Types of income

More information can be found in this guidance to help you decide your position on:
- residence - part 2
- ordinary residence - part 3
- domicile - part 4.

Other information to help you understand what we mean by *the UK* can be found at 12.24 and *abroad*, *foreign* and *offshore* at 12.1, 12.9 and 12.14.

This part provides a series of tables so that, depending on your individual circumstances, you can see which types of income are taxable in the UK. There is additional information to help you understand the tables and to apply them to your individual circumstances.

Before using the tables you must decide, by reference to the guidance provided earlier, if you are:
- resident or not resident in the UK
- ordinarily resident or not ordinarily resident in the UK
- domiciled or not domiciled in the UK.

When you are liable to UK tax it means that you will pay UK tax on the income, after any allowances and other tax reliefs you are entitled to.

The first part of this section deals with earned income and the second part with investment income.

10.1 Earned income

Some UK social security benefits are liable to UK tax. These include the National Insurance Retirement Pension and Widows payments. You should remember to include any taxable benefits when calculating your taxable income for a tax year.

Earned income is any payment you receive as a result of an employment, from a trade, profession or vocation you have, or from a pension you receive.

You can earn income both in the UK and anywhere else in the world. What UK tax you have to pay on your earned income will depend on whether you are resident or not resident in the UK. If you are resident in the UK but are either not ordinarily resident or not domiciled here, you might wish to use the remittance basis of taxation. This will affect the amount of UK tax you have to pay on income earned from outside the UK. **You will always be liable to UK tax on income earned in the UK.**

If you receive income or gains from employment-related share schemes you should keep full records, for example of acquisition, terms and realisation to show where the duties that relate to the award of shares were performed.

10.2 Earned income – When you are resident in the UK

More information on the remittance basis can be found in part 5.

An explanation of the arising basis can be found at 12.3.

Unless you are able to use the remittance basis, when you are resident in the UK you are liable to UK tax on the arising basis of taxation. This means that you are liable to UK tax on all of your earned income, wherever it arises.

10.2.1 Earnings you receive from an employer

See 10.6 for more information on where your duties of employment are carried out.

See 10.8 for more information on your liability from a trade, profession or vocation if you become non-resident in the UK.

When you are liable to UK tax on the arising basis, you are taxed in the UK on your earnings from any employments, whether your duties of employment are carried out in the UK or abroad.

If you can and choose to be liable to UK tax on the remittance basis, your UK employment earnings are taxed in the UK but any earnings from employment abroad will only be taxed if they are remitted here.

But if you are resident and ordinarily resident in the UK, but are not domiciled here, the remittance basis will apply only to foreign employment income where the employment is performed wholly outside the UK for a foreign (non-UK) employer. A foreign employer is an individual, partnership or body of persons resident outside, and not resident in, the UK. You will be liable to UK tax on the arising basis for any UK employment income and for any overseas employment income where **any** of the duties of employment are carried out in the UK.

If your overseas employment duties are performed wholly or partly outside the UK for a UK employer you **will not** be able to claim the remittance basis and the income will be liable to tax in the UK on the arising basis – see table 10.10.1, 3(b).

The table at 10.10.1 will help you see what UK tax you will pay on your income earned from employments.

10.2.2 Earnings from a trade, profession or vocation

When you are liable to UK tax on the arising basis you are taxed in the UK on your earnings from any trade, profession or vocation, whether the trade, profession or vocation is carried out in the UK or abroad.

If you are liable to UK tax on the remittance basis, your earnings from any trade, profession or vocation carried out in the UK are taxed in the UK but any earnings from a trade, profession or vocation carried out **wholly** outside the UK will be taxed only if they are remitted here.

The table at 10.10.2 will help you see what UK tax you will pay on your income earned from a trade, profession or vocation.

10.2.3 Pensions

When you are liable to UK tax on the arising basis you are taxed in the UK on most pensions whether they are from the UK or abroad. If you receive pension payments from outside the UK (an overseas pension) you might be entitled to a 10% deduction from the amount chargeable.

If you receive lump sums from overseas pension schemes or provident funds, the guidance at 10.9 explains your UK tax liability on the lump sum payments you receive.

If you are liable to UK tax on the remittance basis, you will pay UK tax on any UK pensions you receive but any overseas pensions will only be taxed if they are remitted here. You are not entitled to the 10% deduction for overseas pensions when you use the remittance basis.

The table at 10.10.3 will help you see what UK tax you will pay on your income from pensions.

10.3 Earned income – Seafarer's Earnings Deduction

You can find more information on the SED at **www.hmrc.gov.uk**

You can also phone our specialist teams dealing with seafarers at South Wales Area Office, Cardiff. Contact details can be found in part 13 *Contacting HMRC.*

If you are a seafarer (or 'mariner') who is resident and ordinarily resident in the UK you might be entitled to a deduction in your UK tax. This is called the Seafarer's Earnings Deduction (SED).

A seafarer is a person who performs the duties of their employment on a ship. An offshore installation, for example an oil rig, is not a ship for the purposes of SED.

The SED is available only to seafarers.

10.4 Earned income – When you are not resident in the UK

10.4.1 Earnings you receive from an employer

Although you are **not** resident in the UK you will still pay UK tax on any employment duties which you carry out in the UK unless those UK duties are 'merely incidental' to an employment abroad – see 10.6.

You **will not** pay UK tax on any employment duties which you carry out wholly abroad.

If your employment duties are carried out partly in the UK and partly abroad you need to keep details of the employment – for example those days you spend working in the UK and those working abroad – to allow you to identify the earnings you have received for duties carried out in the UK. The duties carried out in the UK will be liable to UK tax. We may ask to see the records on which such calculations are based.

The table at 10.10.1 will help you see what UK tax you will pay on your income earned from employments.

10.4.2 Earnings you receive from a trade, profession or vocation

See 10.6 for more information on where your duties of employment are carried out.

See 10.8 for more information on your liability from a trade, profession or vocation if you become non-resident in the UK.

Although you are **not** resident in the UK you will still pay UK tax on any income or profits from a trade, profession or vocation that you carry out wholly in the UK.

You **will not** pay UK tax on any income or profits from a trade, profession or vocation that you carry out wholly abroad.

If you carry out your trade, profession or vocation partly in the UK and partly outside the UK you will pay UK tax on the income or profits from the part of the trade, profession or vocation carried out in the UK.

The table at 10.10.2 will help you see what UK tax you will pay on your income earned from a trade, profession or vocation.

10.4.3 Pensions

Although you are **not** resident in the UK you will still pay UK tax on most pensions from sources in the UK.

You **will not** pay UK tax on pensions from sources outside the UK.

The table at 10.10.3 will help you see what UK tax you will pay on your income from pensions.

10.4.4 Double Taxation Agreements

More information on Double Taxation Agreements can be found in part 9 of this guidance.

As someone **not** resident in the UK, you might be able to make a claim under a Double Taxation Agreement (DTA) for your UK earnings or pensions, including taxable UK social security benefits, to be exempt from UK tax. This will depend on the content of any DTA between the UK and the other country concerned.

If, for the whole tax year, you are not resident and you do not claim relief under the terms of a DTA, your liability on taxable UK social security benefits is limited to the tax, if any, deducted before payment.

10.5 Offshore oil and gas workers

Offshore means:
- the UK territorial sea (see 12.24)
- the UK continental shelf (see 12.25).

See 10.3 for more information on the SED - the Seafarer's Earnings Deduction.

If you are working offshore in the UK oil or gas exploration or exploitation industry you are not a seafarer and are not eligible to the SED unless you are on a ship.

If you are a non-UK resident working offshore in the UK oil and gas industry and your work is being carried out on the UK continental shelf but outside the UKs territorial waters it will be treated as being performed in the UK for the purposes of taxing your employment income. Your earnings will be UK earned income and be subject to UK tax. Any queries you have about the repayment of that tax should be addressed to South Wales Area, Cardiff and **not** to any other HMRC office. You might not be due a repayment of UK income tax.

If you are a resident of a country with which the UK has a Double Taxation Agreement (DTA) there might be specific provisions for the offshore oil and gas industry. Any queries you have about this should be addressed to South Wales Area, Cardiff (see part 13 *Contacting HMRC*).

10.6 Employment income – Where your duties are carried out

If you are **not resident** in the UK or you use the remittance basis, where you actually carry out your duties will determine if your earned income is UK income or is income earned abroad. Income is taxed in the UK based upon the facts of where the duties, for which you are being paid, were carried out.

Seafarers and aircrew

See 10.3 for more information on seafarers and particularly the SED - the Seafarer's Earnings Deduction.

More information on Double Taxation Agreements can be found in part 9 of this guidance.

Individuals working on international planes, ships and trains are performing UK duties if they travel through the UK, UK airspace, UK territorial waters or UK continental shelf. The extent to which the whole journey is considered UK duties will depend both on whether the journey starts or ends in the UK, and whether or not you are UK resident. If you are not resident in the UK, whether you are relieved from UK tax on duties carried out in the UK will depend on the terms of any relevant Double Taxation Agreement (DTA). It may also be dependent on the country of residence of the company operating the ship or aircraft on which you are employed. You will need to find out the residence of the operator and look at relevant articles of the DTAs involved.

Other workers

If your work is normally carried out abroad but you have to carry out some of your duties in the UK, the work you do in the UK will be part of your duties abroad **only when** you can show that the work you did in the UK was **merely incidental** to the duties of your employment abroad.

Whether or not duties performed in the UK are merely incidental to an overseas employment will always depend on the circumstances of each particular case. Any decision has to be based on the nature of the work carried out in the UK and not simply the amount of time spent on it.

If the work you perform in the UK is the same or is of similar importance to the work that you do abroad, it **will not** be merely incidental. You will have to show that there is a purpose to the work you did in the UK which enabled you to do your normal work abroad and which you could only do in the UK.

Examples of work carried out in the UK as part of an overseas employment:
incidental work
- time spent in the UK by an overseas sales representative of a UK company to make reports or receive fresh instructions
- a short period of time spent training in the UK by an overseas employee, provided that no productive work is carried out in the UK by the trainee

non-incidental work
- time spent in the UK as part of the duties of a member of the crew of a ship or aircraft
- attendance at directors' meetings in the UK by a director of the company who normally works abroad.

10.7 Earned income from employment when you come to or leave the UK part-way through a tax year

The following guidance relates only to income you earn as an employee. All other types of earned income are taxed in the same way as unearned income – see 10.11.

When you become resident in the UK

If you come to the UK during a tax year to take up permanent residence or to stay for at least two years, you are resident in the UK for the whole of that tax year. But there is a concession (subject to conditions) which allows you to be taxed as a non-resident for the part of the tax year before you became resident (extra-statutory concession A11). This means that the foreign income you received before you arrived in the UK will not be liable to UK tax.

When you are resident in the UK any leave pay you receive is normally taxable. If you have been working abroad and are paid for a period of leave spent in the UK, it will be taxed here as 'terminal leave pay'. It is taxed as arising in the period to which it relates – even if your entitlement to the leave pay was built up during a period of overseas employment. If you are able to claim the **Seafarer's Earnings Deduction**, you may be exempt from UK tax on your leave pay but this will depend on your individual circumstances. Any leave pay you receive for a period when you are resident and ordinarily resident is normally taxable.

More information about the Seafarer's Earnings Deduction can be found at 10.3.

When you stop being resident in the UK

If you leave the UK during a tax year for full-time service under a contract of employment, the concession which applies to those people arriving in and becoming resident in the UK during a tax year (extra-statutory concession A11) works in a similar way, subject to certain conditions. The concession allows you to be taxed as a non-resident for the part of the tax year after you left the UK. This means that the foreign income you receive in the tax year after you leave the UK and become non-resident will not be liable to UK tax.

10.8 Coming to or leaving the UK if you carry out a trade, profession or vocation

If you carry out a trade, profession or vocation there are provisions which apply when you start or end the business ('commencement' and 'cessation' provisions).

If you have been carrying out a business wholly or partly outside the UK and you:
- become resident in the UK, or
- cease being resident in the UK

then, in some cases, and provided your business is continuing despite the change in your UK residence status, at that point you are 'deemed' to have ceased one business and started another. This means that special cessation provisions apply up to the date of 'deemed' cessation and special commencement provisions apply from the date of 'deemed' commencement. This may affect the amount of tax you have to pay.

Normally the cessation and commencement of residence in the UK (and therefore the 'deemed' cessation and commencement of trade) takes place at the start of the tax year in which your change of residence occurs. Despite the 'deemed' cessation of one business and commencement of another, where this applies, any losses incurred by the business before the change in your UK residence status can be carried forward and set against the profits of the 'deemed' commencing business.

This will not apply to all trades, professions or vocations. It will depend on where the business is carried out rather than on where the proprietor of the business resides.

A change in your residence status will usually trigger the discontinuance of one business and the commencement of another. Most trades and professions are carried out in a particular location such as a shop or factory. This means that changing the location of a business (for example from one country to another) will usually result in the new business being different from the old one. Even if the type of business being carried out is the same, the fact that it is in a completely new location is likely to mean that it has a different structure, customer base and employees. When this is the case the normal rules for the cessation and commencement of a business will apply and you will have ceased one business and started a new one. You will not be able to carry forward losses from the old business to set against the profits of the new one.

There are some businesses which are not localised in this way. These businesses are mainly carried out by professional people, wherever in the world the person happens to be. Examples of this type of trade would be international actors, sportsmen or women, authors and musicians. If you carry out this type of profession and continue to do so in the same way after a change in your UK residence status, you will be liable to UK tax in the year of the change in your UK residence status as follows:
- when you become resident in the UK you will be liable to UK tax on the proportion of your profits for the full year which reflects the profits made from the date of your arrival in the UK to the following 5 April
- when you cease being resident in the UK you will be liable to UK tax on the proportion of your profits from 6 April until the date of your departure from the UK.

10.9 Lump sums received from overseas pension schemes and provident funds

If you receive lump sum retirement benefits from an overseas pension scheme or provident fund which relate to an employment outside the UK, you will not be charged UK Income Tax or will be charged at a reduced rate. This is by concession (extra-statutory concession A10). What UK Income Tax you are charged will depend on the extent of your foreign service.

You will receive a full exemption where, in the employment to which the pension relates:

- at least 75% of your total service was abroad, or
- your total foreign service exceeds 10 years and the whole of the last 10 years service was abroad, or
- your total foreign service exceeds 20 years and not less than 50% of the total service was abroad, including any 10 of the last 20 years.

If you do not meet these conditions you will not receive a full exemption. You will be charged Income Tax on the percentage of the lump sum which equals your UK service in the employment.

10.10 Tables showing the scope of liability to UK tax for earned income

Using the tables

These tables are designed to help you identify your liability to particular types of income, based upon your UK domicile and UK residence status and, if appropriate, whether you claim the remittance basis.

Your starting point will be whether you are domiciled in the UK or outside the UK and you will then proceed to the question of whether you are resident and ordinarily resident, resident and not ordinarily resident or not resident in the UK.

Some additional notes of explanation are provided as footnotes.

Other Information

UK residence - see part 2.

Ordinary residence - see part 3.

Domicile - see part 4.

Remittance Basis - see part 5.

Remittance Basis for persons resident and ordinarily resident but not domiciled in the UK - see 10.2.1.

Employment duties carried out partly in UK and partly abroad - see 10.6.

10.10.1 Table 1 – How employment income is taxed in the UK

Your UK domicile status	Your UK residence status	Arising Basis (AB) or Remittance Basis (RB) claimed	Employment duties performed wholly or partly in the UK		Employment duties performed wholly outside the UK
			Duties performed in UK	Duties performed outside UK	
Domiciled within UK	**1 Resident and ordinarily resident**	AB	Liable[1]	Liable[1]	Liable[1]
	2 Resident and not ordinarily resident	2(a) AB	Liable	Liable	Liable
		2(b) RB	Liable	Liable on remittance	Liable on remittance
	3 Not resident	AB[2]	Liable	Not liable	Not liable
Domiciled outside UK	**4 Resident and ordinarily resident**	4(a) AB	Liable[1]	Liable[1]	Liable[1]
		4(b) RB	Liable (on AB)[3]	Liable (on AB)[3]	See below[3]
	5 Resident and not ordinarily resident	5(a) AB	Liable	Liable	Liable
		5(b) RB	Liable	Liable on remittance	Liable on remittance
	6 Not resident	AB[2]	Liable	Not liable	Not liable

Notes

Use of this table is subject to any different treatment provided for under the terms of the relevant article in a Double Taxation Agreement – part 9 provides information about possible relief under a Double Taxation Agreement.

1 Indicates that you are liable to pay UK tax unless subject to Seafarer's Earnings Deduction (SED) - see 10.3.

2 For individuals not resident in the UK, the arising basis is limited to liability to UK tax on income arising in the UK.

3 If you are resident and ordinarily resident but are not domiciled in the UK the remittance basis operates differently from the way in which it works for individuals who are resident but not ordinarily resident in the UK. You are liable to UK tax on the arising basis for any earned income where the duties are performed wholly or partly in the UK. The liability to UK tax on income earned wholly outside the UK will depend on the residence status of your employer:
(a) when your employer is non-UK/foreign resident - liable on remittance basis
(b) when your employer is UK resident - employment earnings are liable on arising basis.

10.10.2 Table 2 How income from a trade, profession or vocation is taxed in the UK

Other Information

UK residence - see part 2.

Ordinary residence - see part 3.

Domicile - see part 4.

Remittance Basis - see part 5.

Your UK domicile status	Your UK residence status	Arising Basis (AB) or Remittance Basis (RB) claimed	Trade or profession carried out wholly or partly in the UK	Trade or profession carried out wholly outside the UK
Domiciled within UK	**1 Resident and ordinarily resident**	AB	Liable	Liable
	2 Resident and not ordinarily resident	2(a) AB	Liable	Liable
		2(b) RB	Liable	Liable on remittance
	3 Not resident	AB[2]	Liable	Not liable
Domiciled outside UK	**4 Resident and ordinarily resident**	4(a) AB	Liable	Liable
		4(b) RB	Liable	Liable on remittance
	5 Resident and not ordinarily resident	5(a) AB	Liable	Liable
		5(b) RB	Liable	Liable on remittance
	6 Not resident	AB[2]	Liable[1]	Not liable

Notes

Use of this table is subject to any different treatment provided for under the terms of the relevant article in a Double Taxation Agreement part 9 provides information about possible relief under a Double Taxation Agreement.

1 You are liable to UK tax on the profits of the part of the trade or profession which are carried out in the UK.

2 For individuals not resident in the UK, the arising basis is limited to liability to UK tax on income arising in the UK.

10.10.3 Table 3 – How income from pensions is taxed in the UK

Other Information

Lump sums received from overseas pensions schemes and provident funds - see 10.9.

Your UK domicile status	Your UK residence status	Arising Basis (AB) or Remittance Basis (RB) claimed	UK pension	Non-UK (overseas) pension
Domiciled within UK	**1 Resident and ordinarily resident**	AB	Liable	Liable[1]
	2 Resident and not ordinarily resident	2(a) AB	Liable	Liable[1]
		2(b) RB	Liable	Liable on remittance[2]
	3 Not resident	AB[3]	Liable	Not liable
Domiciled outside UK	**4 Resident and ordinarily resident**	4(a) AB	Liable	Liable[1]
		4(b) RB	Liable	Liable on remittance[2]
	5 Resident and not ordinarily resident	5(a) AB	Liable	Liable[1]
		5(b) RB	Liable	Liable on remittance[2]
	6 Not resident	AB[3]	Liable	Not liable

Notes

Use of this table is subject to any different treatment provided for under the terms of the relevant article in a Double Taxation Agreement – part 9 provides information about possible relief under a Double Taxation Agreement.

1 Less a 10% deduction - see 10.2.3.

2 If a claim to the Remittance Basis is made then the 10% deduction referred to at 1 above is not available - see 10.2.3.

3 For individuals not resident in the UK, the arising basis is limited to liability on pensions originating in the UK. You should also see 10.1 for details of UK social security benefits such as National Insurance Retirement Pension.

10.11 Investment income

Investment income is any income you have which is not a pension and has not been earned by you as an employee, by carrying out your profession or by running your own business.

Although this list is not exhaustive, unearned income includes:

- interest from bank and building society accounts
- dividends on shares
- interest on stocks
- rental income received unless the rental income is part of the income of a trading business.

Certain types of investment income from sources outside the UK are also known as *relevant foreign income*. This term is particularly used to describe unearned foreign income in relation to the remittance basis - see 12.20.

You can find more information on the remittance basis in part 5 of this guidance.

Investment income can arise in the UK and anywhere else in the world. What UK tax you have to pay on investment income will depend on whether you are resident or not resident in the UK. If you are resident in the UK but are either not ordinarily resident or not domiciled here, you might wish to use the remittance basis of taxation which will affect the amount of UK tax you have to pay on your investment income from outside the UK. **You will always be liable to UK tax on investment income from UK sources.**

The table at 10.15 shows UK tax liability on investment income and the guidance at 10.14 tells you about UK tax liability on foreign investment income when you become resident in the UK part-way through a tax year.

10.12 Investment income – When you are resident in the UK

10.12.1 Liability on the arising basis

Unless you are able to use the remittance basis, when you are resident in the UK you are liable to UK tax on the arising basis of taxation. This means that you are liable to UK tax on all of your investment income, wherever it arises.

Most banks, building societies and other deposit takers in the UK deduct UK tax from interest they pay or credit to your account. If you are resident in the UK but not ordinarily resident here, you might be able to arrange to have your interest paid without such tax being deducted. More information about this can be found in 10.13.

FOTRA stands for *Free of Tax to Residents Abroad.*

Also when you are resident in the UK but not ordinarily resident here, you might not be liable to UK tax on UK Government 'FOTRA' securities. More information about this is found in 10.13.

Most investment income from sources outside the UK and some from sources in the UK will not have had UK tax deducted before it is paid to you. This does not make it 'UK tax-free' and UK tax might be due on such income. You should ensure that you tell us about all such income and that it is included on any Self Assessment tax return you complete. If the foreign investment income has been subject to foreign tax in the place it was generated, you will normally receive a credit against your UK tax liability. We would expect you to be able to produce documentary evidence of such foreign tax if we were to ask to see it. We will not repay overseas tax deducted from a non-UK source.

10.12.2 Liability on the remittance basis

If you use the remittance basis you are liable to UK tax on all of your investment income from UK sources but any foreign investment income will only be taxed in the UK if it is remitted here.

When using the remittance basis, certain types of investment income from sources outside the UK is often referred to as *relevant foreign income* – see 12.18.

The table at 10.15 shows UK tax liability you have on investment income. The guidance at 10.14 tells you about UK tax liability on foreign investment income when you become resident in the UK part-way through a tax year.

10.13 Investment income – When you are not resident in the UK

Although you are **not** resident in the UK you will still be liable to pay UK tax on investment income from UK sources, although there is a restriction on your tax liability for investment income. This restriction is not available for any tax year in which split-year treatment applies – see 10.14. You might also be able to receive tax relief under the terms of a double taxation agreement, if one applies.

You **will not** be liable to pay UK tax on any investment income from sources outside the UK.

The table at 10.15 shows UK tax liability you have on investment income. The guidance at 10.14 tells you about UK tax liability on foreign investment income when you become resident in the UK part-way through a tax year.

10.13.1 Income from property in the UK

You can find more information about the Non-resident Landlords Scheme at **www.hmrc.gov.uk**

If you have profits from letting property situated in the UK, they are liable to tax in the UK, even if you are not resident here. Retention of tax from UK property income is dealt with under the Non-resident Landlords Scheme. If your usual place of abode is outside the UK and:

- you receive rental income direct from the tenant, the tenant must first deduct tax at the basic rate and pay it to HMRC, or
- a letting agent collects the rental income for you, the letting agent must deduct tax at the basic rate from the income received, less any allowable expenses paid on your behalf.

Credit for any tax deducted in this way will be given against your UK Income Tax liability when you complete a Self Assessment tax return.

The address and phone number of CAR Personal Tax International in Liverpool can be found in part 13 *Contacting HMRC.*

You can apply to CAR Personal Tax International in Liverpool for approval to have your property income paid without tax being deducted. You can only apply for this approval if you undertake to comply with all your UK tax obligations and:

- your UK tax affairs are up to date, or
- you have never had any UK tax obligations, or
- you do not expect to be liable to UK income tax.

10.13.2 UK Government securities

FOTRA stands for *Free of Tax to Residents Abroad.* Interest paid on FOTRA securities is paid without UK tax deducted and if you are liable to UK tax and receive interest from a FOTRA security you must tell us and make sure that the interest you receive is included on any Self Assessment tax return you complete.

If you are not ordinarily resident in the UK you will not pay UK tax on the interest that arises on UK Government 'FOTRA' securities unless the interest received forms part of the profits of a trade or business which is carried out in the UK. UK tax will also be charged in cases where laws to prevent tax avoidance provide that the income is to be treated as belonging to another person.

If you hold securities with a nominal value of more than £5,000 during a tax year in which you are resident in the UK at any time, special tax provisions (the 'accrued income scheme') will apply when the securities are transferred. You will be charged UK Income Tax on the interest that has built up ('accrued') over the period you owned the securities following the last interest payment, even if you were not resident in the UK for part of that period.

10.13.3 Interest from building societies and banks

To receive your interest without UK tax being deducted:
- ask your bank, building society or deposit taker for a declaration - form R105
- give the completed declaration to your bank, building society or deposit taker
- declarations will only have effect from the date it is received by your bank, building society or deposit taker - they cannot be backdated
- if the account is a joint account you can only complete a declaration if all of the people who are beneficially entitled to the interest are not resident or not ordinarily resident.

Most banks, building societies and other deposit takers in the UK deduct UK tax from interest they pay or credit to your account. If you are not ordinarily resident in the UK, you may be able to arrange to have your interest paid without such tax being deducted. Whether you can do this will depend on the terms and conditions of the account and whether or not your bank, building society or deposit taker offers this facility. Where it is available on an account you complete a 'not ordinarily resident' declaration for the bank, building society or deposit taker (**not** HMRC) which states that you want your interest to be paid or credited without tax being deducted.

If you (or, in the case of joint accounts, any of the people who are beneficially entitled to the interest) become resident or ordinarily resident in the UK, you must tell your bank, building society or deposit taker right away so they can start to deduct tax from the interest paid.

10.14 Investment income when you come to or leave the UK part-way through a tax year

10.14.1 When you become resident in the UK

More details on Double Taxation Agreements can be found in part 9 of this guidance.

More details on the Remittance Basis can be found in part 5 of this guidance.

An exception to the rule of UK Income being chargeable is FOTRA - see 10.13.2.

When you come to the UK during a tax year and are resident from the date of your arrival, you are liable to UK tax on your UK investment income for the whole of the tax year, subject to the terms of any DTA which might apply to you.

You will not be liable to UK tax on foreign investment income arising before the date of your arrival under extra-statutory concession A11. From the date of your arrival in the UK you will be liable to UK tax on your foreign investment income, subject to whether you use the remittance basis of taxation in the year of your arrival.

10.14.2 When you stop being resident in the UK

When you leave the UK during a tax year and become non-resident here on the day after your departure, you will be liable to UK tax on your UK investment income for the whole of the year.

An exception to the rule of UK income being chargeable is FOTRA – see 10.13.2.

If you meet the requirements of extra-statutory concession A11 you will not be liable to UK tax on your foreign investment income following the date of your departure. Up to the date of your departure from the UK you will be liable to UK tax on your foreign investment income, subject to whether you use the remittance basis in the tax year of your departure.

10.14.3 When you do not use the remittance basis

If you do not use the remittance basis in the year of departure you will, where you are entitled to apply extra-statutory concession A11, be liable to UK tax on your foreign investment income which arose before your departure from the UK.

10.14.4 When you use the remittance basis

If you use the remittance basis in the year of departure you will, where you are entitled to apply extra-statutory concession A11, be liable to UK tax on your foreign investment income which you remitted to the UK before your departure.

10.15 How investment income is taxed in the UK

Your UK domicile status	Your UK residence status	Arising Basis (AB) or Remittance Basis (RB) claimed	Investment income		UK Government 'FOTRA' securities
			From a UK source	From a non-UK source[3]	
Domiciled within UK	**1 Resident and ordinarily resident**	AB	Liable	Liable	Not applicable[2]
	2 Resident and not ordinarily resident	2(a) AB	Liable[4]	Liable	Not liable
		2(b) RB	Liable[4]	Liable on remittance	Not liable
	3 Not resident	AB[1]	Liable	Not liable	Not liable
Domiciled outside UK	**4 Resident and ordinarily resident**	4(a) AB	Liable	Liable	Not applicable[2]
		4(b) RB	Liable	Liable on remittance	Liable[2]
	5 Resident and not ordinarily resident	5(a) AB	Liable[4]	Liable	Not liable
		5(b) RB	Liable[4]	Liable on remittance	Not liable
	6 Not resident	AB[1]	Liable	Not liable	Not liable

Notes

Use of this table is subject to any different treatment provided for under the terms of the relevant article in a Double Taxation Agreement – part 9 provides information about possible relief under a Double Taxation Agreement.

1 For individuals not resident in the UK, the arising basis is limited to liability on unearned income arising in the UK.

2 UK Government 'FOTRA' securities are only for those people who are not resident or are not ordinarily resident in the UK. If you are resident and ordinarily resident in the UK you will be liable to UK tax on interest from FOTRAs, even when you are domiciled outside of the UK.

3 Certain types of investment income from a non-UK source is also known as 'relevant foreign income'.

4 If you are not ordinarily resident in the UK you may apply to receive interest from a bank or building society without tax deducted by completing form R105 (see 10.13.3).

11 National Insurance contributions

The terms *resident* and *ordinarily resident* **do not** have the same meaning for NICs as they do for tax and so the tax rules on residence and ordinarily residence set out in parts 2 and 3 of this guidance are **not** relevant to NICs.

Leaflet NI38 *Social Security abroad* gives guidance on the rules on residence and ordinarily residence which apply for National Insurance purposes. You can find this at **www.hmrc.gov.uk/pdfs/nico/ni38.pdf**

The Member States of the European Union are listed at 11.2.

Most people who work in the UK pay National Insurance contributions (NICs) in addition to paying tax. There are six classes of contributions, some of which count towards certain social security benefits.

When you leave the UK you might still have to continue paying UK NICs and when you come to live in the UK, you might have to start paying them.

What NICs you pay will depend on whether:

- you are going to or coming from a European Economic Area (EEA) country (including Switzerland), or
- you are going to or coming from a country with which the UK has a bilateral Social Security Agreement, or
- you are going to or coming from another foreign country which is not within the EEA (including Switzerland) and which does not have a bilateral Social Security Agreement with the UK.

11.1 European Economic Area (EEA) countries

The EEA countries are the Member States of the European Union and Iceland, Liechtenstein and Norway.

Switzerland is not a member of the EEA but there is an agreement between Switzerland and the EU which means that the EU rules on National Insurance and Social Security also largely cover Switzerland.

11.2 European Union (EU) countries

At April 2010, as well as the UK (including Gibraltar as the UK applies the EC Regulations to Gibraltar as though it is another EEA country, and other EEA countries treat Gibraltar as though it is part of the UK), the Member States of the European Union are:

Austria	Greece	Poland
Belgium	Hungary	Portugal
Bulgaria	Ireland	Republic of Cyprus
Czech Republic	Italy	Romania
Denmark	Latvia	Slovakia
Estonia	Lithuania	Slovenia
Finland	Luxembourg	Spain
France	Malta	Sweden
Germany	Netherlands	

11.3 Countries with bilateral Social Security Agreements in force with the UK

At April 2010, the following countries have bilateral Social Security Agreements in force with the UK which cover NICs. Some of these agreements include the Isle of Man, Guernsey and Jersey as part of the UK. Where that is the case, the benefits and obligations of the agreement will also apply to those countries:

Barbados	Korea[2]
Bermuda	Mauritius
Canada (excluding Quebec)	New Zealand
Isle of Man	Philippines
Israel	Turkey
Jamaica	USA
Japan[2]	The Republics of the former Yugoslavia[1]
Jersey/Guernsey	

1 The Republics of former Yugoslavia - This and references to 'The Republic' means the Republics of Bosnia-Herzegovina, Croatia, Kosovo, the former Yugoslav Republic of Macedonia, Montenegro and Serbia. Slovenia is a Member State of the EU and is treated in line with other EEA countries.

2 The Double Contributions Convention (DCC) with the Republic of Korea and Japan only cover social security contribution liability.

11.4 If you are going abroad

11.4.1 Going abroad to an EEA country

The EEA countries are listed in 11.1.

If you are going to another EEA country, the European Community Social Security Regulations apply. The general rule is that you will be subject to the social security legislation of the country in which you work but there are some exceptions.

Exceptions when going abroad to an EEA country

The address and phone number of NICO International Caseworker in Newcastle can be found in part 13 *Contacting HMRC.*

If you are an EEA national and a UK employer sends you to work in another EEA country for a period not expected to be more than 24 months at the outset, you and your UK employer will usually continue to pay UK NICs as if you were still in the UK. Your employer will need to apply on your behalf to NICO International Caseworker for form A1. This form confirms that you will continue to pay UK NICs while working in the other country and will ensure that you are not required to contribute to the other country's social security scheme.

Similar rules exist for employees who are not EEA nationals but who are legally resident in the UK. Where you are sent to work in another EEA country for a period not expected to be more than 12 months at the outset, you and your employer will usually continue to pay NICs as if you were in the UK. Your employer will need to apply on your behalf to NICO International Caseworker for form E101. If the work lasts longer than expected, you can apply for Form E102 which will allow you to pay UK NICs and exempt you from foreign social contributions for a maximum of a further 12 months that you are abroad. The other Member State has to agree with HMRC to the extension for form E102 to be issued.

You will need to ensure that you have a valid EHIC to provide cover for healthcare for you and any of your family who accompany you for the period of employment in the other country.

The European Health Insurance Card (EHIC) provides for healthcare cover abroad for you and any family members who accompany you for the period of your employment in the other country. You can apply online at **www.ehic.org.uk** or by phone on **0845 606 2030**. Application forms are also available at UK post offices.

Similar rules apply if you are self-employed. You must contact NICO International Caseworker Newcastle and also ensure that you obtain EHICs to provide healthcare cover for yourself and any of your family who accompany you for the period of self-employment in the other country.

There are different rules if you belong to one of the following groups:

- those who work in more than one country
- seafarers (mariners)
- transport workers
- civil servants
- members of the staff of diplomatic or consular posts
- those who work for a member of the staff of a diplomatic or consular post
- members of the staff of the European Union
- members of Her Majesty's forces
- civilians who work for Her Majesty's forces in Germany, or for an organisation like NAAFI which serves Her Majesty's forces.

In many of these cases, you may continue to pay UK NICs.

If you work in another EEA country in any other circumstances (for example, for a foreign employer) or you intend to remain abroad indefinitely, you will probably have to pay social security contributions to the other country's scheme. If so, you will not be required to pay UK NICs. But it might be possible for you to pay UK voluntary NICs to protect your basic UK pension rights.

11.4.2 Going abroad to a country which has a bilateral agreement covering NICs with the UK

The countries with which the UK has a bilateral Social Security Agreement covering NICs are listed at 11.3.

If you are going to a country with which the UK has a bilateral Social Security Agreement covering NICs, the position will depend on the terms of the particular agreement. The general rule is that you will be subject to the social security legislation of the country in which you work but there are some exceptions.

Exceptions when going abroad to a country which has a bilateral agreement covering NICs with the UK

The address and phone number of NICO International Caseworker in Newcastle can be found in part 13 *Contacting HMRC*.

If your employer sends you to a country with which the UK has an agreement, you may be required to continue paying UK NICs as if you were still in the UK. How long you continue to pay UK NICs will depend on the particular agreement. Your employer will need to apply on your behalf to NICO International Caseworker Newcastle for a certificate confirming that UK NICs continue to be paid while you are working in the other country. This will ensure that you are not required to contribute to the other country's social security scheme.

Unlike the EEA, there is no general provision for healthcare in most bilateral agreements. You or your employer should consider your healthcare provisions while working in such countries.

Some agreements include provisions which may allow you to continue paying UK NICs for longer than the normal period under the agreement.

If you are self-employed, not all agreements will cover you. In the case of those that do, similar rules apply as for those in employment.

Certain agreements contain special rules for particular groups, such as civil servants, mariners or transport workers.

If you work in a country with which the UK has an agreement in any other circumstances, for example, for a foreign employer, or you intend to remain abroad indefinitely, you will probably have to pay social security contributions to the other country's scheme. If so, you will not be required to pay UK NICs. But it might be possible for you to pay UK voluntary NICs to protect your UK basic pension rights.

11.4.3 Going abroad to another country which is not within the EEA and does not have a bilateral agreement covering NICs with the UK

If you are going to a country which is not within the EEA and does not have a bilateral Social Security Agreement with the UK, the position will depend on the domestic rules there.

If your UK employer sends you to work in a country outside the EEA and not covered by a bilateral agreement, you will be required to continue paying UK NICs for the first 52 weeks of employment in the other country where all of the following conditions apply:

- your employer has a place of business in the UK, and
- you are ordinarily resident in the UK, and
- you were resident in the UK immediately before starting the work abroad.

No certificate is required to confirm that you continue to pay UK NICs. Some countries will require you, in addition to your UK NICs, to contribute to their social security scheme. After 52 weeks you are not required to continue paying UK NICs, but you may pay voluntary NICs to protect your UK basic pension rights.

Should you decide not to pay voluntary UK NICs, your National Insurance record will still be protected for certain social security benefits (but not retirement pension or widow's benefit) on your return to the UK.

11.5 If you are arriving in the UK from abroad

If you arrive here from abroad and take up employment with a UK employer or take up self-employment, you will generally be required to pay UK NICs but there are some exceptions to this rule.

11.5.1 Arriving in the UK from an EEA country

The EEA countries are listed at 11.1.

If you are an EU national and an employer in another EU country sends you to work in the UK for up to 24 months, you may be able to continue paying social security contributions in the other country, rather than in the UK. If form A1 has been issued by the foreign social security institution, confirming that you continue to contribute to the foreign scheme, you will not have to pay UK NICs. Similar rules exist for nationals of Iceland, Liechtenstein, Norway and Switzerland and non-EEA nationals residing in an EEA country who are sent to the UK to work for a period not expected to exceed 12 months and who have a form E101 issued by the foreign social security institution confirming that you are continuing to contribute to the foreign scheme.

There are similar provisions for self-employed people who are working temporarily in the UK.

11.5.2 Arriving in the UK from a country with a bilateral agreement

The countries with which the UK has a bilateral Social Security Agreement covering NICs are listed at 11.3.

If you are sent to work temporarily in the UK by an employer in a country with which the UK has a bilateral Social Security Agreement covering NICs, you may be able to continue paying foreign social security contributions. If a certificate is issued by the foreign social security institution, confirming that you continue to contribute to the foreign scheme, you will not have to pay UK NICs.

11.5.3 Arriving in the UK from another country which is not within the EEA and does not have a bilateral agreement covering NICs with the UK

If you are not covered by the special rules for people coming from the EEA or Switzerland, and not covered by a bilateral Social Security Agreement, you may be exempt from National Insurance for up to 52 weeks, providing you meet all of the following criteria:

- you are not ordinarily resident in the UK, and
- you normally work outside the UK for a foreign employer, and
- you are sent to work in the UK for a time by that foreign employer, and
- when in the UK you work for that employer.

Under this rule neither you nor your employer has to pay UK NICs for the first 52 weeks of your employment in the UK. NICs are payable from the 53rd week. If you do not meet these criteria you will be liable to pay NICs from the outset of your employment in the UK.

If the foreign employer does not have a place of business in the UK and your employer makes you available to work in another business in the UK, NICs are due from that UK ‘host’ employer.

12 Glossary

Glossary of some of the terms we use

The following are simple explanations of some of the terms used in this guidance. These will help you understand some basic concepts. In many cases they are supported with more detailed information elsewhere in the guidance. They are set out alphabetically.

12.1 Abroad/foreign

Details on bilateral Social Security Agreements can be found at part 11 of this guidance.

In this guidance *abroad* and *foreign* refer to any country outside the UK (see 12.24). The Channel Islands and the Isle of Man are abroad (except in the limited context of certain bilateral Social Security Agreements). If you have bank accounts or investments in the Channel Islands or the Isle of Man they are *foreign* or *abroad* from the UK (often referred to as *offshore*). If you are resident, domiciled and ordinarily resident in the UK, you will still be liable to UK tax on any interest you receive from such accounts and investments.

12.2 Accrue

Accrue is a term used when talking about capital gains (see 12.4). A gain 'accrues' on an asset when its increase in value during the period you have owned it is realised for Capital Gains Tax purposes. You can realise the value of an asset in a number of ways for Capital Gains Tax purposes. For example, by selling, exchanging or giving an asset away.

12.3 Arising basis

A person who is resident in the UK is normally taxed on the *arising basis*. This means that they will pay UK tax on all of their income as it arises and on their gains as they accrue, wherever that income and those gains are in the world.

An alternative basis of taxation for some people with foreign income and/or gains is called 'the remittance basis' and you can find details of this at 12.20.

When you are taxed on foreign income and/or gains on the arising basis you might find that your foreign income/gains have already been taxed in the country in which they are located. That does not mean that they are not taxable in the UK. You must still declare **all** of your foreign income and gains. In many cases, relief is given in the UK for foreign tax paid on foreign income and gains under the provisions of the relevant Double Taxation Agreements (see 12.6) or via unilateral relief. Even if no UK tax is payable because it is covered completely by the foreign tax you have paid you can only claim relief under a Double Taxation Agreement by completing a Self Assessment tax return.

12.4 Capital Gains and Capital Gains Tax

You can find more information about capital gains and Capital Gains Tax at **www.hmrc.gov.uk**

Capital Gains Tax is a tax on the profit – 'gain' – you make when you dispose of assets. In the context of capital gains, 'dispose of' means sell, exchange or give away, and it also includes part-disposals and some other events involving assets which the law says shall be treated as disposals. You don't pay Capital Gains Tax on some assets, for example personal possessions worth £6,000 or less, or in most cases, your main home.

You usually have to work out if there is any Capital Gains Tax to pay if you:

- sell, give away, exchange, or cease to own – 'dispose of' – all or part of an asset
- receive a capital sum, such as an insurance payout for a damaged, lost or destroyed asset.

Common items that attract Capital Gains Tax when they are disposed of include:

- land
- buildings, for example a second home
- personal possessions such as a painting or jewellery worth more than £6,000
- shares or securities
- business assets, for example business premises or goodwill
- foreign currency which you bring to the UK to spend
- foreign currency which you dispose of to acquire other assets.

You don't have to pay Capital Gains Tax when you sell personal belongings worth £6,000 or less, your car – and in most cases – your main home. Other things that you don't have to pay Capital Gains Tax on include:

- ISAs or PEPs
- UK government gilts
- betting, lottery or pools winnings
- money which forms part of your income for Income Tax purposes, for example from property trading
- gifts to charities
- foreign currency acquired for personal use outside the UK.

For information about losses on overseas gains see 5.6.

There is a tax-free allowance called the *Annual Exempt Amount* (the tax-free allowance) for Capital Gains Tax. For the tax year 2009–10 this was £10,100 for every individual. Many people using the remittance basis will not be able to claim this *Annual Exempt Amount* because of the rules for using the remittance basis (see part 5 of this guidance).

12.5 Domicile

If you do have foreign income and/or gains, more information about domicile can be found at part 4 of this guidance. For details on how domicile might affect your Inheritance Tax position see the booklet *Customer Guide to Inheritance Tax*.

Your domicile is where you have your permanent home. Domicile is a general law concept: it is not defined in tax law. Your domicile is distinct from your nationality and from your place of residence. You can be resident in the UK but have a domicile somewhere else.

Your domicile status matters for Income Tax and Capital Gains Tax purposes if you have income and/or capital gains outside the UK. It is also relevant for Inheritance Tax purposes.

12.6 Double Taxation Agreements (DTAs)

More information on Double Taxation Agreements can be found in part 9 of this guidance.

The UK has Double Taxation Agreements (DTAs) with many countries around the world. The main purpose of a DTA is to prevent you having to pay tax in two countries on the same source of income. When you are resident in the UK and in a country with which the UK has a DTA, that DTA will provide:

- special rules for determining which of the countries is regarded as your country of residence for the purposes of the agreement (often referred to as 'treaty residence', and
- details of any exemptions and reliefs from UK tax and tax in the other country granted under the agreement to residents of that other country.

The content of each DTA is different as it has been agreed between the UK and the individual country in question. You should always ensure that the DTA you look at is the one dealing with the correct country.

Where a DTA exists between the UK and another country, it will usually have the effect of reducing the amount of foreign tax you have to pay. To benefit from the terms of a DTA you must make a claim or application under the terms of the agreement.

12.7 Dual resident

More information on dual residence and on Double Taxation Agreements can be found in part 9 of this guidance.

Other countries have their own rules about residence. It is possible to be resident (or ordinarily resident) in the UK and resident (and/or ordinarily resident) in another country under that country's rules. This means that you are *dual resident* (or *dual ordinarily resident*).

In many cases when you are *dual resident* there will be a Double Taxation Agreement (DTA) (see 12.6) between the UK and the other country. The DTA will cover, among other things, the rules for determining in which country you are resident for the purposes of the treaty and what tax you are due to pay where. The DTA will provide other information which might affect you – for example, what UK tax allowances you can receive.

12.8 Earned income

For information about investment income - see 12.11.

More information on earned income and how it is taxed in the UK can be found in part 10 of this guidance.

Earned income is **any** income which is paid to you for something you have done – work you have carried out. It also includes pensions from funds to which you contributed when you were in employment.

Although this list is not exhaustive, earned income includes:

- a salary, wage and any bonuses from an employment – for example, your daily, weekly or monthly payment from an employer or from employers if you have more than one employment
- any payments you receive as a director or office holder
- any pensions including state pensions
- income from any trade, profession or vocation – for example your earnings from a business or payments you receive for something you have produced such as a piece of writing or a painting
- benefits in kind provided by reason of an employment.

Dividend income is **not** earned income.

12.9 Foreign

Foreign means something from outside the UK – see *Abroad* (12.1).

12.10 Income Tax

Taxable income includes:
- earnings from employment (including benefits in kind which you receive from your employer)
- earnings from self-employment
- most pensions income (state, company and personal pensions)
- rental income
- income paid to you from a trust
- interest paid to you (by a bank, building society etc.)
- income you receive from share based options.

Non-taxable income includes:
- certain benefits
- income from tax exempt accounts, for example ISAs
- Working Tax Credit (WTC)
- Premium Bond wins.

UK Income Tax is a tax on your income. Not all income is taxable and you are taxed only on your *taxable income* above a certain level. There are reliefs and allowances that may reduce your Income Tax bill – and in some cases determine that you have no tax to pay (see 12.17).

We collect Income Tax in different ways depending on the type of income you have and whether you are employed, self-employed or not working. These include:
- PAYE (Pay As You Earn)
- Self Assessment
- tax deducted 'at source' where tax is deducted from some bank/building society interest before the interest is paid to you
- one-off payments.

If you are an employee, your employer will deduct tax from your earnings through PAYE. If you are self-employed, you will be responsible for filling in a Self Assessment tax return and paying your own tax.

You could also be liable to Income Tax if you are a trustee. Guidance on trustees can be found in the *Trusts, Settlements and Estates Manual* at **www.hmrc.gov.uk**

The rates of Income Tax may change from one tax year to another. For more information on the current and previous years' rates of Income Tax and more information about taxable and non-taxable UK benefits, go to **www.hmrc.gov.uk**

12.11 Investment income

For information about earned income - see 12.8.

More information on investment income and how it is taxed in the UK can be found in part 10 of this guidance.

Investment income is any income that is not a pension and has not been earned by you as an employee, by carrying out your profession or from running your own business. In most cases investment income arises from investments you have made.

Although this list is not exhaustive, income from savings and investments includes:
- interest from bank and building society accounts
- dividends on shares
- interest on stocks
- rental income which is received by you and is not part of the profits of a business which you run.

12.12 National Insurance contributions (NICs)

More information on National Insurance contributions can be found in part 11 of this guidance.

Most people (between 16 and 65) who work in the UK pay National Insurance contributions. There are six classes of contributions, some of which count towards certain social security benefits. You may be exempt from NICs if you continue paying social security in your home country and are covered by a Certificate of Coverage from that country.

All people who work in the UK and pay NICs need to have a National Insurance number (NINO) which is a unique number allocated to you so that a record of your National Insurance contributions can be kept and any benefits you are entitled to can be calculated. NINOs are also used to uniquely identify you in the tax system.

The terms *resident* and *ordinarily resident* have different meanings for NICs than for tax. The leaflet NI38 *Social Security abroad* gives guidance on the rules that apply for National Insurance purposes.

12.13 Non-resident

More information on being resident in the UK can be found in part 2 of this guidance.

If you do not meet the criteria to be resident in the UK you will be *non-resident*. If you are not resident in the UK you might not have to pay UK tax on some of your income and gains. You can find more detailed information in part 10.

If your normal home is outside the UK, and you are in the UK for fewer than 183 days in the tax year, you might be non-resident. But you might still be resident even if you spend fewer than 183 days in a tax year in the UK (see 12.23). Being resident in the UK is not simply a question of the number of days you spend in the country.

12.14 Offshore/overseas

The terms *offshore* and *overseas* refer to anywhere outside the UK. (UK is explained at 12.24.) In this context *offshore* and *overseas* mean the same as *abroad* (12.1) or *foreign* (12.9). You might see references to *offshore bank accounts* and *offshore income*.

Offshore is sometimes used in a different sense to describe some workers in the oil and gas exploration and exploitation industries. In this usage it is possible to be working *offshore* from the UK but still be working in the UK for employment income purposes. This would be the case when a person works in the oil or gas industry outside UK territorial waters, but within any UK designated area of the continental shelf (12.25).

12.15 Ordinarily resident/ordinary residence

Ordinary residence has particular importance when people come to or depart from the UK. Guidance on these matters is given in parts 6 and 7.

Your *not ordinarily resident* status might affect how you are taxed in the UK on income from outside the UK.

If you have foreign income, more information about ordinary residence can be found at part 3 of this guidance.

Ordinary residence is different from *residence*. It is not defined in tax law and our guidance is based on cases heard by the Courts. If you are resident in the UK year after year, this would indicate that you 'normally' live here and you are therefore *ordinarily resident* here.

If you are resident here your ordinary residence position in the UK generally matters only if you have income from outside the UK. Income from outside the UK can include earnings for duties performed outside the UK.

Resident and not ordinarily resident

You can be resident in the UK but not ordinarily resident here. When we talk about someone being 'not ordinarily resident in the UK' we mean that although they are resident in the UK for a particular tax year, they normally live somewhere else. For example, if you are resident in the UK in a tax year because you have been in the country for more than 183 days but you normally live outside the UK, it is likely that you are not ordinarily resident.

12.16 Permanent home

More information about ordinary residence can be found in part 3, domicile in part 4 and double taxation in part 9 of this guidance.

Permanent home is a concept considered in deciding domicile status. It does not refer to one particular property. Generally, your permanent home is the country or state where you live, or have lived, and where you intend to remain, or to return to permanently.

Permanent home has a different meaning in relation to ordinary residence and Double Taxation Agreements.

12.17 Personal tax allowances

You can find out more about the rates of UK personal tax allowances and tax rates at **www.hmrc.gov.uk**

In the UK, personal tax allowances are the amounts of income which you can earn during a tax year before paying Income Tax (see 12.10). These include the basic Personal Allowance, Age Related Allowances, Blind Person's Allowance and tax relief for certain life assurance premiums. You may also be entitled to claim Married Couple's Allowance if either you or your spouse or civil partner were born before 6 April 1935. Married Couple's Allowance reduces the amount of income tax you have to pay.

There is also a tax-free allowance for capital gains (see 12.4) which is called the Annual Exempt Amount (AEA).

More detailed information on personal tax allowances can be found at part 6 of this guidance.

If you are an employee, many of your personal tax allowances are given in the PAYE system through the tax code operated on your earnings by your employer. There are forms which your employer should ask you to complete which help us provide you with the correct allowances in your code. If you think that you are not receiving the correct allowances in your tax code you can contact the office which deals with your PAYE.

If you are self-employed you will claim your personal tax allowances by completing a Self Assessment tax return.

You might not be entitled to receive personal allowances during a tax year if you have foreign income and/or capital gains and you are claiming the remittance basis of taxation (see 12.20).

12.18 Relevant foreign income

More detailed information on types of income, including income from employment and relevant foreign income can be found at part 10 of this guidance.

An explanation of the remittance basis is provided at 12.20 and more detailed information can be found at part 5 of this guidance.

Relevant foreign income is income from a source outside the UK which is **not** income from your employment.

Although this list is not exhaustive, relevant foreign income will include:

- dividends from foreign companies
- the profits of a foreign property business (rental income)
- the profits of a trade, profession or vocation which is carried out wholly outside the UK
- pensions and annuities
- interest
- royalties.

Relevant foreign income has particular importance for people who use the remittance basis.

12.19 Relevant person

A relevant person is someone who is connected to you in a specific way. It is relevant only for people who use the remittance basis and when considering the remittance of foreign income and/or gains to the UK.

Relevant persons include:

- your spouse or civil partner
- a cohabitee, that is a person with whom you live as a spouse or civil partner
- your minor children or minor grandchildren who are under 18 years of age
- your spouse's or civil partner's or cohabitee's minor children or minor grandchildren who are under 18 years of age
- trustees, when you or another relevant person is a beneficiary of the trust
- close companies when you or another relevant person are participators in the close company, for example as shareholders
- company which is a 51% subsidiary of such a close company.

A close company includes a foreign company which would be a close company if it were resident in the UK.

12.20 Remittance basis

More information on the remittance basis, how to claim it and what happens if you choose to claim it can be found at part 5 of this guidance.

The remittance basis is an alternative to the 'arising' basis of taxation which is explained at 12.3. You can use the remittance basis of taxation only if you are resident in the UK during a tax year and:

- not ordinarily resident in the UK, or
- not domiciled in the UK.

It is relevant only if you have foreign income and/or gains during a tax year in which you are resident in the UK.

When you use the remittance basis you will pay UK tax on your UK-source income and gains as they arise or accrue. But you have to account for UK tax on foreign income and/or gains only when you bring (remit) them into the UK.

If you are **resident but not domiciled** in the UK, you can use the remittance basis for both foreign income and foreign capital gains.

If you are **resident and domiciled in the UK but are not ordinarily resident**, you can only use the remittance basis for foreign income. The remittance basis does not apply to your foreign capital gains which will be taxed on the arising basis.

Even if you are eligible to use the remittance basis, it does not mean that you have to use it. You might decide instead to pay UK tax on your worldwide income (and gains if you are not domiciled in the UK) on the arising basis and claim relief from UK tax for foreign tax that you have also had to pay (see 12.3). You may choose to do this rather than lose your personal allowances (see 12.17) as your tax bill could be higher on the remittance basis.

If you decide to use the remittance basis, the impact of these special rules will depend on your personal circumstances.

If you have less than £2,000 unremitted foreign income and/or gains which arise or accrue in the relevant tax year you can use the remittance basis without making a claim (see 5.5.1).

If you have been resident in the UK for no more than six of the last nine tax years; you have no UK income or gains and do not remit any income or gains from overseas in a tax year you can also use the remittance basis without making a claim.

If you have £2,000 or more unremitted foreign income and/or gains arising/accruing in the relevant tax year and you want to use the remittance basis you must make a claim for that year. Your claim must be made by completing the relevant boxes of a Self Assessment tax return (see 5.5.2). When you make the claim you will lose your entitlement to UK personal tax allowances and the Annual Exempt Amount for Capital Gains Tax (see 12.17).

Depending on your age and how long you have been resident in the UK you might also be required to pay the Remittance Basis Charge (see 12.21).

If you have used the remittance basis in previous years and have remitted any income and gains in the current year and/or if you are planning to use the remittance basis this year, we would strongly advise you to look at the additional guidance provided in the *Residence, Domicile and Remittances Manual* on our website which provides further details.

12.21 Remittance Basis Charge (RBC)

Further information about the Remittance Basis Charge can be found in part 5 of this guidance.

If you choose to claim the remittance basis and, at any time in the year of the claim, you are aged 18 or over and have been UK resident in at least seven of the previous nine tax years, you will have to pay the Remittance Basis Charge (RBC) when you have £2,000 or more unremitted foreign income and/or gains arising/accruing in the tax year.

The RBC is an annual charge of £30,000 and is tax on your unremitted foreign income and/or gains. The RBC is paid through the Self Assessment system.

If you pay the RBC you will still have to pay UK tax on:

- your UK income and gains (and foreign gains if you are domiciled in the UK but are not ordinarily resident)
- any foreign income and gains which you remit to the UK.

12.22 Remitted income and gains

More information on remitted income and gains and on the remittance basis can be found in part 5 of this guidance. An explanation of a relevant person is also found at 12.19.

This term is relevant only if you are a UK resident using the remittance basis (see 12.20). When you have income and gains outside the UK we refer to them as foreign income and gains. If you are taxed on the arising basis (see 12.3) you will pay UK tax on all of your foreign income and gains, wherever they are in the world. But, if you are using the remittance basis, you will pay UK tax only on your foreign income (and gains if you are not domiciled in the UK) when you or another relevant person brings them – 'remits' them – to the UK. Generally, foreign income and gains are remitted if they are brought into, received or used in the UK in any way, including in the form of money or assets which you have purchased from your foreign income or gains.

There are detailed rules which set out what income and gains are remitted, especially from funds containing a mixture of sources. You will need to study the guidance carefully to ensure that you have correctly identified what you have remitted to the UK.

12.23 Resident

More information about UK residence can be found in part 2 of this guidance.

More information relevant to people when they first arrive in or when they leave the UK can be found in 2.4 of this guidance.

The number of days you are present in the country is only one of the factors to take into account when deciding your residence position.

If you are in the UK for 183 days or more in the tax year, you will always be resident here. There are no exceptions to this. You count the total number of days you spend in the UK – it does not matter if you come and go several times during the year or if you are here for one stay of 183 days or more. If you are here for fewer than 183 days, you might still be resident for the year.

You should always look at the pattern of your lifestyle when deciding whether you are resident in the UK. Things you should consider would include what connections you have to the UK such as family, property, business and social connections. Just because you leave the UK to live or work abroad does not necessarily prove that you are no longer resident here if, for example, you keep connections in the UK such as property, economic interests, available accommodation and social activities.

For example, if you are someone who comes to the UK on a regular basis and have a lifestyle pattern connecting you to this country, you are likely to be resident here.

12.24 United Kingdom (UK)

The UK comprises England, Wales, Scotland and Northern Ireland, including the territorial sea (that is, waters within 12 nautical miles of the shore).

UK airspace is also part of the UK.

The Isle of Man and the Channel Islands are not part of the UK.

12.25 UK continental shelf

The UK sector of the continental shelf is made up of those areas of the sea bed and subsoil beyond the territorial sea over which the UK exercises sovereign rights of exploration and exploitation of natural resources. The exact limits of the UK continental shelf are set out in orders made under section 1(7) of the Continental Shelf Act 1964.

Earnings in respect of duties performed in the UK sector of the continental shelf are taxed in the same way as those for duties performed in the UK.

12.26 UK tax year

The tax year 2010-11 runs from 6 April 2010 to 5 April 2011.

A UK tax year is not a calendar year. It is the 12 months starting with 6 April in one year and ending with 5 April the following year.

12.27 Unremittable income

Unremittable income should not be confused with *unremitted* foreign income and gains which is relevant only if you use the remittance basis.

Having unremittable income is relevant to your tax affairs only if you use the arising basis. Unremittable income is foreign income which you are not able to bring into the UK ('remit') because of exchange controls, other Government executive action, or a shortage of foreign currency in the foreign country. If you have unremittable income in a tax year, you might be entitled to reliefs in your UK tax assessment as we would not tax you on income to which you cannot gain access.

12.28 Unremitted foreign income and gains

For more information on the remittance basis of taxation, see part 5 of this guidance.

This term is relevant only if you are a UK resident using the remittance basis of taxation (see 12.20). It relates to any foreign income (and foreign gains if you are not domiciled in the UK) which arises (or accrues) during the tax year and which you do not bring – 'remit' – to the UK but remains abroad. The amount of foreign income and gains that are unremitted at the end of a tax year is particularly important in determining how the special remittance basis rules apply to you.

13 Contacting HMRC

You can find details of your local office in *The Phone Book* under HM Revenue & Customs and at **www.hmrc.gov.uk** under *Contact us*.

In a number of places in this guidance we refer to matters which are dealt with by specialist offices of HM Revenue & Customs. These offices and their addresses are as follows:

Charity, Assets and Residence	
For the Non-resident Landlord Scheme	Charity, Assets and Residence Personal Tax International St Johns House Merton Road Liverpool England L75 1BB Phone From UK **0151 472 6208** **0151 472 6209** From abroad **+ 44 151 472 6208** **+ 44 151 472 6209**
For non-resident entertainers and sports persons	Charity, Assets and Residence Personal Tax International Foreign Entertainers Unit St Johns House Merton Road Liverpool England L75 1BB Phone From UK **0151 472 6488** From abroad **+ 44 151 472 6488**
For people seconded into the UK by a foreign company (incoming expatriates)	Charity, Assets and Residence Personal Tax International 3rd Floor West Trinity Bridge House 2 Dearmans Place Salford England M3 5BG Phone From UK **0161 261 3398** From abroad **+ 44 161 261 3398**

National Insurance Contributions Office Newcastle	
For information on UK National Insurance contributions	National Insurance Contributions Office International Caseworker Benton Park View Newcastle upon Tyne England NE98 1ZZ Phone From UK **0845 915 4811** From abroad **+ 44 191 225 4811** email: via our website at **www.hmrc.gov.uk/cnr/email.htm**
South Wales Area	
For merchant navy seafarers	South Wales Area, Cardiff (Compliance) Marine Group 15 East Ty Glas Llanishen Cardiff Wales CF14 5FP Phone From UK **0845 300 3949** From abroad **+ 44 161 931 9070** email: via our website at **www.hmrc.gov.uk/cnr/email.htm**

These notes are for guidance only and reflect the position at the time of writing. They do not affect the right of appeal. Any subsequent amendments to these notes can be found at **www.hmrc.gov.uk**

Customer Information Team

HMRC 12/10

HM Revenue & Customs