HM Revenue & Customs

Residence, Domicile and the Remittance Basis

This guidance has been updated in February 2010 to reflect legislative changes made to the remittance basis rules. The only changes in this version compared to the earlier version (published April 2009) are in part 5.

Contents

1 Introduction and glossary

This guidance outlines our (HMRC) view and interpretation of legislation and case law. The material is guidance only. It has no legal force, nor does it seek to set out regulation or practice. When it seeks to give practical examples of what the relevant law means, it contains HMRC interpretation of that law.

The guidance replaces 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 has been updated in February 2010 to reflect legislative changes made to the remittance basis rules. The only changes in this version compared to the earlier version (published April 2009) are in part 5.

You do not need to read this guidance if you live in the United Kingdom (UK) and pay UK tax on your UK income and chargeable gains and:
- you are remaining in the UK
- you have never received foreign income or foreign chargeable gains, or
- you 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.

The purpose of this guidance

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

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

However, this document only offers general guidance on HMRC's view of how the rules apply and does not have legal effect. Whether this guidance is appropriate in a particular case will depend on all of the facts of that case.

You are responsible for your own tax affairs in the UK but we might ask you about your tax affairs at some time. This guidance will tell you the main factors that we at HMRC take into account when deciding your residence, ordinary residence and domicile status for UK tax purposes. It is general guidance which is designed to help you reach a decision yourself. We accept that these are not straightforward subjects and our guidance might not cover all of the issues which affect you. You might find that your personal circumstances are more complex than the simple guidance we provide here and that you need to contact us to obtain further information or seek the services of a professional tax adviser.

Self Assessment in the UK and how to appeal

1.1

Other guidance is available 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 1.5.5 and 1.5.15.

Depending on your circumstances, you may have to complete a Self Assessment tax return. This means that you work out for yourself what tax you owe although calculating your own tax is optional if you are submitting a paper tax return by a certain date – normally 31 October following the tax year. If you file your tax return online, the deadline for filing is normally 31 January following the tax year and the filing process helps you with the tax calculation process. When you have foreign income and gains or issues of residence and domicile which have a bearing on your tax affairs, the additional pages you will need to complete to tell us about these matters are not available online so, unless you use externally supplied software, you will have to submit a paper tax return. Remember, the deadline for filing a paper tax return is normally 31 October following the tax year.

Every return is checked and we will correct any obvious mistakes on your return. After processing, we will select some completed returns for further examination.

The Self Assessment system also means that it is up to you to make a decision on whether or not you **are** resident in the UK for tax purposes. If you **are** resident, you will also have to decide whether you are not domiciled 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 would expect you to be able to support your conclusions with details on how you have reached them. For example, we may ask you to provide the information if we select your Self Assessment tax return for further checking.

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

If you are in the UK, your residence position here will be one of the factors which determine what UK tax you need to pay and what types of income and gains we will tax you on. If you are resident in the UK you will always pay UK tax on your UK source income. This includes **earned income from employment and self-employment**, as well as on your UK **investment income such as interest from a bank or building society savings account**. You will also pay UK Capital Gains Tax on any gains you have from the sale of certain assets which belong to you. It is important that you understand how to work out if you are resident in the UK by following this guidance and that you are able to explain how you have arrived at your decision if we were to ask you.

Factsheet HMRC1 is available:
- at **www.hmrc.gov.uk**
- from an HMRC Enquiry Centre
- by phoning your local HMRC office.

If you disagree with any decision that HMRC makes which affects what UK tax you have to pay, you may appeal. This is not limited to tax assessments, tax charges or penalties – you can also appeal against what we say about:
- your residence in the UK
- your ordinary residence in the UK
- your domicile
- any claim to relief from UK tax.

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

If you wish to appeal, you should write to the person who made the decision within 30 days of the assessment or the decision you disagree with, saying why you think it is wrong.

From 1 April 2009 the way HMRC deal with appeals changed. If you cannot resolve matters with the person who made the decision you are also entitled to have your case reviewed by another officer. This person is a different officer from the one who made the decision. If you do not want or are not able to resolve your dispute with HMRC in these ways you can ask for the independent tribunal to consider your case. The independent tribunal is administered by the Tribunals Service – part of the UK Ministry of Justice.

You can find out how this system works, how to request a review or appeal to the tribunal by consulting our factsheet HMRC1.

An introduction to residency

1.2

The terms '*residence*' and '*ordinary residence*', are not defined in the Taxes Acts. The guidance we give on these terms throughout this guidance is largely based on rulings of the Courts and how we interpret them and put them into practice on a day to day basis. This guidance tells you the main factors we 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.

1.3

If you are resident in the UK you are normally treated as being on the '*arising basis of taxation*' (see 1.5.3). 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 and these are also outlined in the guidance.

1.4

Full details on being not ordinarily resident in the UK, being not domiciled in the UK and about how to claim the remittance basis can be found in parts 3, 4 and 5.

It is possible to be resident in the UK, but **not ordinarily resident** here (see 1.5.15) or to be resident but **not domiciled** here (see 1.5.5). If either of these circumstances applies to you, you have a choice of whether to use the arising basis of taxation to account for your worldwide income and gains as they arise/accrue or to use the remittance basis of taxation. Full details of the remittance basis can be found later in this guidance. But, broadly, it involves paying tax on income arising and gains accruing in the UK (as with the arising basis), but paying tax on foreign income and gains only as these are brought ('remitted') to the UK. Access to the remittance basis of taxation is not automatic and depending on how much foreign income and gains you have, you might have to make a claim if you want to use it by completing the relevant boxes of a Self Assessment tax return.

1.5 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 later in the guidance. They are set out alphabetically.

1.5.1 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 1.5.23). 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 Isle of Man they are 'foreign' or 'abroad' from the UK (often referred to as 'offshore'). If you are resident, domiciled and ordinary resident in the UK, you will still be liable to UK tax on any interest you receive from such accounts and investments.

1.5.2 Accrue

'Accrue' is a term used when talking about capital gains (see 1.5.4). 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.

1.5.3 Arising basis

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 1.5.19.

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.

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 1.5.6). Even if no UK tax is payable because it is covered completely by the foreign tax you have paid you must claim relief under a Double Taxation Agreement by completing a Self Assessment tax return.

1.5.4 Capital gains and Capital Gains Tax

You can find more information about 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 when you dispose of it 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 for personal use outside the UK.

There is a tax free allowance called the 'Annual Exempt Amount' (the tax free allowance) for Capital Gains Tax. For the Tax Year 2008–09 this was £9,600 for every individual. Some people using the remittance basis might not be able to claim this 'Annual Exempt Amount' (see part 5 of this guidance).

1.5.5 Domicile

Your domicile might affect how you are taxed in the UK on income and/or capital gains from outside the UK. If you do have foreign income and/or gains, more information about domicile can be found at part 4 of this guidance.

Your domicile status matters for Income Tax and Capital Gains Tax purposes if you have income and/or capital gains outside the UK. If you do not have such foreign income and/or gains then your domicile status does not matter and you do not have to consider your domicile position.

Domicile is a general law concept. It is not defined in tax law for Income Tax or Capital Gains Tax purposes. Your domicile is distinct from your nationality and from your place of residence. You might be resident in the UK but have a domicile somewhere else.

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

1.5.6 Double Taxation Agreements (DTAs)

More information on dual residence and on double taxation agreements can be found at part 9 of this guidance.

The UK has Double Taxation Agreements (DTAs) with a large number of countries around the world. One of the purposes of a DTA is to prevent you having to pay tax twice, in two different countries, on the same source of income. When you are resident both in the UK and in another country and the UK has a DTA with the other country it will provide:
- special rules for determining which of the countries is regarded as your country of residence for the purposes of the agreement, 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 they have 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 an application under the terms of the agreement.

1.5.7 Dual resident

More information on dual residence and on double taxation agreements can be found at part 9 of this guidance.

Other countries have their own rules on residence for tax purposes. It is possible that you are resident (or ordinarily resident) in the UK while also resident in another country under that country's rules. This means that you are 'dual resident'.

In many cases when you are 'dual resident' there will be a Double Taxation Agreement (see 1.5.6) between the UK and the other country in which you are resident which will say what tax you have to pay in which country. It does this by determining in which country you are resident for the purposes of the treaty. The Double Taxation Agreement will also provide other information which might affect you – for example, what UK Tax Allowances you can receive.

1.5.8 Earned income

For information about 'investment income' see 1.5.11.

More information about earned income and how it is taxed in the UK can be found at 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 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.
- 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.

1.5.9 Foreign

'Foreign' means something from outside the UK – see 'Abroad' (1.5.1).

1.5.10 Income Tax

'Taxable income' includes:

- earnings from employment
- earnings from self-employment
- most pensions income (state company and personal pensions)
- rental income
- income paid to you from a trust.

'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 other reliefs and allowances that can reduce your Income Tax bill – and in some cases mean that you have no tax to pay (see 1.5.16).

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
- in some cases, 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.

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

1.5.11 Investment income

For information about earned income, see 1.5.8.

More information about investment income and how it is taxed can be found at 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, investment income 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.

1.5.12 National Insurance contributions (NICs)

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

Most people who work in the UK pay National Insurance contributions (NICs). 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 records of your National Insurance contributions can be kept up to date 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' do not mean the same when talking about NICs as they do for tax purposes. Our leaflet NI38 *Social Security Abroad* gives guidance on the rules that apply for National Insurance purposes.

1.5.13 Non-resident

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

If you do not meet the requirements to be resident in the UK for Income and Capital Gains Tax purposes, 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.

If your normal home is outside the UK and you are in the UK for fewer than 183 days in the tax year you may 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 1.5.22). Being resident in the UK is not simply a question of the number of days you spend in the country.

1.5.14 Offshore/Overseas

The terms 'offshore' and 'overseas' refer to anywhere outside the UK. UK is explained at 1.5.23. In this context 'offshore' and 'overseas' mean the same as 'abroad' (1.5.1) or 'foreign' (1.5.9). You might see references to 'offshore bank accounts' and 'offshore income'.

Offshore is also used to describe some workers in the oil and gas exploration and exploitation industries. In this case it is possible to be working offshore from the UK but still be in the UK. This would be the case when a person works in the oil or gas industry in any area of the UK Continental Shelf (1.5.24).

1.5.15 Ordinarily resident/Ordinary residence

'Ordinary residence' has particular importance when people come to or leave the UK. More information can be found at parts 7 and 8 of this guidance.

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.

If you are resident here your ordinary residence position in the UK generally matters only if you have income from outside the UK.

In exceptional circumstances you may be not resident but still ordinarily resident in the UK. This is very rare but if it did apply to you, you would also pay UK tax on your capital gains.

'Ordinary residence' is different from 'residence'. It is not defined in tax law and our guidance is based on cases heard by the Courts. For example, 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.

Resident but 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 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.

Ordinarily resident but not resident

You can be ordinarily resident in the UK but not resident. For example, if you normally live in the UK but, during a tax year, you have gone abroad for a long holiday and you do not set foot in the UK in the tax year. This is very rare.

1.5.16 Personal tax allowances

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

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

In the UK, personal tax allowances are the amounts of income which you can earn during a tax year before paying Income Tax (see 1.5.10). 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 1.5.4) which is called the Annual Exempt Amount (AEA).

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 gains and you are claiming the remittance basis of taxation (see 1.5.19).

1.5.17 Relevant foreign income

More 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 1.5.19 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 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.

1.5.18 Relevant person

An explanation of the remittance basis is provided at 1.5.19 and more detailed information can be found at part 5 of this guidance.

A relevant person is someone who is connected to you in a specific way. It is important only for people who use the remittance basis and when considering the remittance of foreign income and/or gains to the UK.

Relevant persons are:

- 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.

1.5.19 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 1.5.3. You can only use the remittance basis of taxation if you are resident in the UK during a tax year and:

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

In addition, it applies only if you have foreign income and/or gains during a tax year in which you are resident in the UK. If you do not have either of these then the remittance basis will not apply to you for that year.

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 may only have to account for UK tax on foreign income and/or gains when you bring 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 1.5.3). You may choose to do this rather than lose your personal allowances (see 1.5.16) 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 – how much of your foreign income and/or gains that arise in a tax year you decide to leave outside the UK, whether or not you are aged 18 or over and how long you have been resident in the UK. These factors will determine whether you can use the remittance basis without having to make a formal claim or if you need to make a claim to use it. They will also determine whether you will need to pay the £30,000 Remittance Basis Charge (see 1.5.20).

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.

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 remmitance 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. 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 1.5.16). Depending on how long you have been resident in the UK you might also be required to pay the Remittance Basis Charge (see 1.5.20).

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, you are strongly advised to look at the additional guidance provided in the *Residence, Domicile and Remittances Manual* on our website.

1.5.20 Remittance Basis Charge (RBC)

More information about the Remittance Basis Charge can be found at 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 resident in the UK for 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. There are rules on how you pay the charge which is made 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.

You will also lose your entitlement to UK personal tax allowances and reliefs for Income Tax and the Annual Exempt Amount for Capital Gains Tax.

1.5.21 Remitted income and gains

More information on remitted income and gains and on the remittance basis can be found at part 5 of this guidance.

An explanation of a relevant person can be found at 1.5.18.

This term is only relevant if you are a UK resident using the remittance basis (see 1.5.19). 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 1.5.3) 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 bring them – 'remit' 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.

1.5.22 Resident

More information about UK residence can be found at part 2 of this guidance.

If you need further information to help you decide whether or not you are resident in the UK phone our helpline on **08450 700 040** (from the UK) or **+44 151 210 2222** (from outside the UK).

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 less 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 or if you have children in education here.

For example, if you are someone who comes to the UK on a regular basis and have a settled lifestyle pattern connecting you to this country, you are likely to be resident here.

1.5.23 United Kingdom (UK)

The United Kingdom comprises England, Wales, Scotland and Northern Ireland, including the territorial sea (that is, waters within 12 nautical miles of the shore). It does not include the Isle of Man or the Channel Islands.

The UK also includes the UK sector of the Continental Shelf (see 1.5.24), as designated under Section 1 (7) of the Continental Shelf Act 1964.

1.5.24 UK Continental shelf

The UK 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.

1.5.25 UK tax year

The tax year 2009-10 runs from 6 April 2009 to 5 April 2010.

A UK tax year is not a calendar year running from 1 January to 31 December. It is the 12 months starting with 6 April in one year and ending with 5 April the following year.

1.5.26 Unremittable income

'Unremittable Income' should not be confused with unremitted foreign income and gains which is only relevant 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 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.

1.5.27 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 1.5.19). It relates to any foreign income (and foreign gains if you are not domiciled in the UK) that 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.

2 Residence in the UK

It is important that you understand what we mean by 'resident in the UK' for tax purposes because this will determine what UK tax you have to pay.

It is possible to be resident in the UK for Income Tax and Capital Gains Tax purposes under our tax rules and at the same time be considered resident in another country under that country's rules. This is called 'dual residence'.

For information about a UK tax year - see 1.5.25.

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

You will normally be resident in the UK for the **whole** of a tax year. If you are also resident in another country, you will be resident for their tax year which might not be the same as a UK tax year. UK and foreign tax years might not end on the same date.

If you are resident in both the UK and another country, you will need to look at the guidance in part 9 which tells you about **Double Taxation Agreements (DTA)**. If a DTA exists between the UK and the other country in which you are considered resident, there may be provisions in the agreement which specify that you pay tax on your foreign income and gains in the UK, pay tax in your other country of residence or pay some tax in the UK and some in the other country.

2.1 UK residence – Tax liability

More information about the remittance basis can be found at 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.

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

- any of your income which arises in the UK, and
- any of your income which arises outside the UK, and
- any gains which accrue on the disposal of 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 which allow you to pay UK tax only on the amount of your foreign income and gains that you, or another relevant person, bring into (or 'remit 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'.

2.2 UK residence

There are many different factors which will determine whether you are resident in the UK during a tax year. **With one exception, 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.** Different considerations apply depending on whether you are arriving in the UK for the first time from another country or whether you have been resident in the UK in earlier years. Further guidance, for people when they arrive in or leave the UK, is available in parts 7 and 8.

The only occasion when the number of days that you are physically present in the UK will determine your residence status here is when you are physically present in the UK for 183 days or more during a tax year. In all cases when you are physically present in the UK for 183 days or more, you will be resident here in that tax year. **There are no exceptions to this.** But, it is also possible to be present in the UK for less than 183 days in a tax year and still be resident here. There are other factors which might also make you resident in the UK, such as the location of your family, your property and your business or social connections.

When you are counting 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. These rules apply from 6 April 2008.

If you are looking at **tax years before 6 April 2008**, you would not normally include any days on which you arrived in or departed from the UK.

When considering days of presence in the UK under the rules from 6 April 2008, and under the rules for previous years, days you have spent in the UK because of exceptional circumstances beyond your control may be disregarded. This will not apply if the days you have spent in the UK in a tax year, including those spent here because of exceptional circumstances, are equal to or exceed 183 days. More information on this can be found in part 7 *When someone becomes resident in the UK* and in part 8 *When someone stops being resident in the UK*.

2.3 Passengers travelling through the UK

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, even though you were still in the UK at the end of that day. You will also not count the day you leave the UK. Foreign countries include the Channel Islands and the Isle of Man. However, this exemption applies only if your activities while in the UK are substantially related to completing travel to a foreign destination. So, for example, 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

A resident of the Isle of Man travels to the mainland UK as part of an onward journey to the USA. They have to stay overnight in the UK before catching a flight to the USA early the following day. Their presence in the UK for that one night would **not** count as a day of residence in the UK. But, if they were to carry out an activity such as attending a business meeting, visiting the theatre or visiting a property which they own before catching the flight to the USA, the exemption **will not** apply and the night spent in the UK will be counted as a day of presence.

2.4 Residence – Tax treatment for years of arrival and departure from the UK

More information on what you must consider when you come to or leave the UK can be found in parts 7 *When someone becomes resident in the UK* and 8 *When someone stops being resident in the UK.*

Strictly, you are taxed as a UK resident for the **whole** of any 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 (Extra Statutory Concession A11) be split. This means that the UK tax you should pay because you are resident here is calculated on the basis of the period you are living here rather than for the whole of that tax year. This has the same effect as splitting the tax year into resident and not resident periods.

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, subject to certain conditions, leave the UK for full-time service under a contract of employment.

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.

The rules for capital gains are different from those for income but there is a similar concession relating to the treatment of chargeable gains for 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 but not ordinarily resident you cannot use the remittance basis of taxation in respect of your foreign gains unless you are not domiciled here. See part 5.

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 your tax affairs are not complex and you do not have foreign income then your ordinary residence has no bearing on your UK tax position and you do not need to consider it.

But the main exceptions to the general position involve 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 and if they apply to you, you may wish to obtain professional advice.

When you have foreign income your ordinary residence might have a bearing on what UK tax you pay on that income. If you are resident and domiciled but not ordinarily resident in the UK, you will still have to pay UK tax on any income and/or gains which arise or accrue here and on any foreign capital gains, but you might wish to claim the remittance basis of taxation for your foreign income.

However, even if you are not resident in the UK, you may be ordinarily resident and if so, you may be liable to UK 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). 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:

- 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.
- 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 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 pattern can include temporary absences from the UK. If you come to live and work in the UK for three years or more then you will have established a regular and habitual mode of life here.

The pattern of your presence, both here 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 the UK, your intentions when coming to or leaving the UK and your lifestyle and habits.

If you have come to the UK voluntarily and for a settled purpose (for example to live and to work 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 in the year you arrive, this may be taken as evidence that you are remaining in the UK for several years and are ordinarily resident from when you arrive.

If you did not think you were ordinarily resident when you first came to the UK but have been living here for a period covering an entire tax year or more, we expect you to be able to show that you are still not ordinarily resident here, if that is what you claim.

But if, in fact, you actually leave the UK within a year or two of arrival, we will not usually say that you have become ordinarily resident for tax purposes.

Although ordinary residence in the UK is not simply a question of the number of days you are physically present here over a period of time, you can look at the average number of days you are in the UK to get an idea of whether or not you are ordinarily resident here. If you come to the UK regularly and your presence here averages 91 days or more in a tax year over an appropriate period of time, you are likely to be ordinarily resident here. An exception would be if your visits lacked a settled purpose, although the more time you spend in the UK the more likely it is that any residence here has the elements necessary to make you ordinarily resident.

You should calculate your average presence in the UK on the basis shown below. The facts of your particular case will determine the appropriate period over which the calculation should be made, but this should only be more than four full tax years in wholly exceptional circumstances. You should not rely on the calculation as a definitive basis for proving whether or not you are ordinarily resident in the UK.

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

Example

This example looks at a period of three tax years as the appropriate period. This in no way indicates that you can be in the UK for three years before you have to consider whether you are ordinary resident.

If you were in the UK for 85 days in 2003-04 (this is a leap year) for 105 days in 2004-05 and for 90 days in 2005-06 then the annual average is:

$$\frac{85 + 105 + 90}{366 + 365 + 365} \times 365 = 93.2 \text{ days}$$

This example would indicate that you are ordinarily resident in the UK and you should carefully consider your position when self assessing your UK ordinary residence.

You can be ordinarily resident in the UK and, at the same time, be ordinarily resident in another country. Your ordinary residence in another country does not prevent you being ordinarily resident in the UK.

For example:

- It is possible to be resident in the UK but to be not ordinarily resident here. This means that although you are resident in the UK under UK rules 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 to be not resident in the UK but remain ordinarily resident here. If you normally live in the UK you might become not resident because you are not in the country at all during a 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 will still be ordinarily resident here.

Ordinary residence will largely affect you if you are coming to or are leaving the UK. Practical guidance on what you need to do in these circumstances can be found in parts 7 and 8 of this guidance.

3.3 Examples of ordinary residence by scenario

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.

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 91 days during the four years under review, she has not become not resident and not ordinarily resident here. This is because her presence in the UK in all years shows a pattern indicating residence here. There is nothing casual about that 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 is not a break in the regular pattern of her life, it is an integral part of it. The precise amount of time that Sarah spends in the UK does not affect this fundamental point.

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 resident for the purposes of the relevant Double Taxation Agreement.

Example 2

Juan is Spanish 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 a flat here and he extends the lease for two months in early 2010. The project is completed and Juan returns to Spain in mid-March 2010.

Juan is resident in the UK for the year ended 5 April 2010, as he spends 183 days or more in the UK but he is not ordinarily resident here.

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.

4 Domicile

4.1 How does domicile affect your UK tax?

Your domicile status may also be relevant for Inheritance Tax and you should consult the guide *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 Remittances Manual' at **www.hmrc.gov.uk**

For Income Tax and Capital Gains Tax purposes, whether or not you are domiciled in the UK is 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 guidance we provide here will help you, when your affairs are straightforward, reach a decision on your domicile status. If your affairs are more complex we direct you to where you can obtain further guidance and we also recommend that you speak to us or seek advice from a professional tax adviser.

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

If you do 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, then especially if you were born in the UK, we might want to enquire whether or not that is correct. By its very nature, this sort of 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 information as part of an enquiry into your domicile status.

4.2 What does domicile mean?

Domicile is a matter of general law; not a 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 can acquire a new one
- domicile is distinct from nationality or 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.

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 relevant to Income Tax and Capital Gains Tax. 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 and is not easy to displace although this does 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, 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.

but

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 has been 'displaced'.

4.3.2 Domicile of choice

You have a legal capacity to acquire a new domicile at the age of 16. Broadly, to acquire a domicile of choice you must leave your current country of domicile and settle in another country. 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

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 you would have the same non-UK domicile as your father.

but

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 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, in place of your domicile of origin. Before 1974, married women automatically acquired their 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 this is 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 husbands domicile.

As from 1 January 1974 you can acquire an independent domicile of choice, which could be different from your husbands domicile.

4.4 Domicile flowcharts

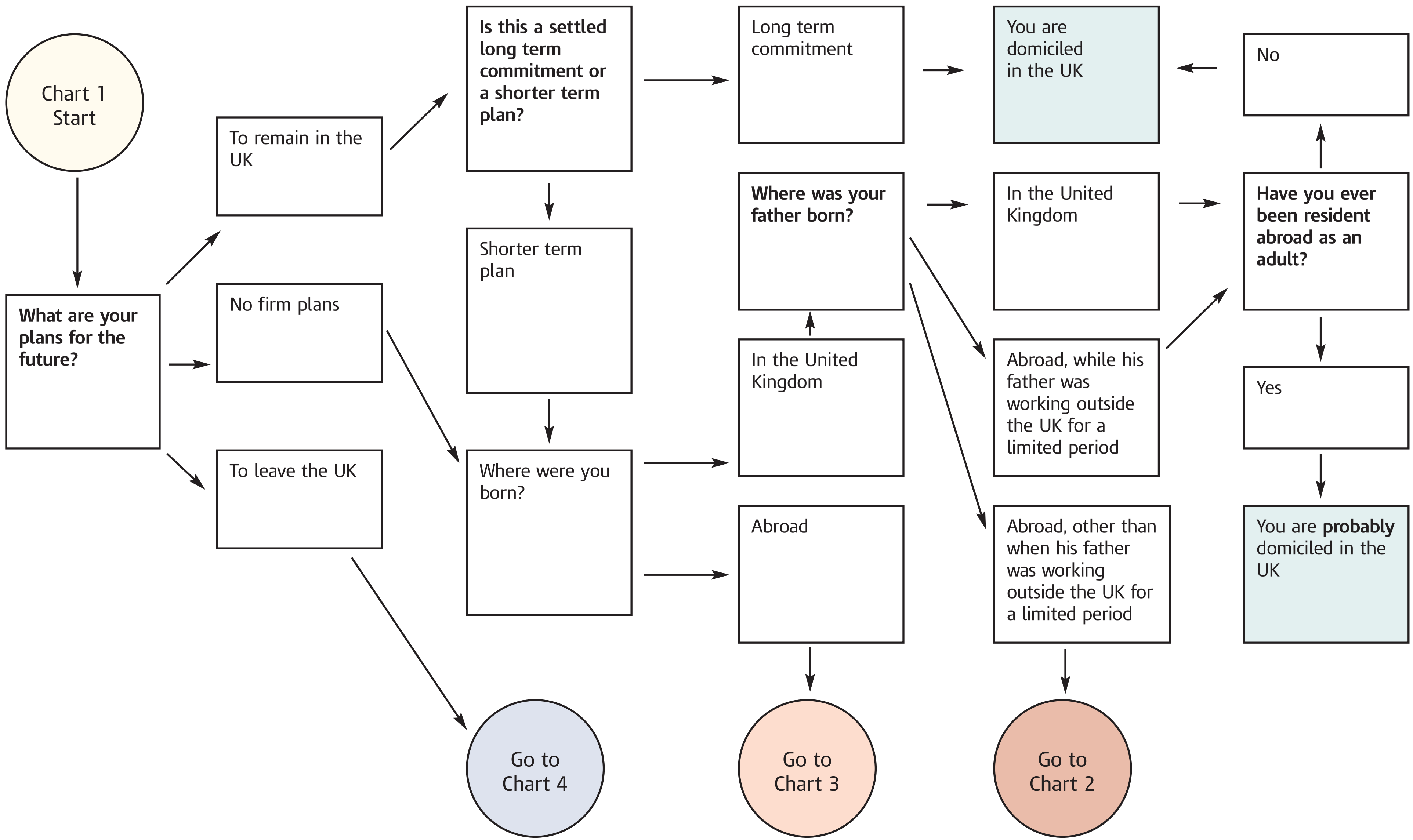
The following flowcharts have been included to help you understand domicile. You should always start from flowchart 1 on page 25.

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 SA109. 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 advisor. 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 3 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.

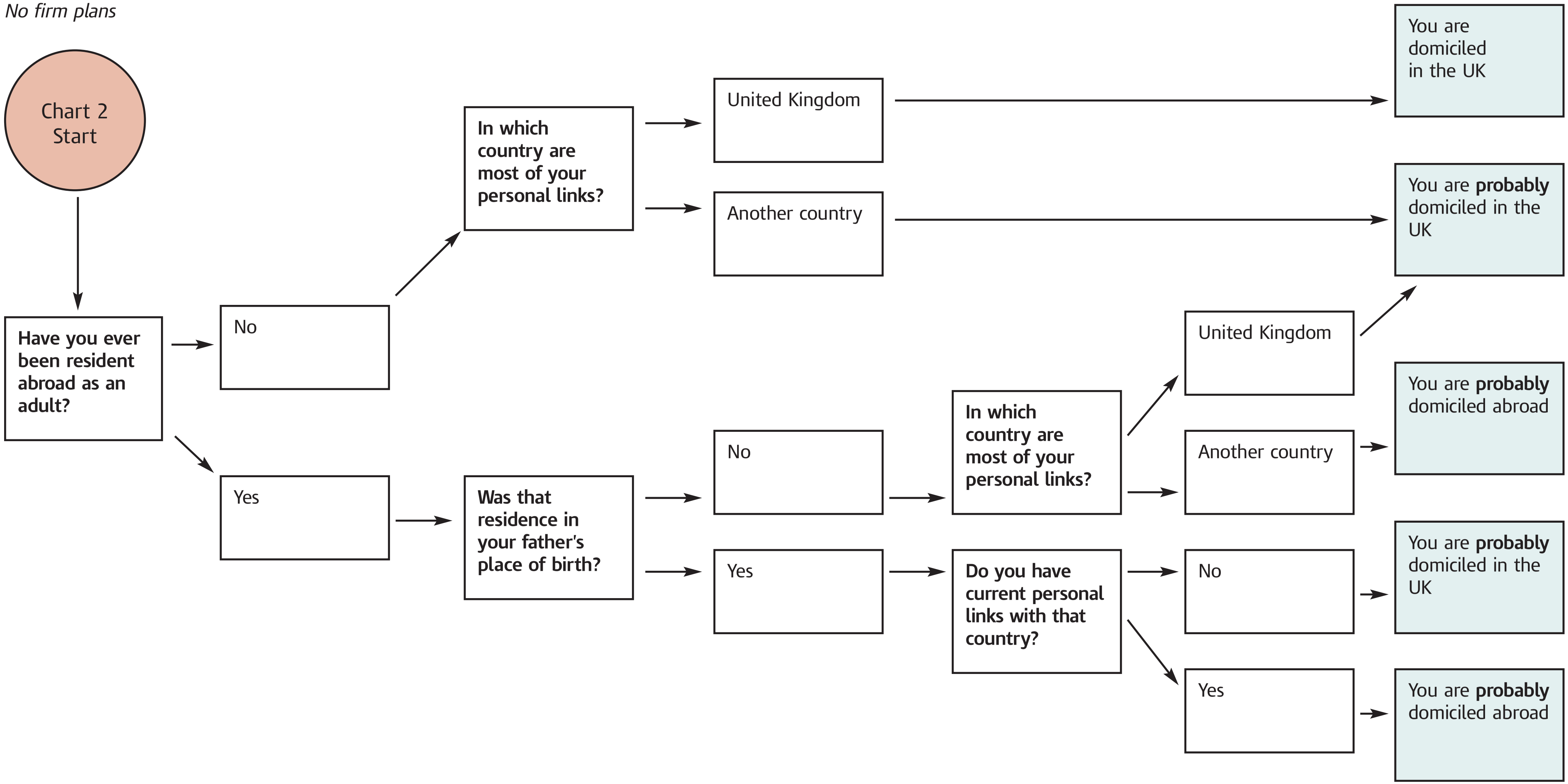
Where is my domicile?



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.

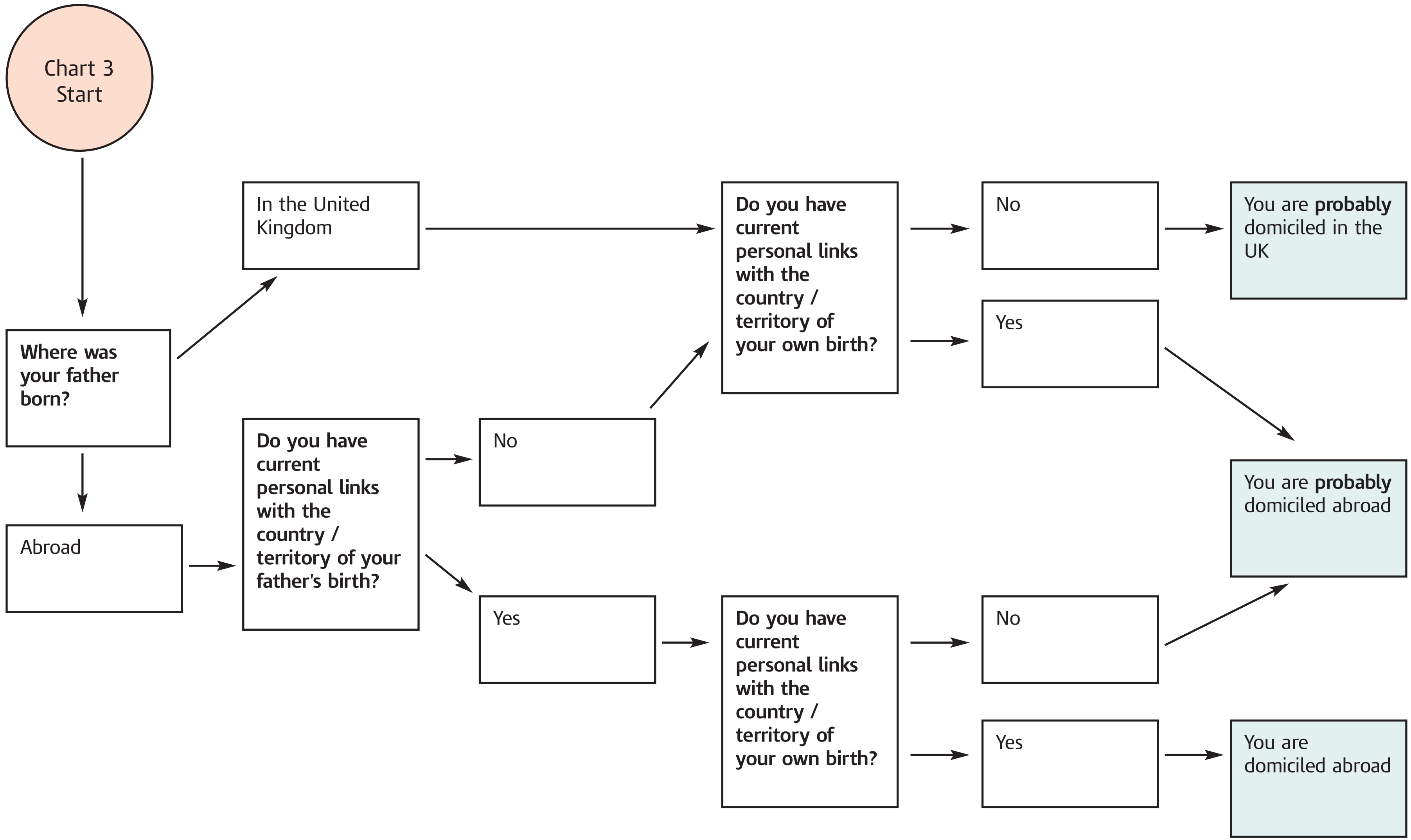
Where is my domicile?
Born in the United Kingdom
Father born abroad
No firm plans



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

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

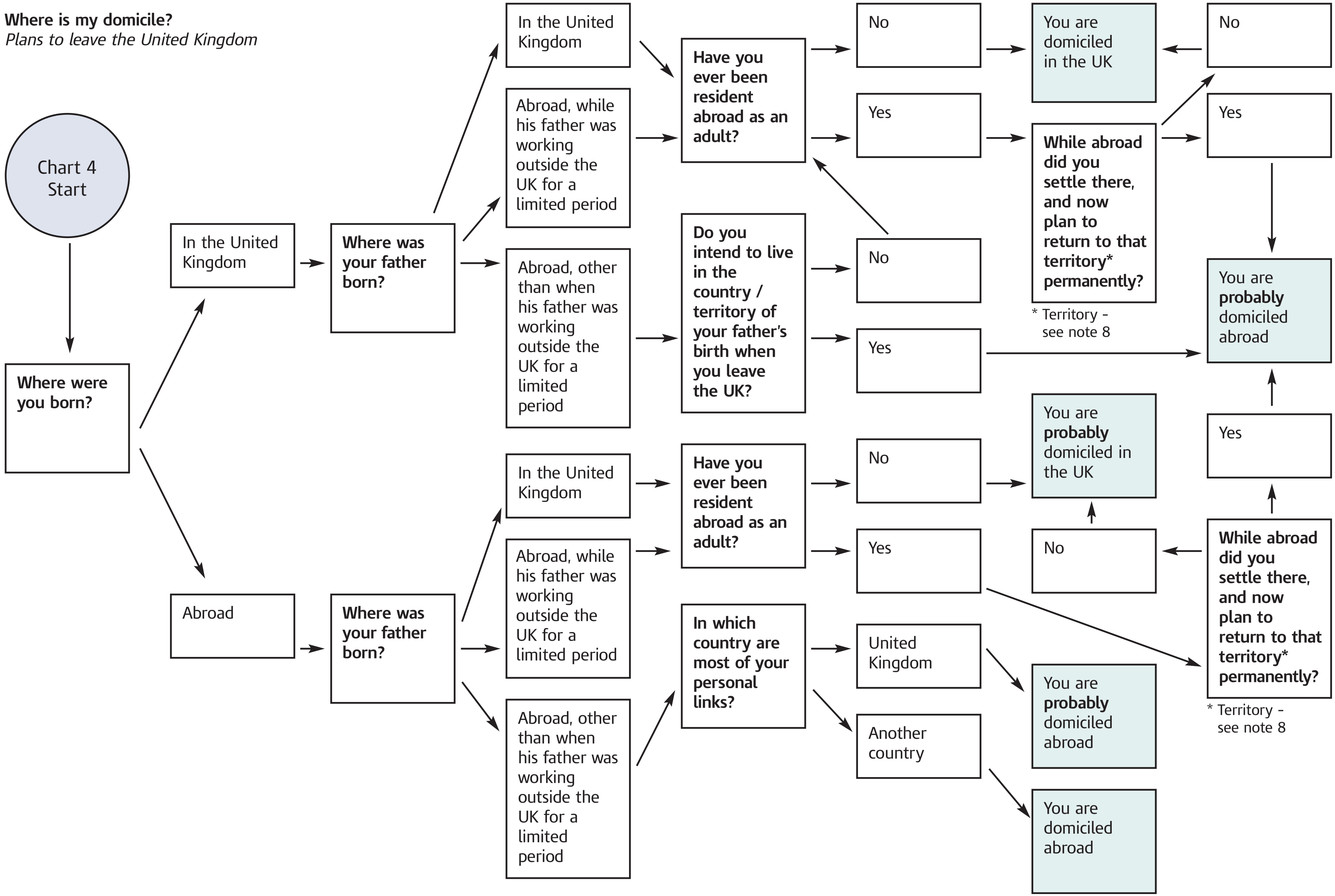
Where is my domicile?
Born abroad
No firm plans



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 likelihood that you should 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. However, the flowcharts will, in the majority of cases, give such individuals 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 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 and flowchart 4 leads him to the conclusion that he is probably domiciled abroad. However, 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 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. Whilst 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 1.5.3.

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.

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**

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 1.5.4 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/or gains are liable to UK tax on the **AB**.	Eligible to use **RB**. If **RB** used all UK income and/or gains are liable to UK tax on the **AB**. Foreign income and/or 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/or 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/or gains are liable to UK tax on the **AB**. Foreign income and/or 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 1.5.27.

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 (RBC).

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.

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.

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 computed in **pounds sterling** using the rates of exchange prevailing at the time when the gain is computed 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**

HMRC revised its 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 HMRC 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 HMRC helpline can be found in *The Phone Book* or **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 on our website at **www.hmrc.gov.uk**

For more information on foreign losses see the HMRC Capital Gains Tax Manual. Or you should consult your 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 7 of the previous 9 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 HMRC.

5.7 The Remittance Basis Charge (RBC)

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**

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.

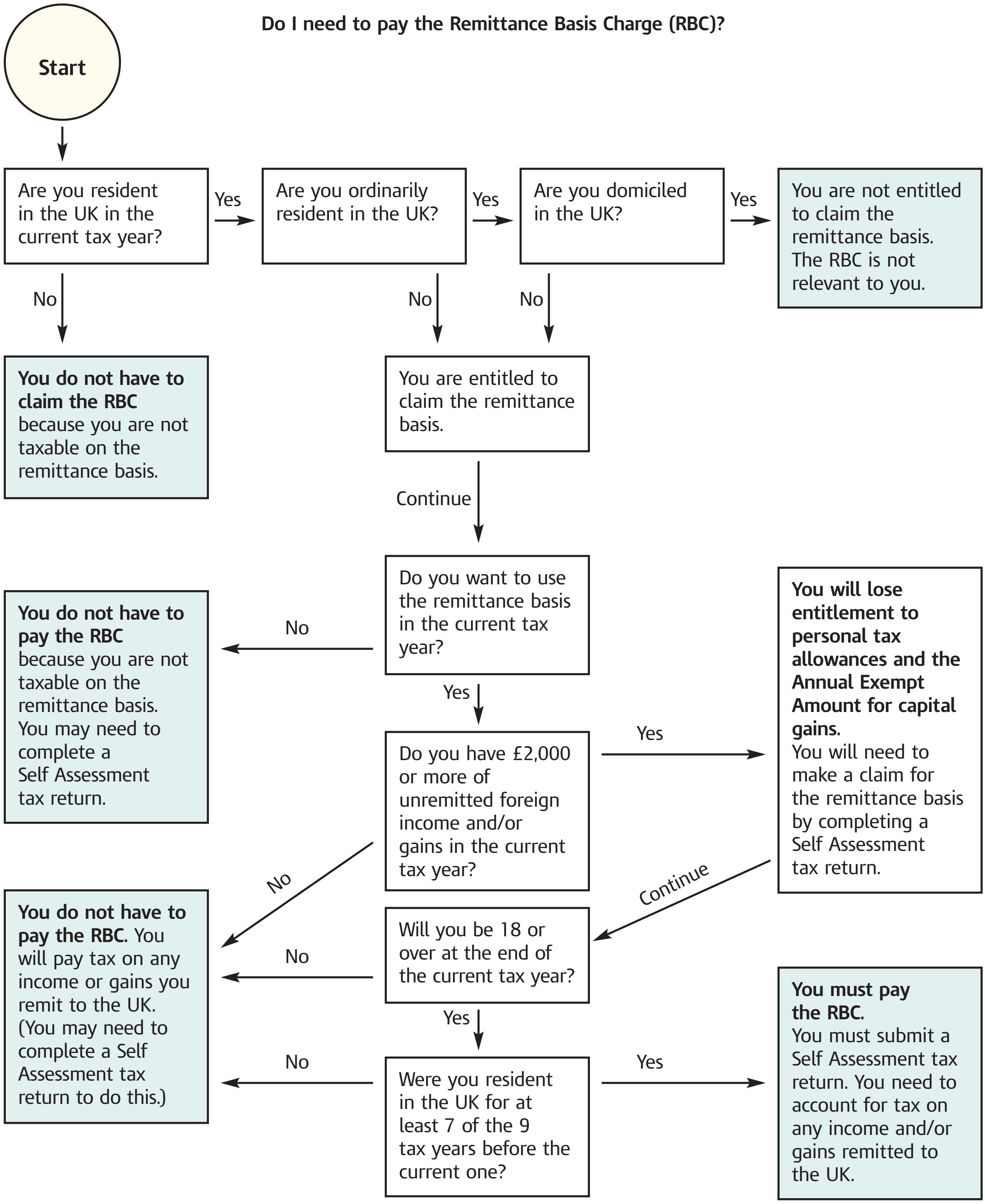
Martha is 42 years old and resident in the UK in 2008-09. Her unremitted foreign income and/or gains for that year are £250,000. Martha's residence status for the preceding years was as follows:

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 9 tax years. She will have to pay the RBC if she decides to claim the remittance basis in 2008-09.

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

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.

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

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 your 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

Tax allowances for UK residents

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 your local HMRC office.

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?

To find out what is a UK tax year - see 1.5.25.

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. For example, if you are claiming for the tax year 2008–09 (6 April 2008 to 5 April 2009), you have until 31 January 2015.

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

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

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 relating to overpaid personal allowances at the end of the year. 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?

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

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

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 aside (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 Agreement (DTA) between the UK and the countries shown aside 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 aside 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.

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:
- CAR Residency in Liverpool or
- If you are an employee of the British Crown or you receive a pension for Crown Service, Cardiff 4 (Foreign Section).

Contact details for these offices can be found in part 12 *Contacting HMRC*.

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 (this includes a British 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 (for example, including a civil servant, member of the armed forces)
- 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.

6.7 Allowances when coming to or leaving the UK

More information can be found in parts 7 *When someone becomes resident in the UK* and 8 *When someone stops being resident in 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 your UK residence status and to any claim you have made to the remittance basis of taxation.

7 When someone becomes resident in the UK

7.1 What you need to do when you have come 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 here at **www.hmrc.gov.uk/migrantworkers/**

If you have come to the UK, what UK tax you will have to pay and how HMRC deal with you will depend on why you have come to the country.

When you arrive in the UK, before you can decide what UK tax you will have to pay, you must first identify why you are here:

- **Have you come to the UK to live here permanently 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 to visit for a period of less than three years?** If you have, read paragraphs 7.4, 7.5 and 7.6.

7.2 When you have come to the UK permanently 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.

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 - 5.11.

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 not resident in the UK this may affect your liability to UK tax when you return to become resident in the UK again.

When we say 'remain' in the UK, we mean that you are here on a continuing basis - the only trips you make outside the UK are when you go abroad for holidays or short business trips.

If your home has been abroad and you have come to the UK to live here permanently 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. By saying that you have come here permanently or for at least three years, you have made it clear that you are not simply visiting the UK.

Paragraph 7.4 explains what you need to consider if you have come to the UK as a visitor and will not be staying here for three years or more.

Before you can work in the UK you will need a National Insurance number (NINO). If you do not already have one you can apply by phone to the 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 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 Saturdays and Sundays.

If you have come to the UK to work, you should tell HMRC immediately so that we 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 HMRC and will deduct tax from your earnings on our behalf under PAYE – see part 6. This might include form P46. You will then receive further forms to complete which will be sent to you by your HMRC tax office.
- If you are going to work for yourself – that is, as a self employed person, you can find out what you need to do on the HMRC web site and you can also phone our Self-employed Helpline. Our staff on the Helpline will be able to give you the advice you need to make sure that you pay the right amount of UK tax as soon as possible.
- If you have come to the UK to live permanently or indefinitely, but do not intend to work here, you should tell HMRC if you have any income and/or gains outside the UK. You can tell HMRC that you are here in the UK by contacting your local tax office. They will advise you of any actions you need to take.

7.3 When you come to the UK as a student

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

If your home has been abroad and you have come to the UK for less than four years for a period of study or education, you will be resident in the UK while you are here but **not** ordinarily resident as long as:

- 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 are not planning 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 you are an international student and have a student visa you are able to work while in the UK but some rules apply for the type of work you can do. To find out more go to the UK Border Agency website at **www.homeoffice.gov.uk**

While you are studying in the UK, if 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. Before you can work in the UK you will need a UK National Insurance number and 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 can reduce the amount of any UK tax you have to pay. This is explained in part 6.

More information about Double Taxation Agreements can be found at paragraph 1.5.6 and part 9 of this guidance.

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 money paid from abroad for course fees and to support you 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 income and/or gains which you bring into the UK.

7.4 When you have come to visit the UK for less than three years

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.

If your home has been abroad and you have come to the UK but are not going to live here permanently or **remain** here for three years or more, you may be visiting the UK.

You can find out what counts as a day spent in the UK for this purpose in paragraph 2.2.

You are **not** simply visiting the UK if, when you arrive:

- you are going to be in the UK for 183 days or more during a tax year
- you have come to the UK for a purpose which means that you will be remaining here for at least two years – for example, an employment.

If either of these points apply, you will be resident in the UK from the day you arrive – see paragraph 7.2. Visitors to the UK are those people who are here for a temporary purpose and either of the above points indicates that your purpose for being here is **not** temporary.

If neither of the points made applies and you can genuinely say that you have come only to visit the UK, the following guidance will apply.

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 and you become resident and ordinarily resident in the UK. If your circumstances change while you are in the UK you should tell us as soon as possible.

There are two main types of visitor to the UK:
- short term visitors – who are not going to remain in the UK for an extended period and will visit for limited periods in one or more tax years – see paragraph 7.5
- longer term visitors – who have not come to the UK permanently but have come here indefinitely or for an extended period which might cover several tax years – see paragraph 7.7.

It does not matter what type of visitor you are. If you are in the UK for 183 days or more in a tax year, you will be resident here in that year. But although you are resident you might be not ordinarily resident which will affect what UK tax you have to pay.

More information in this guidance

You can find more information on what happens to you when you arrive in the UK elsewhere in this guidance:
- Tax treatment in the UK when you are resident here – part 2, paragraph 2.1
- Personal Tax Allowances in the UK – part 6
- Investment (unearned) Income – part 9
- Earned Income – part 9.

7.5 Short term visitors

Residence and ordinary residence

You can find out what counts as a day spent in the UK for this purpose in paragraph 2.2.

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.

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

But, if you are going to make regular visits to the UK you need to consider if those visits will mean that you become resident and/or ordinarily resident here.

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

Even when you are not in the UK for 183 days during a tax year, if you are making several visits, you must also consider the average number of days that you spend here. If, when you first start to visit the UK, you do not know how long you will continue to visit and your visits average 91 days or more per tax year over a four year period, you will be resident and ordinarily resident from the fifth year if you continue to visit.

You might become resident and ordinarily resident in the UK **before** you have been visiting for four years if:
- you know, when you start visiting the UK, that your visits here are going to be for an average of 91 days or more, in which case you will be resident and ordinarily resident from 6 April of the tax year in which you first start making your visits
- you realise after starting to visit the UK regularly that your visits are going to be for an average of 91 days or more – you will be resident and ordinarily resident from 6 April of that tax year.

7.6 How to calculate your average visits to the UK

You can find out what counts as a day spent in the UK for this calculation in paragraph 2.2.

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

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

Example

This is an example for illustrative purposes 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 were to visit the UK for:
80 days in the tax year 2008-09 (365 days in tax year)
100 days in the tax year 2009-10 (365 days in tax year)
85 days in the tax year 2010-11 (365 days in tax year)
105 days in the tax year 2011-12 (366 days in tax year)

The annual average of your visits would be

$$\frac{80+100+85+105}{365+365+365+366} \times 365 = \frac{370}{1461} \times 365 = 92.44 \text{ days}$$

7.7 Longer term visitors

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.

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

It is possible that you will become resident and ordinarily resident in the UK before you have been visiting for four years if:

- you know when you start visiting the UK that your visits here are going to be for an average of 91 days or more, you will be resident and ordinarily resident from 6 April of the tax year when you first start making your visits
- you realise after starting to visit the UK regularly that your visits are going to be for an average of 91 days or more – you will be resident and ordinarily resident from 6 April of that tax year.

7.7.1 Longer term visitors – residence

You are a longer term visitor if you come to the UK but you are not going to remain here permanently or for three years or more (see 7.2). As a longer term visitor you will be resident in the UK from the day that you arrive if you have come here for at least two years.

You can find out what counts as a day spent in the UK for this purpose in paragraph 2.2.

You will also become resident in the UK if, during your visit you are here for 183 days or more in the tax year.

7.7.2 Longer term visitors – ordinary residence

As a longer term visitor you must also consider the guidance at 7.4 to ensure that your presence here really is as a visitor and also consider your ordinary residence status in the UK. Whether or not you are ordinarily resident in the UK will affect what UK tax you have to pay. Because you came to the UK for a period of less than three years you would appear to be not ordinarily resident here but if your circumstances have changed since you arrived in the UK it is possible that you may have become ordinarily resident.

7.7.3 Longer term visitors – ordinary residence in the year you arrive

If you have come to the UK voluntarily and for a settled purpose, for example to 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 in the year you arrive, this may be an indication that your presence in the UK forms part of the regular and habitual mode of your life for the time being and so you are ordinarily resident from when you arrive.

If the only reason for you becoming ordinarily resident is because you have accommodation here, then as long as you dispose of the accommodation and leave the UK within three years of your arrival, you will be not ordinarily resident.

If you otherwise believe that you are ordinarily resident in the UK, for example, because you had planned to emigrate to the UK, and you actually leave the UK within three years of arrival, we will not usually consider you as having become ordinarily resident for tax purposes in those circumstances.

7.7.4 Ordinary residence – the years after you arrive

You will become ordinarily resident in a tax year after the year of your arrival if:

- you have been here for three years from the date of your arrival, even though you did not originally intend to stay and have not bought or acquired accommodation on a lease of three years or more – you will become ordinarily resident in the UK from the beginning of the tax year in which the third anniversary of your arrival falls – see example 1 at 7.8, or
- you decide, after you arrive, to stay in the UK for three years or more from the date of your arrival – you will become ordinarily resident in the UK from the beginning of the tax year in which you make that decision. If you make that decision after you arrived but still in the year of arrival, you will be ordinarily resident from the day you arrived in the UK – see example 2 at 7.8, or
- you buy or acquire accommodation on a lease of three years or more – You will become ordinarily resident from 6 April in the tax year in which you bought or leased the accommodation. If the only reason for you becoming ordinarily resident is because you have accommodation here, then as long as you dispose of the accommodation and leave the UK within three years of your arrival, you will be not ordinarily resident – see example 3 at 7.8.

7.8 Supporting examples

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 how ordinary residence might affect you when you have come to the UK as a longer term visitor. Your ordinary residence in the UK will be based on your individual circumstances.

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 as '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.

Example 2 – Ordinary residence when you decide to remain in the UK for longer than originally planned

When you arrived in the UK on 6 June 2009 you did not think that you would be staying here for more than three years. In July 2010 you decide that you will now be remaining in the UK until 2013 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 as '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.

or

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 2013 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 as 'ordinary' for you. You were not ordinarily resident at the start of the tax year as you were not actually here and so your ordinary residence would begin from the date you first arrived.

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 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.

8 When someone stops being resident in the UK

8.1 What you need to do when you are leaving the UK

You can also get form P85 online 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**

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

Your tax office can also help you work out if you will become non-resident and/or not ordinarily resident. When you have been resident and/or ordinarily resident in the UK you will have many links to this country and you might find that some of these links continue after you leave the country and will mean that you remain resident or ordinarily resident here. The terms *Residence* and *Ordinarily Residence* are explained in parts 2 and 3 of this guidance.

If you are leaving the UK to work abroad you need to particularly consider carefully paragraphs 8.4, 8.5 and 8.8. The guidance we offer here will not apply to all people who are leaving the UK to work abroad – see paragraph 8.5.

By leaving the UK 'permanently' we mean that you are leaving the country to live abroad and will not return here to live. By leaving 'indefinitely' we mean that you are leaving to live abroad for a long time (at least three years) but you acknowledge that you might eventually return to live here.

If you have been resident and ordinarily resident in the UK, the act of leaving the UK to go abroad does **not** mean that you will automatically become non-resident and/or not ordinarily resident. After you leave the country, your UK residence and ordinary residence position will be affected by a number of factors which include:

- the reason you have left the UK (for example to work or live abroad permanently)
- what visits you make to the UK after you have left
- what connections you keep in the UK such as family, property, business and social connections.

If you normally live in the UK and go abroad for short periods – for example on holidays and business trips – you will continue to be resident here. This type of short absence from the country does not affect your UK residence and ordinary residence position.

The terms *Residence* and *Ordinary Residence* are explained in parts 2 and 3 of this guidance.

8.2 Leaving the UK permanently or indefinitely

If you are leaving the UK permanently or indefinitely, you will only become not resident and not ordinarily resident from the day **after** the day of your departure, as long as you have actually physically left the UK and have left for the purpose you have stated, not for example, to have a holiday until you move into your new home or begin your overseas employment.

You can find out what is a UK tax year at 1.5.25.

To find out how to calculate your average visits to the UK and an example of how to make the calculation, see paragraph 8.3.

You can still visit the UK but if your visits here after you have left average 91 days or more in a tax year, you will remain resident and ordinarily resident in the UK.

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. 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.

The act of leaving the country is not likely to be sufficient evidence that you have left the UK permanently and have become non-resident and not ordinarily resident.

If you still have property in the UK which you can use after you leave, we might want you to explain why you are retaining that property when you say you have left the UK.

8.3 How to calculate your average visits to the UK

You only need to calculate the average of your visits to the UK after you have physically left and have become non-resident and/or not ordinarily resident.

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

$$\frac{\text{Total days visiting the UK}}{\text{Total days since leaving}} \times 365 = \text{annual average visits}$$

When you are making this calculation, you do not include the days which you spent in the UK in the year **before** your original departure. The calculation looks at a maximum of your visits in the most recent four years since you left the UK.

Example

This is an example for illustrative purposes and any calculation you make would be based upon your own circumstances – the date that you actually left the UK.

You left the UK to live abroad on 5 October 2007 and therefore became non-resident in the UK on 6 October 2007. A first review of your average visits is made after 5 April 2009.

Since you left the UK on 6 October 2007 (that is, the day after the day of your original departure) your visits to the UK have been:
30 days between 6 October 2007 and 5 April 2008
50 days between 6 April 2008 and 5 April 2009

The total number of days since you left the UK are:
183 days between 6 October 2007 and 5 April 2008 (the tax year ending 5 April 2008 fell in a leap year and so February 2008 has 29 days) and
365 days between 6 April 2008 and 5 April 2009

To make the calculation, add up the total of your visits during the period of review - 80 days (30+50). You also add the total number of days that have passed since you left the UK during the period - 548 (183+365). You then divide the total number of your visits by the total number of days since you left the UK and multiply by 365 (the number of days in a year). The calculation would therefore be

$$\frac{80}{548} \times 365 = 53.28 \text{ days}$$

If you continue to remain abroad, the average of your annual visits is calculated in reviews after 5 April each subsequent year and following this example would be calculated like this:

- Second Review after 5 April 2010 - include your visits from 5 October 2007 to 5 April 2010
- Third Review after 5 April 2011 - include your visits from 5 October 2007 to 5 April 2011

As the average is looked at over a maximum period of four years, after the third review, the year of departure is dropped from the calculation.

- Fourth Review, after 5 April 2012 - include your visits from 6 April 2008 to 5 April 2012.

This calculation, over the most recent four year period, would continue like this for as long as you remained out of the UK.

8.4 Leaving the UK to work abroad – employees not covered by this guidance

The HMRC offices dealing with special types of employment abroad are

- **Crown employees:** South Wales Area, Cardiff
- **EU employees:** HMRC, CAR Residency, Liverpool
- **Merchant navy seafarers:** South Wales Area, Cardiff
- **Oil and gas industry:** HMRC, CAR Edinburgh

The full postal addresses of all of these offices can be found at part 12 *Contacting HMRC.*

There are special rules for some employees who work abroad which are not dealt with in this guidance. This guidance will not apply to you if you are:

- a Crown employee (for example, a member of the UK armed forces, a civil servant, diplomat)
- an employee of the institutions of the European Union (EU)
- a UK merchant navy seafarer
- an oil and gas exploration/extraction industry employee (when your employer is not resident in the UK).

In all of these circumstances, you should write to the HMRC office dealing with your type of employment abroad. To help you, these are listed on the left of this section. We will be happy to give you advice on your particular circumstances. When writing, you should give us your National Insurance number and the details about your employment abroad.

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 – see 8.3 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.

If you do not meet all of these conditions, you will remain resident and ordinarily resident in the UK unless paragraph 8.2 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

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.

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 5.1.5.

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 8.3 and so remain resident and ordinarily resident in the UK. You must tell us about such changes by contacting your tax office.

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 and 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 8.3 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
- Being accompanied by your spouse or civil partner when you leave the UK – part 8, paragraph 8.9
- Investment (unearned) Income – part 10, paragraph 10.11 onwards
- Earned Income – part 10, paragraphs 10.1 to 10.10.

9 Double Taxation Relief (DTR) & 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**

You can obtain further information on DTAs by writing to CAR Residency Nottingham. The address and contact details can be found in part 12 *Contacting HMRC*.

Different countries and states have their own tax rules and laws. When you have income and gains from a source in one country and you are resident in another, 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.

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 what types of income and at what rate you will receive relief from UK 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 2009 and does not show the individual content of each DTA, simply the fact than an agreement exists.

9.1 Non-residents and residents of more than one country

If you are a resident of a country with which the UK has a DTA, 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 agreement. It is not possible to give full details here as they vary from agreement to agreement. If you are resident both in the UK and a country with which the UK has a DTA there may be special provisions in the agreement for treating you as a resident of only one of the countries **for the purposes of the agreement**.

9.1.2 Income which can receive relief under a DTA

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 (paid before 6 April 1999) – see 9.1.9
- interest.

Some agreements state that you must be subject to tax in the other country on the income 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 include a place of management, a branch or an office.

If you are carrying on a trade or running a business through a permanent establishment in the UK, you may not qualify for any relief from UK tax on royalties, interest or dividends connected with the permanent establishment.

9.1.5 Earnings from employment and professional 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.

Unless you are an entertainer, sportsman or sportswoman, under many DTAs, when you are a resident of a foreign country for the purpose of the agreement, you may be able to claim exemption from UK tax 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 agreement (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.

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

For independent, personal or professional services

- you must not operate from a fixed base in the UK (or, in the case of some agreements, spend more than a specified number of days in the UK).

9.1.6 Teachers and researchers

Under some 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 you cannot claim exemption and you will be liable to tax on the **whole** of your earnings from the date you arrived. Some agreements only allow exemptions to be given 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 agreements 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 agreements impose various restrictions on this relief, including, for example, 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 at CAR Residency Liverpool. The address and contact details can be found in part 12 *Contacting HMRC*.

Under most DTAs, if you are not resident in the UK and you come here as an entertainer, sportsman or sportswoman, **any payments you receive 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

If you are resident in the UK, you are entitled to a tax credit when you 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 your tax liability. From 6 April 1999 the tax credit was reduced from 20% to 10% to reflect the reduction in the rate of tax on dividend income from that date.

If you are **not resident** in the UK, the normal rule is that you are not entitled to a tax credit when you receive a dividend from a UK company. You do not pay UK tax on any dividends from UK companies.

You may be entitled to a tax credit if you are a resident of a country with which the UK has a double taxation agreement and the agreement provides for payment of the same tax credit as a UK resident would be entitled to receive. In that case, you are liable to Income Tax on the total of the dividend and tax credit, at the rate of tax laid down in the agreement.

From 6 April 1999, all double taxation agreements that provide for payment of a tax credit on dividends paid by UK companies continued to give a right to claim a tax credit in excess of the amount which the UK was 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 an agreement 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 part 6, paragraph 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

Under many agreements, if you are a resident of another country for the purposes of the agreement, you will be liable to tax only in the other country on any gains you make from disposing of assets. In that case, you will be exempt from Capital Gains Tax in the UK even if you are ordinarily resident here. If, however, 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 both the UK and the country of origin, you may qualify for relief against UK tax for all or part of the foreign tax you have paid. Even if there is no double taxation agreement between the UK and the other country concerned, you may still be entitled to relief under special provisions in the UK's tax legislation.

9.3 The UK's 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 2009.

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

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 'UK' can be found at 1.5.23 and 'abroad', 'foreign' and 'offshore' at 1.5.1, 1.5.9 and 1.5.14 respectively.

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 non-resident in the UK
• ordinary 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 relief for any allowances and other tax relief you are entitled to.

In the first part of this section we deal with earned income and the second part deals 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 widow's 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 which will also 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.**

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 1.5.3.

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 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.

There is an exception to the operation of the remittance basis if you are **resident** and **ordinarily resident** in the UK but are **not domiciled** here. In these circumstances 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. The remittance basis will only apply to foreign employment income where the employment is performed wholly outside the UK for a foreign (non-UK) resident employer. A foreign employer is an individual, partnership or body of persons resident outside, and not resident 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, 4(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 on 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 on in the UK are taxed in the UK but any earnings from a trade, profession or vocation carried on abroad will only be taxed 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 of UK tax 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 (SED)

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 12 *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. A ship **does not** include offshore installations like mobile offshore drilling rigs.

The SED is only available 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 '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 – 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 you earn from a trade, profession or vocation (including a partnership) which you carry out wholly in the UK.

You **will not** pay UK tax on any income you earn from a trade, profession or vocation (including a partnership) which you carry out wholly abroad.

If you carry out your trade, profession or vocation (including from a partnership) partly in the UK and partly outside the UK you will pay UK tax on the part of the profits which relate to 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 you are not resident for the whole tax year 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

In this context 'offshore' means:
- the UK territorial sea (see 1.5.23)
- the UK continental shelf (see 1.5.24).

See 10.3 for more information on the SED – the Seafarers Earnings Deduction.

The address and phone number of CAR Edinburgh can be found in part 12 *Contacting HMRC*.

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.

If you are a non-UK resident working offshore in the UK oil and gas industry, your work is being carried out in the UK, if it is in the UK territorial sea or on the UK continental shelf. 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 CAR Edinburgh 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 CAR Edinburgh.

10.6 Earned 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 Seafarers Earnings Deduction.

If you are a seafarer or aircrew your duties will have been carried out in the UK and taxed as UK earnings when:
- your voyage or flight does not take you to a place outside the UK, or
- you are resident in the UK and your voyage or flight begins or ends in the UK, or
- you are resident in the UK and embarked on part of a voyage or flight which begins and ends in the UK.

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 **incidental** to the duties of your employment abroad.

Whether or not duties performed in the UK are incidental to an overseas employment will always depend on the circumstances of each particular case. Any decision has to be based on the work carried out in the UK – not the amount of time spent on it. But if you spend more than 91 days working in the UK in a tax year the work **will not** be incidental as it is reasonable to say that someone who spends such an extended period working in the UK is actually working here rather than undertaking duties which are incidental to an overseas employment.

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 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 representative of a UK company to make reports or receive fresh instructions
- time spent training in the UK by an overseas employee which does not exceed 91 days in the tax year and provided no productive work is carried out in the UK by the trainee during that time

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 director's 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 investment income – see 10.11.

When you become resident in the UK

When you come to the UK during a tax year and you are resident from the date of your arrival there is a concession (extra statutory concession A11) which means that you will not pay UK tax on your earnings for the part of the tax year before you arrived in the UK. **This concession applies only to earnings from duties of an employment which was carried out abroad.**

More information about the Seafarers Earnings Deduction can be found at 10.3.

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 **Seafarers Earnings Deduction**, you may be exempt from UK tax on your leave pay but this will depend on your individual circumstances.

When you stop being resident in the UK

If you leave the UK during a tax year and become non-resident here on the day after your departure, the concession applying to those entering the UK (extra statutory concession A11) works in a similar way. You will pay UK tax on your earnings up to and including the date of your departure but you **will not** pay UK tax on your earnings after your departure. **This concession applies only to earnings from an employment which is carried out wholly abroad**.

10.8 Changing location of a trade, profession or vocation

If you carry on a business which is a trade, profession or vocation there are provisions which apply when you start or end a business ('commencement' and 'cessation' provisions). Among other things, these provisions will affect the amount of losses which can be carried forward from one business to another.

If you have been carrying on 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, we will allow you at that point to be 'deemed' to have ceased one business and started another. This means that special cessation provisions will apply up to the date of 'deemed' cessation and special commencement provisions from the date of 'deemed' commencement.

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.

It is a question of fact whether a change in your UK residence status will 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 to 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 service abroad.

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 service abroad exceeds 10 years and the whole of the last 10 years service was abroad, or
- your total service abroad 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.

10.10.1 Table 1 – How employment income 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.

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.

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 Seafarers 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 on wholly or partly in the UK	Trade or profession carried on 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

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) AB	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, investment 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 is also known as 'relevant foreign income'. This term is particularly used to describe unearned foreign income in relation to the remittance basis - see 1.5.17.

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.

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 HMRC 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 deduction 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 in the UK.

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 they are 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 1.5.17.

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.

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. This type of property income is dealt with by HMRC 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 HM Revenue & Customs, 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 Residency Liverpool can be found in part 12 *Contacting HMRC*.

You can apply to CAR Residency 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 FOTRAs is paid without UK tax deducted and if you are liable to UK tax and receive interest from a FOTRA you must tell HMRC and make sure that the interest you receive is included on any Self Assessment tax return you complete.

If you are not resident in the UK or are resident in the UK but **not ordinarily resident here**, 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 on 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 back-dated.
- 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 resident in the UK or are resident but not ordinarily resident here, you might be able to arrange to have your interest paid without such tax being deducted. You should only do this if you know that you are not going to be liable to UK tax. 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 this facility 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 and in subsequent years.

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

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.

In the tax year of your departure, you will not be liable to UK tax on your foreign investment income following the date of your departure under extra statutory concession A11. 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 be liable to UK tax on your foreign investment income which arose when you were resident in the UK under extra statutory concession A11.

10.14.4 When you use the remittance basis

If you use the remittance basis in the year of departure you will be liable to UK tax on your foreign investment income which you remitted to the UK before you departed under extra statutory concession A11.

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	Liable	Not liable
		2(b) RB	Liable	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	Liable	Not liable
		5(b) RB	Liable	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'.

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 leaflet at **www.hmrc.gov.uk/pdfs/nico/ni38.pdf**

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 an 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 Member States of the European Union are listed in 11.2.

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 2009, 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 2009, 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)[2]	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. The DCC with Canada also covers benefits.

11.4 If you are going abroad

11.4.1 Going abroad to an EEA country

The EEA countries are listed in 11.1.

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. These are issued by the Prescription Pricing Authority (PPA) and application packs can be obtained from any UK Post Office. Or you may apply online at **www.dh.gov.uk/travellers** or by phone on **0845 606 2030**.

The address and phone number of CAR Residency Newcastle can be found in part 12 *Contacting HMRC*.

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

If your UK employer sends you to work in another EEA country for not more than 12 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 CAR Residency Newcastle for form E101. 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.

If your job in the other EEA country lasts longer than 12 months – even though you did not expect it to – you and your UK employer may continue paying UK NICs for not more than another 12 months. But the social security authorities in the other country must first agree to this. Your UK employer must, before the end of the first 12 months, apply on form E102 to the social security authorities in the other country. Form E102 can be obtained from CAR Residency Newcastle. If the social security authorities in the other country agree to the request, 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.

There are special arrangements that allow you to continue paying UK NICs for longer periods, but usually for no more than 5 years. The social security authorities in the other country must agree to this. Your employer will need to apply on your behalf to CAR Residency Newcastle for such longer periods. If you are allowed to continue paying UK NICs for up to five years the EHIC is not suitable. You need to apply to CAR Residency Newcastle for form E106 to provide you and any family member with cover for healthcare purposes.

Similar rules apply if you are self-employed. You must obtain forms E101 and E102 from CAR Residency 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 Communities
- 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 CAR Residency Newcastle can be found in part 12 *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 CAR Residency 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 an employer in another EEA country sends you to work in the UK for up to 12 months (longer in special cases), you may be able to continue paying social security contributions. If form E101 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. 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 sent to work temporarily in the UK by an employer in a country which is outside the EEA and not covered by a bilateral Social Security Agreement, the general rule is that 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 the foreign employer does not have a place of business in the UK, NICs are due from the UK 'host' employer.

If you are not sent to work temporarily in the UK by a foreign employer you will be liable to pay NICs from the outset of your employment in the UK.

12 Contacting HMRC

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 Edinburgh For employees working in oil and gas extraction industries (where the employer is not resident in the UK)	Charity, Assets and Residence Complex Personal Tax Teams Saughton House Broomhouse Drive Edinburgh Scotland EH11 3XR Phone From UK **0131 519 7194** and **0131 519 7329** From abroad **00 44 131 519 7194** and **00 44 131 519 7329**
Charity, Assets and Residence Liverpool For non-resident employees, employees of institutions of the European Union and members of visiting forces who are posted to the UK	Charity, Assets and Residence (Residency) St Johns House Merton Road Liverpool England L75 1BB Phone From UK **0845 070 0040** From abroad **00 44 151 210 2222** email: via our website at **www.hmrc.gov.uk/cnr/email.htm**
For non-resident entertainers and sports persons	Charity, Assets and Residence (Residency) Foreign Entertainers Unit St Johns House Merton Road Liverpool England L75 1BB Phone From UK **0151 472 6488** From abroad **00 44 151 472 6488**

Charity, Assets and Residence Newcastle For information on UK National Insurance contributions	Charity, Assets and Residence (Residency) Benton Park View Newcastle upon Tyne England NE98 1ZZ Phone From UK **0845 915 4811** From abroad **00 44 191 225 4811** email: via our website at **www.hmrc.gov.uk/cnr/email.htm**
Charity, Assets and Residence Nottingham For written enquiries regarding Double Taxation Agreements and dual residence	Charity, Assets and Residence (Residency) Fitzroy House PO Box 46 Nottingham England NG2 1BD 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 **00 44 161 931 9070** email: via our website at **www.hmrc.gov.uk/cnr/email.htm**
South Wales Area For Crown employees or pensioners (for example, civil servants, diplomats, members of the armed forces)	South Wales Area, Cardiff (Compliance) Residence Group 15 East Ty-Glas Llanishen Cardiff Wales CF14 5FP Phone From UK **0845 300 3949** From abroad **00 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 any right of appeal.

Customer Information Team

HMRC 02/10