



United Kingdom

Introduction

An individual's liability to income tax in the United Kingdom (U.K.) is determined by residence status for taxation purposes and the source of income derived by the individual. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their U.K. workdays.

Income tax

Liability for income tax

Residency

An individual may be considered resident in the U.K. if one of the following applies:

- The individual goes to the U.K. for the purpose of employment and the anticipated stay is at least two years. Tax residency applies for the whole of the period spent in the U.K. from the date of arrival to the date of departure.
- The individual is present in the U.K. for 183 days or more in the tax year concerned and the above does not apply to the individual (tax residency applies for the whole tax year).
- The individual visits the U.K. each year, and over a four – year period, the visits average more than 90 days per year. Tax residency would commence at the beginning of the fifth tax year unless the pattern of visits was known at the outset or some other time before the fifth year, in which case it would commence at the beginning of the tax year in which such pattern of visits is anticipated.

When counting days spent in the U.K. for the above tests for periods up to April 5, 2008, days of arrival in and departure from the U.K. are ignored. When counting days in any period after April 5, 2008, in most circumstances, any day when the individual is present at midnight has to be included. If the individual is present at midnight merely because the individual is transiting through the U.K. from a previous location outside the U.K. to another location outside the U.K., it might be permissible to exclude the day from the day count, depending on the facts of the situation.

Ordinarily resident

A resident may be classified as either ordinarily resident (that is, a longer-term resident) or not ordinarily resident. To be ordinarily resident, the employee would generally have to be in the U.K. for three years, purchase property in the U.K., or occupy property under a lease of three years or more.

Extended business travelers are unlikely be regarded as ordinarily resident unless their early business trips become an assignment or they spend more than 90 days per year in the U.K. over an extended period.

Most extended business travelers are more likely to be regarded as nonresident rather than ordinarily resident.

Domicile

A person's domicile is, broadly, the individual's permanent homeland. The majority of foreign nationals employed by foreign employers who are extended business travelers or working on secondment to the U.K. will not be regarded as domiciled in the U.K.

Significance of residency and domicile

A non-U.K. resident is taxable on U.K.-sourced income.

Resident but not ordinarily resident and non-U.K.-domiciled individuals are taxable on U.K.-sourced income but can claim to be taxable on their foreign income on the remittance basis.

This means that their income would then be taxable in the U.K. only if remitted to the U.K.

Resident and ordinarily resident but non-U.K.-domiciled individuals would be taxable on worldwide earnings if any duties were performed in the U.K. They could claim to be taxable on their foreign investment income on the remittance basis.

Definition of source

Employment income is generally treated as U.K.-sourced compensation where the employee performs the services while physically located in the U.K. Salary, etc., is apportioned between U.K. and non-U.K. duties based on workdays.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file tax returns and pay tax in the U.K.

To the extent that the individual qualifies for relief in terms of the employment income article of an applicable double tax treaty, there will be no U.K. tax liability. The treaty exemption will not apply if the U.K. entity is viewed as the individual's economic employer. In general, if an employee has a foreign employer, the U.K. will not take the economic employer position if the employee is in the U.K. for up to 60 days.

Types of taxable income

All earnings, whether in cash or in the form of a benefit-in-kind, made by an employer to an employee are taxable unless specifically exempted. Typically, travel expenses to and from the U.K. and accommodation would not be taxable for an extended business traveler.

Tax rates

For the year ending April 5, 2012, earnings are taxed at 20 percent on the first 35,000 British pounds (GBP) of taxable income and 40 percent on the next GBP115,000 of income. An additional rate band of 50 percent applies to the remainder.

Social security

Liability for social security

Employers and employees who are liable for social security in the U.K. pay it with no upper limit. It is likely, however, that most extended business travelers would not be liable for U.K. social security. This could be for a number of reasons, including:

- They remain in their home countries' social security system under the EEA rules.
- They remain in their home countries' social security system under a reciprocal agreement with the U.K.
- They arrive from a nonagreement country and are exempt from U.K. social security for the first 52 weeks they are in the U.K.

Compliance obligations

Employee compliance obligations

Tax returns that are filed electronically are due by January 31 following the tax year-end, which is April 5. Paper returns have an earlier deadline of October 31 following the tax year-end.

If treaty relief applies and the employer has entered into a short-term business visitors agreement with Her Majesty's Revenue & Customs (HMRC), individual tax returns do not have to be filed merely to claim the treaty relief, and the Pay-As-You-Earn (PAYE) withholding obligations can be relaxed.

Employer reporting and withholding requirements

Employment income is subject to tax and social security withholding under the PAYE system. If an individual is taxable on employment income, the obligation to withhold rests with either the employer or, if the employer is not operating withholding, it rests with the "host" employer.

If a short-term business visitor's agreement is obtained, these withholding obligations can be relaxed with HMRC's agreement.

Other

Work permit/visa requirements

Citizens of pre-2004 EEA (including EU) member states and Swiss nationals do not require permission to work, reside, or visit the U.K.

Citizens of the EU member states who joined in May 2004 (except Malta and Cyprus) do not require work permission. However, they are usually required to register under the workers' registration scheme within one month of starting employment (unless they are exempt). They are all allowed to visit as business visitors without obtaining prior entry clearance.

Citizens of Bulgaria and Romania will need to apply for work permits (unless exempt) and apply for accession worker cards before they commence employment. Bulgarians and Romanians can enter the U.K. as business visitors without obtaining prior entry clearance.

All other nationals will require permission to work in the U.K. as well as entry clearance (visa). If the individual is required to visit the U.K. only as an extended business traveler, the individual may enter the U.K. without entry clearance, depending on nationality and whether the individual has an adverse immigration history.

Double taxation treaties

In addition to the U.K.'s domestic legislation that provides relief from international double taxation, the U.K. has entered into double taxation treaties with more than 100 countries to prevent double taxation, and allow cooperation between the U.K. and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

The U.K. imposes value-added tax (VAT), which is a tax on consumer expenditures. Businesses (where they are VAT registered and fully taxable) do not bear the final costs of VAT. They are able to charge VAT on the supplies that they make (output VAT) and recover VAT on purchases that they have made (input VAT).

There are currently three rates of VAT: standard rate (20 percent, which is charged on the provision of most goods and services), zero rate (0 percent, which is charged on foods, books, and children's clothing), and reduced rate (5 percent, which is charged on fuel). Attributable input VAT is recoverable on these supplies by businesses.

Some goods and services may be exempt from VAT.

Transfer pricing

The U.K. has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of an entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

The U.K. has data privacy laws. Organizations have a legal duty to keep data private and secure.

Exchange control

The U.K. does not restrict the flow of sterling or foreign currency into or out of the country. Certain reporting obligations, however, are imposed to control tax evasion and money laundering. Organizations covered by the legislation have a number of obligations, including the obligation to establish the identity of individuals. A bank account cannot be opened in the U.K. without proof of identity.

Non deductible costs for assignees

Non deductible costs for assignees include mortgage interest, alimony, tax return preparation fees, and relocation expenses (unless they are "qualifying," when deductible expenses are limited to GBP8,000).

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