JAMES COWPER KRESTON

Accountants & Business Advisers

Tax considerations when moving to the UK

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jamescowperkreston.co.uk

Introduction about moving to the UK and London

London is a beautiful historic city, full of culture and arts to be enjoyed by visitors and we hope that you enjoy your stay in London and the United Kingdom. There is plenty of countryside outside of London to be enjoyed too and we hope that you will explore the United Kingdom to the full.

The United Kingdom has a sophisticated tax code which contains traps for the unwary. We have seen visitors caught by these rules before, so we have organised this guide for London into 4 sections below:

- Before you arrive
- During your stay in London
- Before you leave London, and
- After you have left London

Before you arrive

It is important that before you arrive in the United Kingdom you have reviewed your tax affairs and done any necessary preparation before you arrive. It does not matter where or how you arrive in the UK to become resident as the tax rules are not city or area dependent – they are broadly the same for all of the United Kingdom.

Short Term Business Visitors

Some individuals coming to the UK as business travellers, rather than for longer term assignments, may fall under the Short-Term Business Visitors regime for PAYE. This is a PAYE relaxation meaning that UK workdays may be exempt from tax (and not required to be processed through payroll) if the following conditions are met:

- Individual is resident in a country with which the UK has a Double Taxation Agreement containing the Dependent Personal Services/Income from Employment article;

- They are coming to the UK to work for a UK company or UK branch of an overseas company; or

- They are legally employed by a UK resident employer but economically employed by a separate non-UK resident entity

- They are expected to stay in the UK for 183 days or less in any twelve-month period

Those where the remuneration is borne in the UK (either initially or after recharge) can be covered by this agreement provided their UK presence is 59 days or less and does not form part of a longer period.

If the above conditions are met, the UK employer needs to have the Short Term Business Visitor Agreement (EP Appendix 4) and have arrangements to track the presence of its business travellers to the UK. There is then annual reporting required based on the number of days visitors have spent in the UK.

Pre-arrival briefing

We generally recommend our clients or assignees have a pre-arrival briefing, where we can explain the UK tax system, residence and domicile rules and the planning they may need to undertake prior to arrival in order to benefit from certain tax regimes (if applicable), such as the remittance basis and Overseas Workday Relief (discussed further below).

Understanding the UK residence rules, and particular split year treatment is vital as it will determine the starting point for UK residence and therefore taxation. Once UK residence is triggered, an individual becomes subject to UK taxation on worldwide income and gains, unless they are non-domiciled and can make use of the remittance basis. As such, it is essential to understand this trigger point (which will not necessarily be the day of touching down in the UK) to time any disposals and organise funds in the most tax-efficient and flexible manner.

Remittance basis of taxation

If you are non-UK domiciled, you can choose to be taxed on either the “arising basis” or the "remittance basis" of taxation. Under the arising basis, you will be subject to UK tax on your worldwide income and gains as they arise in the tax year and you will maintain entitlement to your tax free personal allowance of £12,570 for 2021/22 (if total income for the year does not exceed £100,000).

Under the remittance basis, you will be subject to UK tax on only UK income and gains, e.g., UK employment income, UK bank interest, UK dividends etc. Overseas income and gains will only be taxable if you bring those funds (or "remit" them) to the UK. Note that if you elect for the remittance basis of taxation you will lose your personal allowance and annual exemption for capital gains tax (£12,300 for 2021/22). However, if total foreign income and/or gains is less than £2,000 in the tax year, a non-UK domiciled individual is automatically taxed on the remittance basis, and this has no impact on the tax liability and there is no requirement to file a tax return to make a claim.

The UK will usually allow for foreign tax credits on overseas income which has already been taxed overseas, up to the rate of UK tax. For example, if you have rental income taxed at 20% in the US and your total UK income means that you pay tax at the marginal rate of 40% in the UK, then the UK would seek to tax the US income at 40% and allow a credit from the US for the US tax paid at 20% resulting in UK tax due of 20%.

Claiming the remittance basis of taxation becomes more costly the longer you are in the UK. For the first 7 years of residence, you will only lose your personal allowance and capital gains tax annual exemption if you choose the remittance basis and have offshore income/gains in excess of £2,000. However, there is a remittance basis charge which is due after being resident in the UK for 7 of the previous 9 tax years, which is £30,000 in addition to any UK tax due. Should you be resident in the UK for 12 out of 14 years then the charge increases to £60,000 per annum. Once you have been resident in the UK for at least 15 of the 20 previous tax years you become deemed domicile and you can no longer claim the remittance basis of taxation. We generally advise clients to ensure their domicile position is regularly reviewed to ensure this is documented and any changes can be identified.

Remittances and mixed fund rules

If you are using the remittance basis of taxation there is no UK tax on any foreign income or gains unless you remit to the UK. However, it is important to ensure you understand the rules so you do not make accidental remittances and can plan any future remittances.

Any foreign income or gains that arose before you become resident in the UK are considered ‘clean capital’ and you can remit as much of this clean capital as you wish as long as you keep it separate from any taxable foreign income or gains arising after your arrival in the UK. If you transfer taxable income or gains post arrival in the UK into the same overseas account, the account will be considered a ‘mixed fund’. If you then remit any of the funds from the ‘mixed fund’ account into the UK HMRC will consider post arrival income to be remitted first and it will therefore be taxable in priority.

Remittances from mixed funds can become complex if there are lots of transactions involved, so we recommend setting up separate accounts for different sources, so you have clarity over what you are bringing to the UK. Segregating funds and being able to identify the source of money if remitted to the UK is key.

Inheritance Tax planning

Whilst non-UK domiciled, you are only subject to UK Inheritance Tax (IHT) on any UK situs assets, and not on worldwide assets. Planning is therefore possible if there is the possibility of longer-term UK residence, by setting up an excluded property trust whilst still non-domiciled to protect assets from falling into the UK IHT net in future.

During your stay in London

Becoming resident – Statutory Residence Test

As covered above, understanding the start of your UK residence is key. The Statutory Residence Test determines whether you are resident or non-resident for any given UK tax year, which runs from **6 April to 5 April.**

Firstly, three automatic non-resident tests are considered. These are not usually applicable to those arriving in the UK, unless quite late in the UK tax year, in which case it may be possible to remain non-resident until the start of the new tax year. If none of the automatic non-resident test are met, three automatic UK resident tests are considered, as follows:

- Present in the UK for 183 midnights or more
- Meets the UK home test
- Works full-time in the UK

The latter two tests have specific definitions that need to be considered, but when you arrive in the UK it is likely in our experience that one of these tests will be met in the tax year of arrival.

If not, there are sufficient ties tests, looking at your UK connections (family, employment, accommodation, whether you have spent 91 days in the UK in the previous two tax years) which, combined with days of presence, will determine your tax residence. Assuming you are resident in the UK for the tax year, the split-year rules must be considered. For those arriving, these are:

- Starting to have a home in the UK only
- Starting full-time work in the UK
- Ceasing full-time work overseas
- Partner ceasing full-time work overseas
- Starting to have a home in the UK

Again, these cases have specific criteria and definitions that need to be analysed.

If any of the cases are met, the tax year still counts as year of residence for remittance basis and domicile purposes, but you are treated as a non-resident until the split-year date (i.e., not taxable on worldwide income until then).

Overseas Workday Relief

Overseas Workday Relief (OWR) allows you to exclude from UK taxation the portion of your employment income that relates to overseas workdays as a percentage of total workdays, provided certain conditions are met. You are eligible to claim OWR for your first three tax years of UK residence if you meet the below conditions:

- You are non-UK domiciled
- You are a UK tax resident
- You have had non-UK residence status for the previous three consecutive UK tax years (split tax years do not count)
- You will have overseas workdays during the tax year under a single contract of employment
- You are claiming the Remittance basis of taxation

Claiming OWR will mean that you shall not be subject to UK tax on any income earned while working overseas during the tax year, if the earnings are paid offshore and remain offshore. Split-year UK tax residents can claim OWR for part of the year that they are considered UK tax resident.

Please note that some countries (e.g., France) have an “anti-remittance basis” clause in their tax treaty with the UK, essentially meaning that if the UK is not taxing workdays in their country under OWR, that country retains the right to tax those days, effectively meaning those workdays do not escape taxation globally. It is therefore vital to check the rules in the country in which the overseas workdays are spent.

Please note that the easiest way to manage OWR is to open an overseas Special Mixed Fund (SMF) account prior to claiming OWR. Any earnings relating to overseas workdays should be deposited into your SMF account and kept separate from any other income or gains. To nominate your SMF account it is essential that the account is opened with no more than a £10 deposit. The date that the first deposit of ten pound or more is made will be classified as the “qualifying date”.

Temporary Workplace Relief and relocation expenses

If an assignment is up to 24 months, then the travel and subsistence costs (utilities, travel from home to the office in the UK, food and accommodation in the UK) are exempt from UK tax, under Detached Duty Relief. The 24-month rule prevents a workplace being a temporary workplace where an employee attends it during a period of continuous work which lasts, or is likely to last, more than 24 months.

Although food can also be claimed while on a temporary assignment, detailed records would need to be kept justifying this and calculate the portion of food applicable to the individual and not to family members, and so in practice this is often too burdensome.

If your accommodation is provided via a cash allowance, this will be taxable, however you can claim relief for actual expenses incurred when you file your tax return. You will need to keep expense receipts for accommodation, utility bills, etc for your tax return so a claim can be made against taxable employment income.

When the employer sends an employee to the UK on assignment, removal expenses paid for by the employer may be exempt from tax and NIC. A maximum of £8,000 of removal expenses can qualify for the exemption as long as the specified conditions are met.

UK tax compliance

Your employer is responsible for operating Pay As You Earn (PAYE) withholding tax on UK employment income in the form of cash (monthly salary, commission, relocation bonus) and any allowances (car, housing, hardship). Any benefits in kind provided or reimbursed expenses are reported separately at the end of the year on form P11D. The UK withholding tax system works based on an employee tax code and is normally a cumulative system. Each month's calculation provides 1/12 of the personal allowance (if applicable), then 1/12 of each of the tax bands (20%, 40% and 45%).

You will need to file a UK tax return to report your residence and domicile status, if you are claiming split-year treatment and/or the remittance basis of taxation, or if you have taxable personal income and gains. You are also required to file if your income exceeds £100,000. If filing a return, you will need to register for Self Assessment and receive a Unique Taxpayer Reference (UTR) number. The tax return filing deadline is 31 January in the year following the end of the tax year.

Acquiring a UK domicile

If you plan to remain in the UK longer-term, you may acquire a "domicile of choice" in the UK. This would be the case when you are resident and intend to remain resident indefinitely. The intention is key here and the impact is that the remittance basis of tax will no longer be an option as soon as a UK domicile of choice is acquired. The UK tax rules automatically treat someone as acquiring a UK domicile for all tax purposes once they have been resident in the UK for 15 of the last 20 tax years. The consequence of that is that the remittance basis is no longer available and you become subject to inheritance tax on your worldwide wealth, not just your UK situate wealth.

Before you leave London

Pre-departure planning – leaving the UK and becoming Non-UK resident & moving home/to another country.

Much like when arriving in the UK, we suggest our clients have a departure consultation so that they understand their residence position, the UK tax impact and any ongoing UK compliance requirements they may have.

Split year treatment on leaving the UK

If you leave the UK part-way through a tax year, it is likely you may be considered UK resident for the tax year under the SRT. If this is the case, it is necessary to consider the split year rules to see if the criteria for any of the cases are met. The cases to consider are as follows:

- Starting full-time work overseas
- Partner starting full-time work overseas
- Ceasing to have a home in the UK

As for the inbound split-year cases, the above have specific conditions and it is important to ensure that the limits in terms of UK days and ties in the "overseas" part of the tax year are not exceeded if you wish to split the tax year.

After you have left London

Becoming non-UK resident

Once you are considered non-UK resident, you will normally only be taxable on the UK source income (e.g. substantive work duties, rental income). Please note that any deferred compensation (e.g. bonus) relating to periods of UK residence will remain taxable. Capital gains tax is not payable by non-residents, except in the case of the sale of UK situs property. UK source investment income is usually taxable in the country of residence under most Double Taxation Agreements, however often the UK is entitled to tax dividends up to a certain rate of tax, for example.

As a non-resident, you may still be entitled to the Personal Allowance, depending on your citizenship and/or the country you are moving to. UK and EU nationals are currently entitled to the Personal Allowance when non-resident.

Ceasing to have a UK tax filing requirement

If you have been filing UK tax returns, you would normally report your departure on the relevant return and then, if you no longer have any UK source income to report, it is necessary to call HMRC to inform them and request de-registration from Self-Assessment. If this is not done, HMRC will expect a return for the following year and will charge a late filing penalty if this is not received.

Ongoing liabilities for UK taxes

Tax returns aside, as a non-resident you are still required to report any sales of UK situs property (residential or commercial) via a Capital Gains on UK property return, within 60 days of conveyance, regardless of whether there is any tax to pay. You may also benefit from rebasing or time-apportionment.

If you were UK resident for at least four of the seven tax years prior to becoming non-resident and you return to the UK and resume residence within five years you will be within scope of the temporary non-residence rules, meaning that certain income or gains accruing in or remitted to the UK in the non-resident period will be taxed in the year of return, such as capital gains and distributions from close companies.

At a glance

- Business visitors
- Starting UK residence
- Method of taxation (remittance and arising basis)
- Overseas Workday and Temporary Workplace reliefs
- Tax compliance
- Becoming non-UK resident

Further Assistance

If you would like to discuss any aspect of this guide and how it might affect you please contact one of our Global Mobility Tax team using the contact details below.

Meet the Team

Sharon Omer-Kaye
Partner
T: +44 (0)7469 725716
E: somer-kaye@jamescowper.co.uk

Charlotte Firth
Global Mobility Tax Senior Manager
T: +44 (0)7780 073644
E: cfirth@jamescowper.co.uk

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