

WORKING ABROAD

You can use a UK company to work abroad although, not surprisingly, it complicates the tax and NI issues. The following is an overview of the tax system for working abroad, although advice should be taken for each individual set of circumstances.

Generally, if you are working abroad for less than a full tax year (6 April to 5 April) then your UK tax and NI position remains unchanged. If you are working abroad for more than a year then the position is outlined below.

Corporation Tax

Your company normally remains UK resident and to the extent that profits are not stripped by dividend or salary, will be subject to UK Corporation Tax. If you establish permanent links to a host country, your company may be forced to assume tax residence there.

Income Tax

If you are working abroad for less than a tax year then Income Tax operates as normal on salary and dividends (unless you are a foreign national with a UK company, and not normally resident in the UK).

If you work abroad for at least a complete tax year (5 April to 6 April) then you can qualify for non residence status.

Traditionally to qualify for non residence status you must work

(i) abroad for a full tax year; and

(ii) return visits must not average more than 90 days a year over a four year period and no more than 180 days in any year.

This means if you went abroad on 30 April 2009 you would have to continue working abroad until 6 April 2011 at the earliest. By contrast if you went abroad on 4 April 2009, you would qualify as non resident provided you worked abroad till 6 April 2010. Return visits can be any when in that period subject to the 90 / 180 days rules.

Once you have qualified as non-resident, salary from your UK company will be free of UK Income Tax. Dividends from your company will still be taxable, as will UK sources of investment income such as bank interest, share dividends, rent received, etc; in such circumstances moving investments offshore, eg to the Channel Islands may be worthwhile. Non residence status will affect your capacity to utilise privileged UK savings products such as pensions and ISAs.

The tax benefits of non-residence start from the day you go abroad so long as the non residence status is actually achieved. Eg if you go abroad on 1 April 2009 and are still working abroad at 6 April 2010 then on 6 April 2010 your non residence status is achieved, backdated to 1 April 2009.

Working abroad – continued

Unfortunately there is no statutory definition of residence / non residence in UK tax law, and the long standing HMRC guidance in IR20, which set out the rules above, was withdrawn from 6 April 2009. For the foreseeable future a more purposeful, and vague, regime is likely to apply looking at not only dates but also factors such as:

- availability of accommodation in the UK
- business ties to the UK
- social ties to the UK
- family ties to the UK

To this end for the foreseeable future, if taking a contract abroad, merely looking at dates and hoping to achieve non residence status will not be enough. Most or all ties with the UK will need to be cut.

National Insurance

The UK has reciprocal arrangements with EEC countries and bi lateral agreements with many other countries. The effect of this is that you normally remain within the UK NI net for twelve months following your starting to work abroad, although you can extend this, by concession, to 24 months; at that stage if you are working in the EEC you should normally register to pay social security taxes in that country. Outside of the EEC your social security liability will depend upon the local regime and any bi lateral agreements with the UK - for example the UK/USA bi lateral agreement keeps you in the UK NI regime for 5 years.

VAT

If your UK company is invoicing a foreign company or agency then your VAT status may change. With effect from 1 April 2010, if you are selling your services to a customer in another EEC country, you will be required to file an EC Sales list on a calendar quarterly basis. If you believe this affects you, please request a copy of our guidance notes on VAT cross border changes.

Capital Gains Tax

There are special and complicated rules for UK Capital Gains Tax whilst you are abroad; liability to UK CGT continues to accrue for up to five years after departure, and can provide a nasty shock if you move back within 5 years. Specialist advice tailored to your circumstances will be needed.

In practice

A view needs to be taken on how long the overseas work will last. If it is anticipated that UK non-residence will be achieved then the emphasis needs to move from the low salary/high dividend approach to the reverse; in the first twelve months NI costs will be little different to the Corporation Tax/higher rate tax on dividends, but from month 13 onwards it is quite feasible that no UK tax or NI will be paid. It is sometimes possible to minimise both the first 12 months NI and taxation from month 13 onwards by running an extended accounting period. Personalised advise will be required on this.

Working abroad - continued

If the length of the contract is doubtful, making the achievement of non residence status questionable, then the best approach is to try and defer making a decision about salary/dividend mix for as long as possible.

Overseas jurisdictions taxation

If you are working abroad, within or outside the EEC, then you may find it necessary to register with local taxation authorities and pay local taxes. The UK has double taxation agreements with most other countries which determine how a national from one country is taxed whilst living or working in the other country, and these need to be considered on a case by case basis – as a rule of thumb a local tax liability may arise once you have been present in the host country for three months or more.

Compared to most of the EEC the UK has a relatively low tax burden, and many people working abroad will wish to engineer their circumstances so that they are considered to be UK resident under the terms of the relevant double taxation agreement - rather confusingly just because you qualify as a UK resident for the purposes of the double taxation agreement it does not mean that you cannot qualify as UK non resident for UK Income Tax purposes – the aim is to push your residence status back to the UK (normally by showing it is where your permanent ties are) and then use the UK concessions for non-residence whilst working abroad to minimise UK liabilities.

The reality of meeting the registration requirement in an overseas country will have to be considered on a case by case basis - many contractors have worked abroad for a number of years, avoided putting down roots and getting "in the system" and successfully avoided any contact with the host countries tax authorities; others are required to register almost immediately for visa and work permit requirements.

Overseas taxation is complicated and personalised advice is needed

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