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IR20 - Residents and non-residents Liability to tax in the United Kingdom

Contents

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Preface

This current update of booklet IR20, which was last published in December 1999 and was subject to an update in February 2008, is only interim guidance. The only substantive amendments being made in **this** update of the booklet are to cover the changes to the residence and domicile rules resulting from the 2008 Budget and incorporated in statute in the Finance Act 2008. We recognise that the rest of this guidance needs updating and **we expect to publish full replacement guidance soon, at which point the IR20 will be withdrawn**. However, our customers said they would like IR20 to be updated to reflect the changes brought about by the 2008 Finance Act and this interim update provides that.

The notes below are not binding in law and do not affect rights of appeal about your own tax.

Some of the guidance originally included in the booklet published in December 1999 was removed when the guidance was updated in February 2008 as it is no longer relevant. No information has been removed from this latest update of the booklet and we have only made additions to cover the changes made by the 2008 Finance Act.

You should bear in mind that the booklet offers general guidance on how the rules apply, but whether the guidance is appropriate in a particular case will depend on all the facts of that case. If you have any difficulty in applying the rules in your own case, you should consult an HM Revenue & Customs Tax Office - see paragraphs 7-9 of the Introduction on contacting HM Revenue & Customs.

Some practices explained in this booklet are concessions made by HM Revenue & Customs. **A concession will not be given in any case where an attempt is made to use it for tax avoidance**.

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Introduction

General

1 Broadly, the United Kingdom (UK) charges tax on

- income arising in the UK, whether or not the person to whom it belongs is resident in the UK
- income arising outside the UK which belongs to people resident in the UK
- gains accruing on the disposal of assets anywhere in the world which belong to people resident or ordinarily resident in the UK.

2 Special rules apply in some circumstances, but generally the amount of income tax and Capital Gains Tax you have to pay depends on whether you are **resident** and/or **ordinarily resident** in the UK, and in some cases on your **domicile**.

3 The first part of this booklet explains what is meant by **'residence', 'ordinary residence'** and '**domicile**'. The second part explains how these factors affect how much income tax and Capital Gains Tax you have to pay in the UK, and how the normal rules of taxation may be modified in some cases where a **double taxation agreement** applies.

4 The third part of the booklet outlines the rules for payment of UK **National Insurance contributions** for individuals going abroad or coming to the UK.

5 The booklet is only concerned with **individuals**. It does not cover the position of companies, trusts, clubs, societies or other legal persons. Nor does it deal with **Inheritance Tax**. The booklet, 'Customer Guide to Inheritance Tax', explains how your domicile can affect the Inheritance Tax position if you transfer property, normally on or within seven years of death.

Definitions used in this booklet

6 Several terms used in this booklet have a particular meaning, as follows

Tax Year	The 12 months starting with 6 April in one year and ending with 5 April in the following year. For example, the tax year 2007-2008 runs from 6 April 2007 to 5 April 2008.
United Kingdom	England, Wales, Scotland and Northern Ireland, including the territorial sea (that is, waters within 12 nautical miles of the shore).
Abroad/overseas	Anywhere outside the UK. The Channel Islands and the Isle of Man are abroad (except in the limited context of certain bilateral Social Security Agreements - see paragraph 11.1).

Contacting HM Revenue & Customs

7 If you have any queries on your tax position, you should contact your Tax Office. Your employer will normally be able to tell you the address. If you have just come to the UK, or for any other reason you do not know which office deals with your tax affairs, you should write to your local Tax Office - the address is in *The Phone Book* under HM Revenue & Customs. If you have a UK National Insurance number, please give it in your letter.

8 A system of **Self Assessment** applies to individuals in the UK. This requires you to work out for yourself what tax you owe (calculating your own tax is, however, optional if you submit your tax return by a certain date, normally 30 September following the tax year).

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Initially, we will accept and process the figures in your return - except for any obvious mistakes, which we will correct. After processing, we will check all cases and select some for further examination.

We will provide guidance to help you calculate your tax liability or make any claim. We will ask you to give sufficient detail of your income and circumstances to allow us to check your tax return.

9 In a number of places this booklet refers to matters that are dealt with by specialist offices of HM Revenue & Customs. These offices and their addresses are as follows

Charity, Assets & Residence **Bootle**	(Residency) St John's House Merton Road Liverpool England L75 1BB Phone **0845 070 0040** **From abroad** **Phone 44 151 210 2222**
Charity, Assets & Residence **Nottingham**	(Residency) Fitz Roy House PO Box 46 Nottingham England NG2 1BD Phone **0845 070 0040** From abroad Phone **44 151 210 2222**
HMRC South Wales	Government Buildings Ty-Glas Llanishen Cardiff Wales CF14 5YA Phone **0845 300 3949** **From abroad** **Phone 44 292 050 1290**
Foreign Compliance Compliance Centre 1	Queensway House East Kilbride Glasgow Scotland G79 1AA Phone **01355 275877 / 275733 / 275795**
Foreign Entertainers Unit	Charity, Assets and Residence St John's House Merton Road Liverpool England L75 1BB Phone **0151 472 6488**

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Charity, Assets & Residence (Residency)
Newcastle Benton Park View
Newcastle upon Tyne
NE98 1ZZ
Phone **0845 915 4811**
From abroad
Phone **44 191 225 4811**

Part I Meaning of 'residence', 'ordinary residence' and 'domicile' for tax purposes

1 Residence and ordinary residence

1.1 The terms '**residence**' and '**ordinary residence**' are not defined in the Taxes Acts. The guidelines to their meaning in this Chapter and in Chapters 2 (residence status of those leaving the UK) and 3 (those coming to the UK) are largely based on rulings of the Courts. This booklet sets out the main factors that are taken into account, but we can only make a decision on your residence status on the facts in your particular case.

As mentioned in paragraph 1.4, even if you are resident (or ordinarily resident) in the UK under these rules, the terms of a double taxation agreement with another country might affect your final tax position if, for example, you are resident in both that country and the UK.

Residence

1.2 To be regarded as **resident** in the UK you must normally be physically present in the country at some time in the tax year. You will always be resident if you are here for **183** days or more in the tax year. **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 may still be treated as resident for the year under other tests (see Chapter 3, and in particular paragraph 3.3).

For periods prior to 6 April 2008, the normal rule is that days of arrival in and departure from the UK are **ignored** in counting the days spent in the UK, in all the various cases where calculations have to be made to determine your residence position - see for example paragraphs 2.2, 3.3 and 3.4 and the examples in 2.10 and 3.6. (This rule is not relevant to the concessionary split year treatment described in paragraphs 1.5 -1.6, where a person coming to or leaving the UK part way through a tax year is resident from the date of arrival or to the date of departure.)

From 6 April 2008 onwards, when you are in the UK at the end of a day, i.e. at midnight, that day will count as a day of presence in the UK for residence purposes. An exemption is made for passengers who are in transit between two places outside the UK. Any day spent in transit through the UK (that is where you arrive in the UK in one day and depart to continue your journey on the next day); will not count as a day of presence in the UK for residence purposes. This exemption will only be given as long as you do not take part in any activity that is unrelated to your passage through the UK. This would include, for example, attending a business meeting, visiting friends or visiting a property which you own in the UK.

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Ordinary residence

1.3 If you are resident in the UK year after year, you are treated as **ordinarily resident** here. You may be resident but not ordinarily resident in the UK for a tax year if, for example, you normally live outside the UK but are in this country for 183 days or more in the year. Or you may be ordinarily resident but not resident for a tax year if, for example, you usually live in the UK but have gone abroad for a long holiday and do not set foot in the UK during that year.

Residence in both the UK and another country

1.4 It is possible to be resident (or ordinarily resident) in both the UK and some other country (or countries) at the same time. If you are resident (or ordinarily resident) in another country, this does **not** mean that you cannot **also** be resident (or ordinarily resident) in the UK. Where, however, you are resident both in the UK and a country with which the UK has a **double taxation agreement**, 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 (see paragraph 9.2).

Leaving or coming to the UK part way through a tax year

1.5 Strictly, you are taxed as a UK resident for the **whole** of a tax year if 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**. Where this applies, your tax liabilities on income which are affected by tax residence will be calculated on the basis of the period of your actual residence here during the year (see also paragraph 5.4). This has the same effect as splitting the tax year into resident and not resident periods.

There is a similar concession relating to the treatment of chargeable gains – see chapter 8

1.6 Split year treatment applies where

- you have been not ordinarily resident in the UK and you come to live here permanently or to stay for at least two years. You are taxed as a resident only from the date of your arrival; or
- you have been resident in the UK* and you leave to live abroad permanently or for a period of at least three years, and on your departure are not ordinarily resident in the UK. You are taxed as a resident only up to and including the date of your departure; or
- you have been resident in the UK* and you leave to take up full-time employment abroad, and you meet certain conditions (see paragraphs 2.2 -2.3). You are taxed as a resident only up to and including the date of your departure (and from the date when you return to the UK).

* **other than** resident only as a short term visitor - see paragraph 3.3.

1.7 For certain types of income of a non-resident the UK tax charged is limited to any tax deducted before payment (see paragraphs 5.15 and 6.3). This **only** applies, however, to complete years of non-residence. Where the tax year is split, the limitation does **not** apply to the part of the year for which you are treated as though you were not resident.

Split year treatment does not apply if you come to the UK as a short term visitor, or if you come for only limited periods with no intention to live here permanently or to stay for at least two years. (See paragraph 3.3 for details of the rules that apply in this case.)

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2 Leaving the UK

Short absences

2.1 You are **resident and ordinarily resident** in the UK if you usually live in this country and only go abroad for short periods - for example, on holiday or on business trips.

Working abroad

2.2 If you leave the UK to work full-time abroad under a contract of employment, you are treated as not resident and not ordinarily resident if you meet **all** the following conditions

- your absence from the UK and your employment abroad both last for at least a whole tax year
- during your absence any visits you make to the UK
  - total less than 183 days in any tax year, **and**
  - average less than 91 days a tax year. (The average is taken over the period of absence up to a maximum of four years - see paragraph 2.10. Any days spent in the UK because of exceptional circumstances beyond your control, for example the illness of yourself or a member of your immediate family, are not normally counted for this purpose.)

(Please see the Appendix at the end of this guidance for notes on a relevant case.)

2.3 If you meet all the conditions in paragraph 2.2, you are treated as not resident and not ordinarily resident in the UK from the day after you leave the UK to the day before you return to the UK at the end of your employment abroad. You are treated as coming to the UK permanently on the day you return from your employment abroad and as resident and ordinarily resident from that date.

If there is a break in full-time employment, or some other change in your circumstances during the period you are overseas, we would have to review the position to decide whether you still meet the conditions in paragraph 2.2. If at the end of one employment you returned temporarily to the UK, planning to go abroad again after a very short stay in this country, we may review your residence status in the light of all the circumstances of your employment abroad and your return to the UK.

If you do not meet all the conditions in paragraph 2.2, you remain resident and ordinarily resident unless paragraphs 2.8 - 2.9 apply to you. Special rules apply to employees of the European Community (see paragraph 2.14).

2.4 The treatment in paragraph 2.3 will also apply if you leave the UK to work full-time in a trade, profession or vocation and you meet conditions similar to those in paragraph 2.2.

Meaning of 'full-time'

2.5 There is no precise definition of when employment overseas is 'full-time', and a decision in a particular case will depend on all the facts. Where your employment involves a standard pattern of hours, we will regard it as full time if the hours you work each week clearly compare with those in a typical UK working week. If your job has no formal structure or no fixed number of working days, we will look at the nature of the job, local conditions and practices in the particular occupation to decide if the job is full-time.

If you have several part-time jobs overseas at the same time, we may be able to treat

this as full-time employment. That might be so if, for example, you have several appointments with the same employer or group of companies, and perhaps also where you have simultaneous employment and self-employment overseas. But if you have a main employment abroad and some unconnected occupation in the UK at the same time, we will consider whether the extent of the UK activities was consistent with the overseas employment being full-time.

Accompanying spouse

2.6 If you are the husband or wife of someone who leaves the UK within the terms of paragraph 2.2 or 2.4 and you accompany or later join your spouse abroad, you may also by concession (extra-statutory concession A78) be treated as not resident and not ordinarily resident from the day after your departure to the day before your return, even if you are not yourself in full-time employment abroad. This applies where

- you are abroad for a complete tax year, and
- during your absence any visits you make to the UK
  - total less than 183 days in the tax year
  - average less than 91 days a tax year. (The average is taken over the period of absence up to a maximum of four years - see paragraph 2.10. Any days spent in the UK because of exceptional circumstances beyond your control, for example the illness of yourself or a member of your immediate family, are not normally counted for this purpose.)

Where the tax years of your departure or return are split in this way, your tax liabilities which are affected by residence status are calculated on the basis of the period you are treated as resident in the UK.

Leaving the UK permanently or indefinitely

2.7 If you go abroad permanently, you will be treated as remaining resident and ordinarily resident if your visits to the UK average 91 days or more a year - see paragraph 2.10. Any days spent in the UK because of exceptional circumstances beyond your control, for example the illness of yourself or your immediate family, are not normally counted for the purposes of averaging your visits.

2.8 If you claim that you are no longer resident and ordinarily resident, we may ask you to give some evidence that you have left the UK either permanently or to live outside the UK for three years or more. This evidence might be, for example, that you have taken steps to acquire accommodation abroad to live in as a permanent home, and if you continue to have property in the UK for your use, the reason is consistent with your stated aim of living abroad permanently or for three years or more. If you have left the UK permanently or for at least three years, you will be treated as not resident and not ordinarily resident from the day after the date of your departure providing

- your absence from the UK has covered at least a whole tax year, **and**
- your visits to the UK since leaving
  - have totalled less than 183 days in any tax year, and
  - have averaged less than 91 days a tax year. (The average is taken over the period of absence up to a maximum of four years - see paragraph 2.10. Any days spent in the UK because of exceptional circumstances beyond your control, for example the illness of yourself or a member of your immediate family, are not normally counted for this purpose.)

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2.9 If you do not have this evidence, but you have gone abroad for a settled purpose (this would include a fixed object or intention in which you are going to be engaged for an extended period of time), you will be treated as not resident and not ordinarily resident from the day after the date of your departure providing

- your absence from the UK has covered at least a whole tax year, **and**
- your visits to the UK since leaving
  - have totalled less than 183 days in any tax year, and
  - have averaged less than 91 days a tax year.

If you have not gone abroad for a settled purpose, you will be treated as remaining resident and ordinarily resident in the UK, but your status can be reviewed if

- your absence actually covers three years from your departure, or
- evidence becomes available to show that you have left the UK permanently

providing in either case your visits to the UK since leaving have totalled less than 183 days in any tax year and have averaged less than 91 days a tax year.

(Please see the Appendix at the end of this guidance for notes on a relevant case.)

Calculating annual average visits

2.10 If it is necessary to calculate your annual average visits to the UK, the method is as follows:

$$\frac{\text{Total visits to the UK (in days)}}{\text{Total period since leaving (in days)}} \times 365 = \text{annual average visits}$$

For this purpose, days spent in the UK in the tax year before the date of your original departure are excluded.

Suppose, for example, you leave the UK on 5 October 2003. The first review of the average of your visits is made after 5 April 2005, and takes account of your visits between those two dates. If you visited the UK for 30 days between 6 October 2003 and 5 April 2004 and for 50 days in 2004-2005, the annual average is

$$\frac{30 + 50}{182 + 365} \times 365 = \frac{80}{547} \times 365 = 53.38 \text{ days}$$

If you continue to remain outside the UK, the annual average is calculated as follows in reviews after 5 April in subsequent years

- after 5 April 2006 - include visits from 5 October 2003 to 5 April 2006
- after 5 April 2007 - include visits from 5 October 2003 to 5 April 2007
- after 5 April 2008 - include visits from 6 April 2004 to 5 April 2008.

After the third review the year of departure is dropped from the calculation. At each subsequent review the oldest year is dropped, so that there is a rolling period of four years being reviewed.

However, if during your absence the pattern of your visits varied substantially year by

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year, it might be appropriate to look at the absence as being made up of separate periods for the purpose of calculating average visits. This might be necessary if, for example, a shift in the pattern of your visits suggested a change of circumstances, which altered how we viewed your residence status.

Contacting HM Revenue & Customs

2.11 You should let us know when you leave the UK (other than for short trips as in paragraph 2.1). You will normally be asked to complete form **P85**, which will help to determine your residence status.

Tax treatment after leaving the UK

2.12 For details of the tax treatment of your earned income (such as earnings from employment) after you have ceased to be resident in the UK, see Chapter 5 and in particular paragraphs 5.1 - 5.3 and the tables at 5.19 - 5.21. For similar details in the case of any investment income you may have (for example, interest arising in the UK), see Chapter 6 and in particular paragraph 6.3.

2.13 Some special provisions applying to those who leave the UK are dealt with as follows

- earnings of those who come to the UK part way through a tax year: paragraph 5.4
- earnings of those who leave the UK part way through a tax year: paragraph 5.4
- UK Government securities; interest arising in year of departure from UK: paragraph 6.7
- investment income of those leaving the UK part way through a tax year: paragraphs 6.15 - 6.16
- tax allowances: paragraph 7.4
- capital gains: paragraphs 8.3 - 8.6

Special classes of employees

2.14 Special rules apply to some employees working abroad. If one of the classes shown below applies to you, write to the HM Revenue & Customs office shown - the addresses appear in paragraph 9 of the Introduction. Please give your UK National Insurance number and details of your employment abroad. We will advise you of your tax position.

Class	**Write to HM Revenue & Customs**
Crown employees (e.g. civil servants, diplomats, members of the armed forces, etc.)	HMRC South Wales
European Union (EU) employees	CAR Residency, Bootle
Employees working in oil and gas exploration and extraction industries (where the employer is not resident in the UK)	Foreign Compliance, Compliance Centre 1
Merchant Navy seafarers	HMRC South Wales

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3 Coming to the UK

Coming to the UK permanently or indefinitely

3.1 You are treated as **resident and ordinarily resident** from the date you arrive if your home has been abroad and you intend

- to come to the UK to live here **permanently**, or
- to come and remain here for **three years or more.**

You 'remain' in the UK if you are here on a continuing basis and any departures are for holidays or short business trips. (The same applies for the other references in this Chapter to 'remaining' in the UK.)

Visitors to the UK

3.2 If you come to the UK other than to live here permanently as in paragraph 3.1, the guidelines in the rest of this Chapter will govern your residence and ordinary residence position in the UK.

The Chapter deals in turn with two main groups coming to this country

- **short term visitors** - where you visit the UK for only limited periods in one or more tax years, without any intention to remain for an extended period
- **longer term visitors** - where you come to the UK intending to remain indefinitely or for an extended period, perhaps stretching over several tax years.

At first you may fall within one of these categories and later move to the other, depending on your precise circumstances.

Short term visitors

Residence

3.3 You will be treated as **resident** for a tax year if

- you are in the UK for 183 days or more in the tax year (see paragraph 1.2), or
- you visit the UK regularly and after four tax years your visits during those years average 91 days or more a tax year - see paragraph 3.6. You are treated as resident from the fifth year. However
  - any days spent in the UK for exceptional circumstances beyond your control, for example the illness of yourself or a member of your immediate family, are not counted for this purpose
  - you are treated as resident from 6 April of the first year, if it is clear when you first come to the UK that you **intend** making such visits and you actually carry out your intention
  - you are treated as resident from 6 April of the tax year in which you **decide** that you will make such visits, where this decision is made before the start of the fifth tax year and you actually carry out your decision.

For example

- you come to the UK with no definite intentions, but your visits during the tax years

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2007-2008 to 2010-2011 average at least 91 days a tax year; you are resident from 6 April 2011

- you first come to the UK during 2007-2008, intending that between then and 5 April 2011 your visits will average at least 91 days a tax year; you are resident from 6 April 2007, provided that your visits in fact reach that level

- you first come to the UK during 2007-2008 with no definite intentions and you spend, say, 60 days here; you come again during 2008-2009 and decide you will come regularly in future years and your visits will average at least 91 days a tax year; you are resident from 6 April 2008, provided that your visits in fact reach that level.

Ordinary residence

3.4 You will be treated as **ordinarily resident** if you come to the UK regularly and your visits average 91 days or more a tax year - see paragraph 3.6. Any days spent in the UK for exceptional circumstances beyond your control, for example the illness of yourself or a member of your immediate family, are not normally counted for this purpose.

3.5 The date from which you are treated as ordinarily resident depends upon your intentions and whether you actually carry them out. You will be ordinarily resident

- from 6 April of the tax year of your first arrival, if it is clear when you first come here that you **intend** visiting the UK regularly for at least four tax years

- from 6 April of the fifth tax year after you have visited the UK over four years, if you originally came with no definite plans about the number of years you will visit

- from 6 April of the tax year in which you **decide** you will be visiting the UK regularly, if that decision is made before the start of the fifth tax year.

For example

- you first come to the UK during 2005-2006, you intend visiting regularly until at least 5 April 2009 and your visits will average at least 91 days a tax year. You are ordinarily resident from 6 April 2005

- you come to the UK with no definite intentions, but you visit regularly during the tax years 2005-2006 to 2008-2009 and your visits average at least 91 days a tax year. You are ordinarily resident from 6 April 2009

- you first come to the UK during 2005-2006 with no definite intentions; you come again in 2006-2007 and 2007-2008 during 2007-2008 you decide you will come regularly in future years, and your visits will average at least 91 days a tax year. You are ordinarily resident from 6 April 2007.

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Calculating annual average visits

3.6 Where it is necessary to calculate your annual average visits, the method is as follows:

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

For example, suppose you visited the UK for 80 days in 2001-2002, 100 days in 2002-2003, 85 days in 2003-2004 and 105 days in 2004-2005. The annual average is

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

Longer term visitors

Residence

3.7 You are treated as **resident** in the UK from the day you arrive to the day you leave (see paragraphs 1.5 - 1.6) if you come to the UK for a purpose (for example, employment) that will mean you remain here for at least **two years**. The same treatment will apply if you own or lease accommodation in the UK in the year you arrive here (see paragraph 3.11, first bullet).

In all other cases you will be treated as resident for the tax year if

- you spend 183 days or more in the UK in the tax year, or
- you own or lease accommodation in the UK (see paragraph 3.11, second bullet).

Ordinary residence

3.8 You will be treated as **ordinarily resident** in the UK from the date you arrive, whether to work here or not, if it is clear that you **intend** to stay for at least **three years.**

If you come to the UK **as a student** for an extended period of study or education, see paragraph 3.13.

3.9 You will be treated as ordinarily resident from the beginning of the tax year after the third anniversary of your arrival if you come to, and remain in, the UK, but you

- do not originally intend to stay for at least three years, and
- do not buy accommodation or acquire it on a lease of three years or more.

For example, if you arrive in the UK on 21 November 2005 and are still living in the UK on 6 April 2009, you are ordinarily resident from 6 April 2009.

3.10 If, after you have come to the UK, you **decide** to stay for at least **three years** from the date of your original arrival, you will be treated as ordinarily resident from

- the day you arrive if your decision is made in the tax year of arrival, or
- the beginning of the tax year in which you make your decision when this is after the year of arrival.

For example

- you arrive in the UK on 4 January 2006 and decide on 16 May 2006 to stay permanently. You are ordinarily resident from 6 April 2006

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- you come to the UK to work on 14 July 2005 on a 2½ year contract of employment, but in December 2007 your assignment is changed and your contract is extended until after July 2008*. You are ordinarily resident from 6 April 2007.

* If there is a change in the circumstances of your assignment, but no formal change to the terms of a contract, whether you are treated as ordinarily resident - and from what date - will depend on the precise facts.

3.11 If you come to, and remain in, the UK, you will be treated as ordinarily resident

- from the day you arrive, if
  - you already own accommodation here
  - you buy accommodation during the tax year of arrival, or
  - you have or acquire accommodation on a lease of three years or more during the tax year of arrival; or

- from 6 April of the tax year in which such accommodation becomes available, when this occurs after the year of arrival.

3.12 If you are treated as ordinarily resident **solely** because you have accommodation here (paragraph 3.11) and you dispose of the accommodation and leave the UK within three years of your arrival, you may be treated as not ordinarily resident for the duration of your stay if this is to your advantage.

3.13 If you are a **student** who comes to the UK for a period of study or education and you will be here for less than **four years**, you will be treated as not ordinarily resident, providing

- you do not own or buy accommodation here, or acquire it on a lease of three years or more, and

- on leaving the UK you do not plan to return regularly for visits which average 91 days or more a tax year.

Contacting HM Revenue & Customs

3.14 You should let us know when you come to the UK. You will normally be asked to complete form **P86**, which will help to determine your residence status.

Tax treatment after arrival in the UK

3.15 For details of the tax treatment of your earned income both in the UK and abroad (such as earnings from employments) after you have become resident in the UK, see Chapter 5 and in particular paragraphs 5.1 - 5.3, 5.9 - 5.12 and the tables at 5.19 - 5.21. For details of the treatment of any investment income you may have, see Chapter 6 and in particular paragraph 6.2.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

3.16 Some special provisions applying to those coming to the UK are dealt with as follows

- earnings of those who come to the UK part way through a tax year: paragraph 5.4
- lump sums from overseas pension schemes and provident funds: paragraph 5.16
- UK Government securities: interest arising in year of arrival in UK: paragraph 6.7
- investment income of those coming to the UK part way through a tax year: paragraphs 6.18 onwards
- tax allowances: paragraph 7.4
- capital gains: paragraphs 8.3 - 8.6

4 Domicile

4.1 Domicile is a general law concept. It is not possible to list all the factors that affect your domicile, but some of the main points are explained in this Chapter.

4.2 Broadly speaking, you are domiciled in the country where you have your permanent home. Domicile is distinct from nationality or residence. You can only have one domicile at any given time.

Domicile of origin

4.3 You normally acquire a **domicile of origin** from your father when you are born. It need not be the country in which you are born. For example, if you are born in France while your father is working there, but his permanent home is in the UK, your domicile of origin is in the UK.

Domicile of dependency

4.4 Until you have the legal capacity to change it - see paragraph 4.5 - your domicile will follow that of the person on whom you are legally dependent. If the domicile of that person changes, you automatically acquire the same domicile (a **domicile of dependency**), in place of your domicile of origin.

Domicile of choice

4.5 You have the legal capacity to acquire a new domicile (a **domicile of choice**) when you reach age 16. To do so, you must broadly 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. Living in another country for a long time, although an important factor, is not enough in itself to prove you have acquired a new domicile.

Married women

4.6 Before 1974, when you married you automatically acquired your husband's domicile. After marriage this domicile would change at the same time as your husband's domicile changed. If your marriage ended, you kept your husband's domicile until such time as you legally acquired a new domicile.
This rule is modified by the terms of the double taxation agreement between the UK and the USA. A marriage before 1974 between a woman who is a US national and a man

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domiciled within the UK is deemed to have taken place on 1 January 1974 for the purpose of determining her domicile on or after 6 April 1976 for UK tax purposes.

4.7 From 1 January 1974 your domicile is not necessarily the same as your husband's domicile. It is decided by the same factors as for any other individual who is able to have an independent domicile. If, however, you were married before 1974 and had acquired your husband's domicile (see paragraph 4.6), you **retain** this after 1 January 1974 until such time as you legally acquire a new domicile.

Overseas electors

4.8 From 6 April 1996 registering and voting as an overseas elector is not normally taken into account as one of the factors for determining whether you are domiciled in the UK, for the purpose of establishing your tax liability here.

Tax treatment of those not domiciled in the UK

4.9 Those who are resident in the UK but not domiciled here receive special tax treatment in respect of income and gains arising outside the UK. For details, see paragraphs 5.12 and 6.2 (income tax) and 8.8 (capital gains tax). We will consider the question of your domicile only where this will affect your current tax liability.

For inheritance tax purposes, see booklet, 'Customer Guide to Inheritance Tax'.

Part II Liability to UK tax

5 Earned income

Basis of liability

5.1 Finance Act 2008 introduced some new rules for remittance basis users, so for claims and remittances after 6 April 2008 you will need to consider whether these new rules (which are outlined in this chapter – particularly at 5.12) will apply to your circumstances.

If you are **resident in the UK** under the rules in Part I of this booklet, you will normally pay UK tax on all your earned income, wherever it arises. This is called the 'arising basis of taxation'. As well as earnings for employment, earned income includes items such as pensions and income from a trade, profession or vocation. You may, however, be entitled to a reduction in the UK tax you have to pay if you receive overseas earnings and spend long periods abroad (see paragraphs 5.9 - 5.10) or if you receive an overseas pension (see paragraph 5.11). In certain cases where you are resident but **not ordinarily resident** in the UK, or resident but **not domiciled** here, we may deal with your overseas income on the 'remittance basis' (see paragraphs 5.9, 5.11 - 5.12).

5.2 If you are **not resident in the UK**, we will generally tax you on any UK pensions or on earnings from employment the duties of which are carried on in this country. Where your duties are carried on partly in the UK and partly abroad, an allocation, based on days worked in the UK and days worked abroad, will normally be made to ascertain the earnings for duties carried on in this country which are liable for UK tax. We will not tax you on earnings from an employment which is carried on wholly abroad (see paragraph 5.5). See paragraph 5.4 for the position if you become resident in the UK part way through a tax year and 5.9 regarding overseas earnings taxable on the remittance basis. In some cases you may make a claim under a double taxation agreement for exemption from UK tax on your UK pension, or on earnings arising in this country (see

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Chapter 9 and in particular paragraphs 9.3, 9.4 and 9.6).

We will tax you on the profits of a trade, profession or vocation which is not carried on wholly outside the UK.

5.3 The tables at the end of this Chapter show in more detail how your pensions, earnings from any office or employment or profits from a trade, profession or vocation will be taxed, depending on your residence status and the place where your duties are performed. You should ask your Tax Office if you need further information or advice about your own tax position (paragraph 7 of the Introduction).

Special rules apply in the case of Crown employees - see paragraph 2.14.

Earnings of those who come to, or leave, the UK part way through a tax year

5.4 If you come to the UK during a tax year and are treated as resident here from the date of your arrival, by concession (extra-statutory concession A11) you will not pay tax on earnings for the part of the year before you arrive here, where these are from an employment carried on wholly abroad.

A similar concession applies if you leave the UK during a tax year and are treated as resident here up to and including the date of your departure. You will not pay tax on earnings for the part of the year after you leave the UK, where these are from an employment carried on wholly abroad.

In the case of earned income **other than** earnings from employment, the rules are the same as those for unearned income - see paragraphs 6.15 - 6.20.

If you are paid for a period of leave spent in the UK following work abroad, we treat this 'terminal leave pay' as arising during the period to which it relates even if your entitlement to it was built up over a period of overseas employment. Leave pay is normally taxable in the UK where an individual is resident here. It may, however, be covered by the 'foreign earnings deduction' if the leave immediately follows a period abroad which is a 'qualifying period' (see paragraphs 5.9 - 5.10, and footnote 2 to the table at 5.19, on the foreign earnings deduction).

Where your duties are performed

5.5 The table at 5.19 shows that the place where your duties are performed is a key factor in deciding the tax treatment of your earnings. If your work is usually done abroad but some duties are performed in the UK, we will treat these as though they had been performed abroad as long as they are merely **incidental** to your overseas duties (see paragraphs 5.7 and 5.8).

5.6 Where you are a seafarer or a member of an aircraft crew, we normally treat your duties as performed in the UK if

- the voyage or flight does not extend to a place outside the UK, or
- you are resident in the UK and the 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 or ends in the UK.

A different rule applies for the purposes of the foreign earnings deduction (see paragraphs 5.9 - 5.10 and footnote 2 to the table at 5.19).

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

Incidental duties

5.7 Whether duties you perform in the UK are 'incidental' to your overseas duties (paragraph 5.5) depends on all the circumstances. If the work you do in the UK is of the same kind as, or of similar importance to, the work that you do abroad, it will **not** be merely incidental unless it can be shown to be ancillary or subordinate to that work. It is normally the nature of the duties performed in the UK rather than the amount of time spent on them that is important, but if the total time you spend working in the UK is more than 91 days in a year, the work will not be treated as incidental. Examples of duties which we do **not** normally regard as incidental are

- attendance at directors' meetings in the UK by a director of the company who normally works abroad
- visits to the UK as a member of the crew of a ship or aircraft
- visits to the UK in the course of work by a courier.

5.8 If the work you do in the UK has no importance in itself, but simply enables you to do your normal work abroad, it may be treated as incidental. We will decide after looking at all the circumstances in your case. Examples of duties which we regard as incidental are

- visits to the UK by an overseas representative of a UK employer to report to the employer or to receive fresh instructions
- training in the UK by an overseas employee as long as
  - the total time spent in the UK for training is not more than 91 days in a year, and
  - no productive work is done in the UK in that time.

Earned income arising outside the UK

5.9 In the case of **earnings from employment**, the table at 5.19 sets out the tax position. If you are resident in the UK, we will normally tax you on all earnings you receive from sources abroad. In certain circumstances, however, you may be entitled to a deduction of 100% on certain earnings from an employment performed wholly or partly overseas, if you are resident (and ordinarily resident) in the UK but spend a sufficient number of days abroad (see paragraph 5.10).

For all years up to and including the year ended 5 April 2008, the default position is that you will be taxed on the earnings from your overseas employment on the **remittance basis** (see also paragraph 5.12) if you are

- resident but not ordinarily resident in the UK, or
- resident and ordinarily resident but not domiciled in the UK - but only in the case of 'foreign emoluments' where the duties of the employment are performed wholly outside the UK (see footnote 1 to the table at 5.19).

For tax years from 6 April 2008, although the qualifying criteria for the remittance basis have not changed, it is no longer mandatory in respect of earnings from overseas employment; instead, most individuals who wish to be taxed on the remittance basis are required to make a claim for it (see paragraph 5.12). In some circumstances there are certain exceptions from this general requirement to make a claim (see paragraph 5.12a)

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

5.10 The **foreign earnings deduction** in certain circumstances provides a deduction of 100% from the amount of earnings chargeable where the following conditions are met

- the duties of your employment are performed wholly or partly overseas
- you remain resident and ordinarily resident in the UK while working abroad
- the earnings are for a period which is part of a qualifying absence lasting 365 days or more.

Up to **16 March 1998** the Foreign Earnings Deduction could be claimed by all employees, but after that date it is **only available to seafarers**. 'Seafarers' are individuals who perform the duties of their employment on a ship. A 'ship' would not include offshore installations such as mobile offshore drilling rigs.

For further details of the current rules

- seafarers may contact HMRC South Wales (see paragraph 9 of the Introduction)
- workers in the oil and gas industry may obtain further information from Foreign Compliance, Compliance Centre 1 (see paragraph 9 of the Introduction and paragraph 5.17).

5.11 In the case of **other types of earned income**, such as **overseas pensions** and income from an overseas trade, profession or vocation, the tables at 5.20 and 5.21 set out the position. We will normally tax you on all the income you receive from overseas sources if you are resident in the UK. You may, however, be entitled to a 10% deduction from the amount chargeable in the case of overseas pensions.

For all years up to and including the year ended 5 April 2008 the default position is that you will be taxed on your other earned income from overseas sources on the **remittance basis** (see paragraph 5.12) if you are

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

For these years, the remittance basis does **not** apply to other types of earned income arising in the Republic of Ireland.

For tax years from 6 April 2008, although the qualifying criteria for the remittance basis have not changed, individuals who wish to be taxed on it are required to make a claim for it to apply (see also paragraph 5.12). In some circumstances there are certain exceptions from this general requirement to make a claim (see paragraph 5.12a).

For tax years from 6 April 2008 the remittance basis may also now apply to certain types of earned income arising in the Republic of Ireland.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

5.12 Where the **remittance basis** applies, you are liable to UK tax on the amount of your overseas income that is remitted to the UK. Income is remitted if it is paid here or transmitted or brought to the UK in any way. In working out your tax liability, we include all income remitted to the UK.

Where you are taxed on the remittance basis, you will **not** be able to claim either the 100% deduction for foreign earnings (see paragraphs 5.9 - 5.10) or the deduction for overseas pensions (see paragraph 5.11).

The remittance basis may also apply to any overseas investment income you receive (see paragraph 6.2) and to capital gains arising overseas (see paragraph 8.8).

For years up to and including the tax year ending 5 April 2008, the default position is that you will be taxed on the remittance basis on your overseas employment income and overseas chargeable gains but you must claim it for other income. The remittance basis applies if you are

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

However, if you qualify for the remittance basis because you are resident but not ordinarily resident in the UK then the remittance basis is only available for income, not capital gains. Only those not domiciled in the UK can claim the remittance basis on capital gains.

For tax years from 6 April 2008 onwards, although the basis of entitlement for the remittance basis has not changed, in most cases individuals who wish to use the remittance basis of taxation are required to make an annual claim for that basis to apply. There are some exceptions to this outlined in 5.12 (a) below.

a) If you have less than £2,000 unremitted overseas income and gains in a tax year, this change may not affect you. You will continue to have access to the remittance basis by default, that is, without making any claim. This allows you to pay UK tax on your UK income and gains and on any overseas income and gains which you remit to the UK. You will also;

   - keep your entitlement to UK personal tax allowances and to the annual exempt amount for capital gains tax (AEA).
   - not need to pay the Remittance Basis Charge (RBC) – see paragraph 5.12(d)

b) If you have more than £2,000 unremitted overseas income or gains in a tax year, you will need to make a claim for that year if you want the remittance basis to apply to you. If you do not make a claim for the remittance basis, you will be taxed on the arising basis (see paragraph 5.1) and will pay UK tax on all of your worldwide income, even if it remains outside the UK.

   You make a claim for the remittance basis via the Self Assessment system. If you do not currently receive a Self Assessment return and want to claim the remittance basis, you will need to ask us for a return by contacting your tax office. If you do not have a tax office, contact your local HMRC tax office to arrange to have a return issued to you.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

However, if, in a tax year:

- you have no UK income and gains; and
- you have not remitted any overseas income or gains to the UK; and
- you have not been resident in the UK for this year and at least seven of the previous nine tax years;

you will not be required to complete a Self Assessment return, even if the level of your unremitted overseas income and gains arising in this tax year is £2,000 or more.

If you have more than £2,000 unremitted overseas income or gains in a tax year and you choose to claim the remittance basis, you will still need to pay UK tax on your UK income and gains and on any overseas income and gains which you remit to the UK. In addition

- you will lose your entitlement to UK personal tax allowances and the annual exempt amount for capital gains tax. UK personal allowances include the basic personal allowance; age related allowances, blind person's allowance, tax reductions for married couples and civil partners and relief for life insurance premiums

- you will need to pay the Remittance Basis Charge (RBC – see paragraph 5.12(c)) if you have been resident in the UK in the tax year that you make the claim for the remittance basis and for at least seven of the previous nine tax years. In counting the number of tax years you have been resident for this purpose, you include those tax years when you were resident in the UK prior to 6 April 2008.

If you choose not to claim the remittance basis you will be dealt with on the arising basis (see paragraph 5.1) and will pay UK tax on all of your worldwide income. You can decide on a year-by-year basis whether or not you want to claim the remittance basis or be taxed on the arising basis.
Depending on your circumstances, when you are taxed on the arising basis and have overseas tax deducted from overseas income and/or gains, you might be entitled to Foreign Tax Credit Relief in the UK. This will depend on the terms of any Double Taxation Agreement existing between the UK and the country where the tax was deducted. In some cases, where there is no Double Taxation agreement, the UK might give unilateral relief for overseas tax deducted.

If you choose to be taxed on the remittance basis it applies to *all* of your income and gains. You cannot decide to apply the remittance basis only to income and not gains or vice versa. However, as mentioned above, where you claim the remittance basis because you are not ordinarily resident in the UK, as opposed to not domicile in the UK, then the remittance basis applies only to income, not gains.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

c) The Remittance Basis Charge (RBC)

From 6 April 2008 the RBC will apply to some people who wish to use the remittance basis. The RBC is an annual tax charge of £30,000 in respect of overseas income and gains left outside the UK.

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

- you make a claim to use the remittance basis
- you are resident in the UK in the year that you make your claim for the remittance basis and are aged 18 or over at the end of the tax year ***and***
- you were resident in the UK for at least seven of the previous nine tax years. In counting the number of tax years you have been resident for this purpose, you include all tax years when you were resident in the UK prior to 6 April 2008 (even if you were under 18 years old in some of them).

A flow chart at Appendix 2 will help you decide if you need to pay the RBC. If you do not wish to pay the RBC you can choose not to claim the remittance basis. You will then be taxed on the arising basis instead and will pay UK tax on your worldwide income – see paragraph 5.1.

d) The nature of the Remittance Basis Charge (RBC)

The £30,000 RBC is an annual tax charge in respect of overseas income and gains left outside the UK. It is in addition to any UK tax due on either UK income and gains or overseas income and gains remitted to the UK. The charge is due if it is appropriate to your circumstances as declared on your Self Assessment return (see 5.12(b)).

The RBC will be Income Tax, Capital Gains Tax or a combination of the two; when you make your claim for the remittance basis you must nominate how much of your foreign income and/or how much of your foreign gains the £30,000 tax charge is in respect of. This is known as your 'nominated' foreign income or gains. As the RBC will be Income Tax, Capital Gains Tax or a combination of the two, the Income tax and Capital Gains Tax elements should be creditable under many Double Taxation Agreements. The Income Tax element will also be available to cover UK Gift Aid donations.

If any of the 'nominated' foreign income or gains on which you have paid the RBC are remitted to the UK at a later date, they will not be taxed again. However, there are ordering rules which provide that in any year, any previously unremitted foreign income and gains will be considered to have been remitted before any of the nominated foreign income and gains on which the £30,000 RBC has been paid.

If you pay the £30,000 RBC from outside the UK it will not be treated as a remittance provided the payment is made direct to HMRC by

- cheque
- electronic payment of funds

If the £30,000 is later repaid to you, it will be regarded as a remittance when the repayment is made and **will** be subject to UK tax.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

Change of location of a trade, profession or vocation

From 6 April 1997 (or from 6 April 1995 for businesses which started on or after 6 April 1994)

5.13 If you have been carrying on a business wholly or partly outside the UK and you either become resident in the UK or cease to be resident in the UK, we will treat you at that point as having discontinued one business and started a new one. This means that the special cessation provisions will apply up to the date of 'deemed' cessation and the special commencement provisions from the date of deemed commencement.

Cessation and commencement of residence (and therefore deemed cessation and commencement of trade) usually take place at the start of the tax year in which your change of residence occurs. However, if you satisfy the conditions set out in paragraphs 1.5 - 1.6, the deemed cessation and commencement will take place on your actual date of arrival or departure.

Despite the deemed cessation and commencement, any losses incurred before the change of residence can be carried forward and set against profits of the business, as long as it would have been the same business under the rules in paragraph 5.14.

Before 6 April 1997 (or, where appropriate, 6 April 1995)

5.14 Whether a change of residence triggers the discontinuance of one business and the commencement of another is a question of fact. It depends on where the business is carried on rather than where the proprietor resides. Most trades and professions are carried on in a particular location (for example a shop, office or factory), so that a significant change of business location (such as from one country to another) will normally mean that the new business is a different one from the old business. This means that the cessation provisions will apply to your old business and the commencement provisions to the new one. It also means that losses from your old business cannot be carried forward and set against profits of the new business.

A few businesses, mainly of professional people, are not localised in this way, but are carried on wherever in the world the person happens to be. Examples are international actors, musicians, authors and sportsmen/women. If you are carrying on this kind of profession and continue to carry it on in the same way after a change of residence, it will be the same profession, and neither the cessation nor the commencement provisions will apply. However, for the year of change of residence, we will only assess you on a proportion of your profits for the full year, reflecting the profits made in the period from the date of your arrival in the UK to the following 5 April (or in the period from the preceding 6 April to the date of departure from the UK).

UK social security benefits

5.15 Various UK social security benefits including, for example, National Insurance Retirement Pension and widow's payments, are liable to UK tax. However, some relief from UK tax may be due under the terms of a double taxation agreement if you are not resident in the UK (see also paragraph 9.3).

From the year 1996-97, if you are not resident in the UK for the whole of a tax year and do not claim relief under the terms of a double taxation agreement, your liability on taxable UK social security benefits is limited to the tax, if any, deducted before payment.

Lump sums from overseas pension schemes and provident funds

5.16 By concession (extra-statutory concession A10), we will not charge income tax (or we will charge it only on a reduced amount) if you receive lump sum retirement benefits, relating to an employment overseas, under an overseas pension scheme or provident fund.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

The level of relief will depend on the extent of your overseas service. You qualify for full exemption where in that employment

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

If you do not meet the conditions for full exemption, we will charge income tax only on that percentage of the lump sum equivalent to your non-overseas service in that employment.

Offshore oil and gas workers

5.17 If you work offshore in connection with the exploration or exploitation of UK oil or gas, the rules set out in the first part of this Chapter still normally apply to you. In this context 'offshore' means

- the territorial sea of the UK (see paragraph 6 of the Introduction), and
- the UK continental shelf outside the territorial sea.

If, however, you are a resident of a country with which the UK has a double taxation agreement, the normal rules may be affected by that agreement (see Chapter 9 on agreements generally). Some of these include provisions specific to offshore oil and gas activities. You should put any queries about your tax liabilities to your Tax Office, if your employer is resident in the UK; or to Foreign Compliance, Compliance Centre 1, if your employer is not resident in the UK.

Partnerships

5.18 If you carry on a trade or profession in a partnership, the table at 5.21 sets out the position. In those circumstances, the remittance basis (see paragraph 5.12) may apply to your overseas profit, where the trade

- is carried on wholly abroad, or
- is carried on partly abroad and the partnership is managed and controlled abroad

and in either case you are a UK resident partner and are

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

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

5.19 Scope of liability to income tax of earnings

		Duties of employment performed wholly or partly in the UK		**Duties of employment performed wholly outside the UK**
		In the UK	**outside the UK**	
Foreign emoluments[1]	**Employee resident and ordinarily resident in the UK**	Liable – less possible deduction[2]	Liable – less possible deduction[2]	Liable if received in the UK[3]
	Resident but not ordinarily resident	Liable	Liable if received in the UK[3]	Liable if received in the UK[3]
	Not resident	Liable	Not liable	Not liable
Other earnings	**Resident and ordinarily resident**	Liable – less possible deduction[2]	Liable – less possible deduction[2]	Liable – less possible deduction[2]
	Resident but not ordinarily resident	Liable	Liable if received in the UK[3]	Liable if received in the UK[3]
	Not resident	Liable	Not liable	Not liable

1. '**Foreign emoluments**' is the term used in the Taxes Acts to mean the earnings of someone who is not domiciled in the UK and whose employer is resident outside, and not resident in, the UK For all tax years up to and including the year ended 5 April 2008 only, this includes an employer not resident in the Republic of Ireland.

2. There may be a **foreign earnings deduction** of 100% in these cases from the amount chargeable, if the earnings are for a period which is part of a qualifying absence lasting 365 days or more - this means that such earnings for that period will be free from UK tax. See paragraphs 5.9 - 5.10 for further details, and a summary of the changes that were introduced from 17 March 1998.

3. This tax treatment changed with effect from 6 April 2008. See paragraph 5.12 for details.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

5.20 Scope of liability to income tax on individuals receiving pensions

	Paid by on behalf of a person	
	in the UK	**outside the UK (overseas pension)**
Residence status and domicile	Liable	Liable[1]
Resident and ordinarily resident, and domiciled		
Resident and ordinarily resident, not domiciled	Liable	Liable but may claim the remittance basis (paragraph 5.12) [2]
Resident but not ordinarily resident, domiciled	Liable	Liable but may claim the remittance basis[2]
Resident but not ordinarily resident, not domiciled	Liable	Liable but may claim the remittance basis (paragraph 5.12) [2]
Not resident	Liable[3,4]	Not liable

1. Less 10% deduction.

2. If a claim for the remittance basis is made then the 10% deduction referred to at 1 is not available. Up to the year ended 5 April 2008 the remittance basis cannot be claimed for a pension arising in the Republic of Ireland but the 10% deduction is available. If the pension is from the Irish Government you are taxable only if you are a UK national without also being an Irish national.

3. See Chapter 9 about possible relief under a double taxation agreement.

4. See paragraph 5.15 in the case of UK social security benefits such as National Insurance Retirement Pension.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

5.21 Scope of liability to income tax on profits of individuals carrying on a trade or profession

	Trade or profession carried on wholly or partly in the UK	**Trade or profession carried on wholly outside the UK**
Residence status and domicile		
Resident and ordinarily resident, and domiciled	Liable	Liable
Residence and ordinarily resident, not domiciled	Liable	Liable but may claim the remittance basis (see paragraph 5.12) [1]
Resident but not ordinarily resident, domiciled	Liable	Liable but may claim the remittance basis[1]
Resident but not ordinarily resident, not domiciled	Liable	Liable but may claim the remittance basis (see paragraph 5.12) [1]
Not resident	Liable[2]	Not liable

1. Up to the year ended 5 April 2008 you are taxable on the whole of the income of a trade or profession carried on wholly in the Republic of Ireland. From 6 April 2008 no distinction is made for the Republic of Ireland.

2. You are liable on the profits of the part of the trade or profession carried on the UK.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

6 Investment income

General

6.1 Broadly, investment income means any income which is not a pension and is not earned by you as an employee, or from carrying on your profession or from running your own business. Among the more common types are

- interest from bank and building society accounts
- dividends on shares (see also paragraphs 9.11 - 9.13)
- interest on stocks
- rental income (unless your business amounts to a trade).

6.2 If you are **resident in the UK,** you will normally pay UK tax on all your investment income, wherever it arises. For tax years up to and including 5 April 2008, the **remittance basis of assessment can be claimed in respect of** overseas investment income (other than investment income arising in the Republic of Ireland) if you are

- resident but not domiciled in the UK; and/or
- resident but not ordinarily resident in the UK.

Where the **remittance basis** applies, you are liable to UK tax on the amount of your overseas investment income that is remitted to the UK. Income is remitted if it is paid here or transmitted or brought to the UK in any way. In working out your tax liability, we include all income remitted to the UK.

For tax years from 6 April 2008, although the basis for entitlement to the remittance basis has not changed, the rules for applying the remittance basis to your offshore investment income have. Details on this and on how to make a claim (including the effects of your doing so such as the loss of your entitlement to certain allowances and reliefs) can be found at paragraph 5.12. Depending on your circumstances, you might also be required to pay the Remittance Basis Charge (RBC) – see paragraph 5.12(c).

6.3 If you are **not resident in the UK**, we will only charge UK tax on investment income arising in the UK. Except in the case of UK rental income, if you are not carrying on a trade, profession or vocation through a UK branch or agency, your liability on investment income from 1996-97 will be limited to the tax, if any, deducted at source. However, if you have other UK income which is fully taxable, any personal allowances will be set against your investment income first.

If you are a resident of a country with which the UK has a double taxation agreement (see Chapter 9), you may in some cases be able to claim exemption or partial relief from UK tax on investment income (other than rental income from property in the UK).

Investment income arising in the UK

Income from property in the UK

6.4 Any profits you make from letting property situated in the UK are taxable in the UK, even if you cease to be resident in the UK. The following guidance applies to UK rental income from 6 April 1996.

6.5 Deleted from this version of IR20

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

6.6 If your usual place of abode is outside the UK

- where 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
- where a letting agent collects the rental income for you, the letting agent must deduct tax at the basic rate from the income received less the allowable expenses paid on your behalf.

In either case you can set off the tax against your UK income tax liability when you complete your tax return.

You can, however, apply to CAR at Bootle (see paragraph 9 of the Introduction) for approval for your property income to be paid without tax being deducted providing

- 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

and in all cases you undertake to comply with all your UK tax obligations.

Booklet IR140 'The Non-residents Landlords Scheme' was withdrawn in March 2006. Further information can be obtained from our website at **www.hmrc.gov.uk**

UK Government securities

6.7 UK tax is not chargeable on interest arising on **UK Government 'FOTRA' securities**, if you are not ordinarily resident in the UK. 'FOTRA' stands for 'Free of Tax to Residents Abroad'. Where we treat you as becoming, or ceasing to be, ordinarily resident in the UK part way through the tax year, no tax will normally be charged on interest payable while you are not ordinarily resident - that is, before the date you arrive here or after the date you leave.

Before 6 April 1998 FOTRA status only applied to certain UK Government securities. Please write to CAR at Nottingham (see paragraph 9 of the Introduction) if you want a list of the securities that had FOTRA status before 6 April 1998, or a form to claim repayment of tax.

6.8 UK tax is, however, charged if the interest forms part of the profits of a trade or business carried on in the UK. It is also charged in cases where laws to prevent tax avoidance provide that the income is to be treated as belonging to another person.

6.9 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 (known as the '**accrued income scheme**') normally apply when the securities are transferred. You are charged income tax on the interest that has built up 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. The leaflet 'Accrued income scheme – Taxing Securities on transfer' gives further details.

Interest from building societies and banks

6.10 Building societies, banks and other deposit takers in the UK normally deduct UK tax from interest paid or credited to your account. But if you are not ordinarily resident in the UK, you may be able to have the interest paid or credited without tax deducted. You can arrange this - assuming it is an option under the terms and conditions of your account - by completing a 'not ordinarily resident' declaration.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

Any interest you receive without tax deducted is still liable to UK tax.

If your account includes the facility to make a 'not ordinarily resident' declaration and you want to arrange for your interest to be paid or credited without deduction of tax

- ask the building society, bank or deposit taker for a declaration form R105.
- if your account is a joint account, you can complete the declaration only if **all** the people who are beneficially entitled to the interest are not ordinarily resident in the UK
- give the completed declaration form to your building society, bank or deposit taker
- the declaration will have effect from the date on which your building society, bank or deposit taker receives it. It cannot be backdated to cover earlier interest payments
- if you later become ordinarily resident in the UK (or, in the case of a joint account, if any of the people who are beneficially entitled to the interest becomes ordinarily resident in the UK), you must notify your building society, bank or deposit taker without delay.

From the year 1996-97, where you are not resident for the whole tax year, your liability on interest from a UK bank or building society is limited to the tax, if any, deducted before payment, provided that you meet certain conditions.

6.11 Deleted from this version of IR20

6.12 Deleted from this version of IR20

Investment income arising outside the UK

6.13 Some income from overseas sources may not have UK tax deducted before it is paid to you. If you are resident in the UK, you will have to pay the tax due. For all years from 6 April 1997 to 5 April 2008 the tax due will be calculated on the whole amount arising or, if the remittance basis applies (see paragraph 6.2), the amount received in the UK in the year concerned.

For tax years from 6 April 2008 onwards, although the basis for entitlement to the remittance basis has not changed, the rules for applying the remittance basis to your offshore investment income have. Details on this and on how to make a claim (including the effects of your doing so, such as the loss of your entitlement to certain allowances and reliefs) can be found at paragraph 5.12. Depending on your circumstances, you might also be required to pay the Remittance Basis Charge (RBC) – see paragraph 5.12(c).

6.14 Deleted from this version of IR20

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

Investment income of those who leave, or come to, the UK part way through a tax year

Leaving the UK

6.15 For tax years up to the year ending 5 April 2008, for overseas investment income where you are **not** taxed on the remittance basis, you will pay tax on the smaller of

- the actual overseas investment income arising for the period from 6 April to the date of your departure, and

- the same fraction of your total overseas income for the year of departure as the fraction of the full tax year for which you are resident in this country. For example, if you are resident in the UK from 6 April until 6 October in the same tax year, i.e. 6 months, the fraction is 6/12.

For tax years from 6 April 2008 onwards, the same rules will apply, depending on your personal circumstances. If you have chosen not to claim the remittance basis in the tax year of your departure you will be liable to pay UK tax on all of your income, including your overseas investment income, up to your departure from the UK – see paragraph 5.12.

6.16 For overseas investment income where you are taxed on the **remittance basis** (see paragraph 6.2), you will pay tax on the smaller of

- the actual overseas investment income remitted to the UK in the period from 6 April to the date of your departure, and

the same fraction of the total overseas income you remit to the UK in the year of departure as the fraction of the full tax year for which you are resident in this country.

Coming to the UK

6.17 Deleted from this version of IR20

6.18 Paragraphs 6.19 and 6.20 apply for years before 6 April 1996 and after 5 April 1997. There are special rules for the tax year 1996-97. Please contact CAR Residency at Bootle if you need further information for these years.

Also, for tax years from 6 April 2008 onwards, although the basis for entitlement to the remittance basis has not changed, the rules for applying the remittance basis to your offshore investment income have so if you wish to use the remittance basis you will need to consider how these changes will apply to your circumstances. Details on these changes and on how to make a claim (including the effects of your doing so such as the loss of your entitlement to certain allowances and reliefs) can be found at paragraph 5.12. Depending on your circumstances, you might also be required to pay the Remittance Basis Charge (RBC) – see paragraph 5.12(c).

Years before 6 April 1996 and after 5 April 1997

6.19 For the tax year of your arrival, where you receive overseas investment income from which tax has not been deducted and you are **not** taxed on the remittance basis, the following rules apply

- you will not have to pay tax on income from a source which ceases before the date of your arrival

- where the source continues after your arrival, but ceases in the same tax year, you will only pay tax on the income arising from the date of your arrival to the date the source ceased

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

- where the source ceases in the tax year following the year of your arrival, you may be charged to tax for **both** years

  - **for the year of arrival**, you will pay tax on the greater of

  a. the same fraction of your overseas investment income for the year of arrival as the fraction of the full tax year for which you are resident in this country, and

  b. for years before 6 April 1996 the same fraction as in a. of your overseas income for the year preceding the year of arrival if the source was in existence at 5 April 1994

  - **for the year following the year of arrival**, you will pay tax on the overseas income arising from 6 April in that year to the date when the source ceased

- where the source continues to the end of the tax year of your arrival and beyond, and income first arose

  - in the tax year of your arrival but before you became resident here, or

  - for years up to and including 1995-96, in the previous tax year if the source was in existence at 5 April 1994

  you will only pay tax on the same fraction of your total overseas income for the year of arrival as the fraction of the full tax year for which you are resident in this country.

  Suppose, for example, you come to the UK on 6 August 1993, and are resident for the rest of the tax year of your arrival (ending 5 April 1994). Your investment income continues beyond 5 April 1994, and first arose at some time between 6 April 1992 and 5 August 1993 (that is, in the tax year 1992-1993 or the first part of the year of your arrival). You are resident for 8 months during 1993-1994, and are therefore taxed on 8/12 of the whole of your investment income for that year

- for years up to and including 1995-1996 where the source continued as in the previous example, but income first arose **earlier** than the tax year before the year of your arrival, the fraction of income on which tax was chargeable was worked out in the same way as in the previous example, but the income in question was that of the year before the year of your arrival if the source was in existence at 5 April 1994.

  Suppose the facts are as in the previous example, but your investment income first arose before 6 April 1992. You are taxed in the year of your arrival, 1993-1994, on 8/12 of your investment income for the tax year 1992-1993.

6.20 For the tax year of arrival, where you receive overseas investment income from which tax has not been deducted and you are taxed on the **remittance basis** (see paragraph 6.2), the following rules apply

- for tax years up to and including 6 April 2008, you will not have to pay tax on overseas investment income you remit from a source which ceased before the date of your arrival (for example, a bank account which you have closed)

- for tax years from 6 April 2008 onwards, you will have to pay tax on overseas

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income you remit from an overseas source which existed on or after 5 April 2007 but which ceased before the date of your arrival

- where the source continues after your arrival but ceases in the same tax year, you will pay tax on the **lesser** of

  - the total overseas investment income that you remit to the UK in the year, and

  - the overseas income arising from the date of your arrival to the date the source ceased

- where the source ceases in the tax year following the year of your arrival, you may be charged to tax for **both** years

  - **for the year of arrival**, you will pay tax on the **lesser** of

  a. the overseas investment income you remit to the UK in that year (if the source was already in existence at 5 April 1994, the income remitted to the UK in the previous year if this is greater), and

  b. the same fraction of your total overseas income for the year of arrival (if the source was already in existence at 5 April 1994, the income remitted to the UK in the previous year if this is greater) as the fraction of the full tax year for which you are resident in this country

  - **for the year following the year of arrival**, you will pay tax on the overseas income you remit to the UK in that year, but reduced if necessary so that the sum taxed for the two years does not exceed the total of

  a. an amount worked out on the lines of b. above for the year of your arrival, and

  b. the amount of income arising from 6 April in the following year up to the date the source ceased.

6.21 Deleted from this version of IR20

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6.23 Deleted from this version of IR20

6.24 Deleted from this version of IR20

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

6.25 Scope of liability to income tax on individuals receiving investment income

	Investment income		**UK Government 'FOTRA' securities (see paragraph 6.7)**
	arising in the UK	**arising outside the UK**	
Residence status and domicile			
Resident and ordinarily resident, and domiciled	Liable	Liable	Liable
Resident and ordinarily resident, not domiciled	Liable	Liable, remittance basis may be claimed[1]	Liable
Resident but not ordinarily resident, domiciled	Liable	Liable, remittance basis may be claimed[1]	Not liable
resident but not ordinarily resident, not domiciled	Liable	Liable, remittance basis may be claimed[1]	Not liable
Not resident but ordinarily resident, domiciled	Liable[2]	Not liable	Liable
Not resident but ordinarily resident, not domiciled	Liable[2]	Not liable	Liable
Not resident and not ordinarily resident, domiciled	Liable[2]	Not liable	Not liable
Not resident and not ordinarily resident, not domiciled	Liable[2]	Not liable	Not liable

1. You are taxable on the whole of the income arising in the Republic of Ireland for all years up to and including 5 April 2008.

2. See Chapter 9 about possible relief under a double taxation agreement.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

7 Tax allowances and reliefs

Allowances for UK residents

7.1 If you are resident in the UK, you are entitled to certain allowances and reliefs, based on your personal circumstances, which reduce the amount of tax charged on your income.

However, from 6 April 2008, if you are resident in the UK and

- not domiciled in the UK and/or not ordinarily resident in the UK
- have £2000 or more in unremitted overseas income and/or gains
- are using the remittance basis – see paragraph 5.12

the legislation removes your entitlement to UK allowances and reliefs under domestic law.

7.2 UK residents who are employees have tax deducted at source from their wages or salaries under the 'Pay As You Earn' (PAYE) system. The employer deducts tax on the basis of code numbers issued for each employee by HM Revenue & Customs. These codes take account of the tax allowances and reliefs to which each individual is entitled. For more details, ask your Tax Office or HM Revenue & Customs Enquiry Centre.

From 6 April 2008 onwards, some people who use the remittance basis will not be entitled to UK personal tax allowances (see paragraphs 5.12 & 7.1). If you are not entitled to tax allowances because you use the remittance basis and you are continuing to receive them through the PAYE system, you will not be paying enough UK tax. You will need to complete a Self Assessment Return which will allow us to ensure that any tax you have underpaid is collected.

Allowances for non-UK residents

7.3 If you are **not resident** in the UK, you may claim 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), i.e. a citizen of a Member State of the European Union, Iceland, Liechtenstein or Norway (this includes a British citizen). For more details see 11.1
- a present or former employee of the British Crown (including a civil servant, member of the armed forces, etc.)
- a UK missionary society employee
- a civil servant in a territory under the protection of the British Crown
- a resident of the Isle of Man or the Channel Islands
- a former resident of the UK and you live 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.

Allowances for those coming to, or leaving, the UK part way through a tax year

7.4 If you either become, or cease to be, resident in the UK during a tax year, you will be able to claim full allowances and reliefs for the year of arrival or departure (subject to 7.1 above).

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7.5 Deleted from this version of IR20

How to claim tax allowances

7.6 If you wish to make a claim for tax allowances, you must do so within 5 years 10 months from the end of the tax year to which the claim relates. For example, if you wish to claim for the tax year 2001/2002 (6 April 2001 to 5 April 2002), you have until 31 January 2008.

7.7 UK residents may be sent a tax return. If you get one, you can use it to claim your allowances and reliefs. If you do not get a tax return, you can write to your Tax Office to claim allowances and reliefs if you are entitled to them.

7.8 If you are not resident in the UK, you should contact CAR at Bootle, **unless** you are an employee of the British Crown or receive a pension for Crown service, when you should contact HMRC South Wales. The addresses are in paragraph 9 of the Introduction.

8 Capital gains tax

Basis of liability

8.1 If you are either resident or ordinarily resident in the UK, you may be liable to capital gains tax on gains arising when you dispose of assets situated anywhere in the world. Disposing of an asset means selling, exchanging or transferring it, or giving it away, or realising a capital sum from it. Usually you will not pay capital gains tax

- on the transfer of an asset to your spouse
- on disposing of private motor vehicles
- on disposing of household goods and personal effects up to a value of £6,000 per item
- on disposing of a private home which has been treated as your only or main residence throughout the time you have owned it
- on gains arising from certain other assets - for example Save-As-You-Earn (SAYE) terminal bonuses, National Savings Certificates, Premium Bonds and investments held within an Individual Savings Account or Personal Equity Plan. Booklet 'Capital Gains Tax – An introduction' contains a fuller list.

If you have two or more residences, you can nominate one of them as your main residence for capital gains purposes by notifying your Tax Office. The residence you nominate need not be the same one as your main residence for mortgage interest tax relief purposes.

No tax is charged on the gains (after reliefs) you receive in any one year up to a certain amount. The 'annual exempt amount' for individuals is set at £9,200 for the tax year 2007-08. Husbands and wives are both entitled to their own annual exempt amount.

8.2 If you dispose of an asset you acquired before 31 March 1982, only the change in value since that date will generally be taken into account for determining the gain or loss. You may be able to make an election for this to apply in every case. An allowance is made for the effects of inflation up to April 1998 when computing gains. Taper relief, which reduces the amount of a gain which is chargeable to tax by reference to whole years of ownership, may be due for disposals on or after 6 April 1998. Booklet 'Capital Gains Tax - An introduction' gives more details.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

Gains by those who leave, or come to, the UK part way through a tax year

8.3 If you leave the UK during a tax year and cease to be resident or ordinarily resident in the UK, you may, by concession (extra-statutory concession D2), not be liable to capital gains tax on gains arising to you from disposals made after the date of your departure. However, if you leave the UK on or after 17 March 1998, you can qualify for this concession only if you were neither resident nor ordinarily resident in the UK for the whole of at least four of the seven tax years immediately preceding the tax year in which you leave the UK.

If you become resident in the UK during a tax year, having been neither resident nor ordinarily resident in the UK at any time during the five tax years immediately preceding that year, you are, by concession (extra-statutory concession D2), liable to capital gains tax only on gains arising from disposals made after the date of your arrival. If you arrived in the UK before 6 April 1998, the concession applied if you were neither resident nor ordinarily resident throughout the whole of the 36 months before the date of your arrival.

There is normally no charge to capital gains tax on your assets when you leave the UK if you do not actually make a disposal, nor is there any revaluation of assets when you come to the UK. However, in some cases, gains on which a charge has been held over or deferred, or which have been subject to a claim to reinvestment relief, may be brought back into charge if you become neither resident nor ordinarily resident in the UK. This charge will not apply if the reason you become neither resident nor ordinarily resident in the UK is that you are working abroad, provided that you become resident or ordinarily resident in the UK again within three years.

Temporary non-residence

8.4 If you have left the UK and dispose of assets while you are temporarily non-resident, special rules may apply for gains that would have been chargeable, and losses that would have been allowable, if you had been resident or ordinarily resident in the UK for the tax years in question. You are 'temporarily' non-resident if you have been neither resident nor ordinarily resident in the UK for fewer than five complete tax years.

The special rules have the effect of treating these gains and losses as though they arise in the tax year in which you return to the UK.
The special rules do **not** apply for gains and losses arising from disposals of any assets you acquired while you were temporarily non-resident, provided that the assets were not derived in some part from assets you held while you were resident or ordinarily resident in the UK.

8.5 The special rules apply **only** if **all** the following conditions are met

- there is a tax year (the 'year of return') for which you satisfy the residence requirements*
- you did not satisfy the residence requirements* for one or more tax years immediately preceding the year of return
- no more than four tax years fell between the most recent tax year for which you satisfied the residence requirements* (the 'year of departure') and the year of return
- you satisfied the residence requirements* for at least four of the seven tax years immediately preceding the year of departure.

* You satisfy the 'residence requirements' for a tax year if you are ordinarily resident in

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the UK during that year or if you are resident in the UK for any part of it.

If any of these conditions is not **met**, there is no charge to capital gains tax on gains arising on the disposal of assets during your temporary non-residence. Similarly, losses arising in these circumstances will not be allowable losses for capital gains tax purposes.

8.6 Where the special rules apply, you may be able to claim relief from tax in the year in which you resume residence in the UK, if at the time you disposed of the assets you were a resident of a country with which the UK has a double taxation agreement. Any such relief (which may take the form of credit for the overseas tax or, in some cases, exemption from UK tax) will depend on the terms of the relevant agreement. In certain circumstances you may also be able to claim credit for overseas tax against UK tax where there is no double taxation agreement.

Non-residents with a UK branch or agency

8.7 If you are neither resident nor ordinarily resident in the UK and carry on a trade, profession or vocation through a branch or agency in the UK, you will be liable to capital gains tax on any gains on the disposal of assets in the UK which were used in the trade, profession or vocation, or by the branch or agency. You may also be liable to capital gains tax if the activity ceases or you transfer the assets outside the UK.

Overseas assets

8.8 An overseas asset is one situated outside the UK under the capital gains tax rules. For assets such as land and most types of movable property the asset is situated where it is located. For other assets (for example shares and securities) the rules are more complex. Your Tax Office will be able to advise you further.

If you are resident or ordinarily resident in the UK, and dispose of overseas assets, you will normally be liable to capital gains tax on any gains arising. But if you are not domiciled in the UK, and the remittance basis applies either by default (for years up to and including 6 April 2008) or, for years from 6 April 2008 onwards, because of an election you are taxed on such gains only to the extent that they are received in or remitted to the UK in a tax year for which you are resident or ordinarily resident in the UK. There is no capital gains tax charge on gains remitted to the UK before you become resident in the UK. (See also paragraph 5.12 on the **remittance basis**.) Where the proceeds of a disposal are remitted, an appropriate proportion of the proceeds is treated as a remittance of the gain.

Gains in a foreign currency

8.9 Where prices are expressed in a currency other than sterling, we calculate gains on the basis of sterling equivalents of the considerations for acquisition and disposal, converted at the date of purchase or sale as appropriate. Except where it is for personal expenditure outside the UK, foreign currency is a chargeable asset for capital gains tax purposes. Its disposal in return for any other asset will normally give rise to a chargeable gain or allowable loss.

Exempt assets

8.10 Gains on the disposal of gilt-edged securities and qualifying corporate bonds are exempt from capital gains tax.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

Further information

8.11 In the space available in this Chapter it is only possible to offer general guidance on some of the more important topics. For more detailed information about capital gains tax you can obtain 'Capital Gains Tax - An introduction' from any Tax Office or HM Revenue & Customs Enquiry Centre.

8.12 Scope of liability to capital gains tax

	Gains on disposal of	
	UK assets[1]	**Overseas assets**
Residence status and domicile	Liable	Liable
Resident and ordinarily resident, domiciled		
Resident and ordinarily resident, not domiciled	Liable	Liable if remitted to the UK
Resident but not ordinarily resident, domiciled	Liable	Liable
Resident but not ordinarily resident, not domiciled	Liable	Liable if remitted to the UK
Not resident but ordinarily resident, domiciled	Liable[2]	Liable[2]
Not resident but ordinarily resident, not domiciled	Liable[2]	Liable if remitted to the UK[2]
Not resident and not ordinarily resident, domiciled	Not liable[3, 4]	Not liable[4]
Not resident and not ordinarily resident, not domiciled	Not liable[3,4]	Not liable[4]

1. There is no liability if the disposal is of certain UK Government Securities.

2. See Chapter 9 about possible relief under a double taxation agreement.

3. Liability will arise if the assets were used or held for the purposes of a trade, profession or vocation carried on in the UK through a branch or agency or by the branch or agency.

4. Gains arising during a period of temporary non-residence may be chargeable (see paragraphs 8.4 - 8.6).

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9 Double taxation relief

9.1 If you have income or gains from a source in one country and are resident in another, you may be liable to pay tax in both countries under their tax laws. To avoid 'double taxation' in this situation, the UK has negotiated double taxation agreements with a large number of countries. A list of these is given at paragraph 9.16.

Non-residents, and residents of more than one country

9.2 If you are a resident of a country with which the UK has a double taxation agreement, 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 double taxation agreement, 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.**

9.3 Normally, you will receive some relief from UK tax on the following sources of income under an agreement

- pensions and some annuities (other than UK Government pensions)
- royalties
- dividends (paid before 6 April 1999)
- 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.

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

9.5 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. A 'permanent establishment' includes, for example, a place of management, a branch or an office.

Earnings from employment and professional services

9.6 Under many double taxation agreements you may be able to claim exemption from UK tax on

- earnings from an employment, and
- profits or earnings for independent, personal or professional services

carried on in the UK, if you are a resident of the overseas country for the purposes of the agreement (see paragraph 9.2). The usual conditions to be met are

- in the case of employments
  - you must not be in the UK for more than 183 days in the period (often, twelve months) specified in the agreement, and

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- 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

- in the case of 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).

Teachers and researchers

9.7 Under some agreements, 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.

9.8 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.

Students and apprentices

9.9 Under most agreements, 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 agreements 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.

Entertainers and sportsmen/women

9.10 Under most agreements, if you are not resident in the UK and you come here as an entertainer or sportsman/woman, any payments you receive will be liable to UK tax. The exemption described in paragraph 9.6 will not apply. You should contact the Foreign Entertainers Unit (see paragraph 9 of the Introduction) for advice on how your income as an entertainer or sportsman/woman will be treated for tax purposes.

This includes, for example, actors and musicians performing on stage or screen and those participating in all kinds of sports.

Dividends

9.11 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. The rate of the tax credit was reduced from 20% to 10% from 6 April 1999, reflecting the reduction in the rate of tax on dividend income from that date.

9.12 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. From 6 April 1996 you do not pay UK tax (and before that date you would have paid UK tax, if at all, only at the higher

rate) on any dividends.

You may, however, 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 continue to give a right to claim a tax credit in excess of the amount which the UK is entitled to retain. However, because the rate of tax credit has been reduced (see paragraph 9.11), 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.

9.13 You may also have the right to a tax credit if you receive UK tax allowances and reliefs through a claim in accordance with paragraph 7.3. But if you can only claim these allowances because of the terms of a double taxation agreement (the final category in paragraph 7.3), whether you are entitled to the tax credit will depend on the terms of the agreement.

Capital gains

9.14 Under many agreements, if you are a resident of another country for the purposes of the agreement, you will often 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.

UK residents

9.15 If you are resident in the UK and have overseas 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 overseas 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.

List of the UK's double taxation agreements

9.16 Countries with which the UK has double taxation agreements in force covering taxes on income and/or capital gains (other than limited agreements concerned solely with air transport and shipping) at October 2007 were as follows

Antigua and Barbuda	Lithuania
Argentina	Luxembourg
Australia	Macedonia
Austria	Malawi
Azerbaijan	Malaysia
Bangladesh	Malta
Barbados	Mauritius
Belarus	Mexico
Belgium	Mongolia
Belize	Montenegro
Bolivia	Montserrat

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

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10 Appeals

10.1 If you have any dispute with HM Revenue & Customs about your residence, ordinary residence or domicile, or about any claim for relief from UK tax, and agreement cannot be reached, you have the right to have your case considered by an independent tribunal.

10.2 If HM Revenue & Customs write to you giving a formal decision, they will explain to you how you may appeal and how long you have for this purpose. You may choose to have an appeal heard by either the General Commissioners or the Special Commissioners in connection with your residence status and claims for relief. All appeals in connection with your ordinary residence status and domicile are heard by the Special Commissioners.

10.3 Both the General Commissioners and the Special Commissioners are independent of HM Revenue & Customs. Their decisions on questions of fact are final, but you can appeal against their decisions on questions of law to the High Court. Leaflet DCA 'Tax Appeals' explains procedures in full. It can be obtained from our website at **www.hmrc.gov.uk** or from any HM Revenue & Customs office or Enquiry Centre.

Part III Payment of UK National Insurance contributions

11 National Insurance contributions

General

11.1 This chapter deals briefly with the rules for payment of National Insurance contributions (NICs) for individuals leaving or coming to the UK. The position broadly depends on whether you are going to or arriving from an **EEA** country, a country with which the UK has a bilateral **Social Security Agreement** covering NICs, or some other country.

The EEA countries are Iceland, Liechtenstein, Norway and the Member States of the European Union. Switzerland is not a member of the EEA but as a result of an agreement with the EU, the EU rules on National Insurance and Social Security will also largely cover Switzerland.

At January 2008, in addition to the UK, the Member States of the European Union were:

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

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The countries with which the UK[1] has a bilateral **Social Security Agreement** in force covering NICs at October 2007 were as follows

Barbados	Korea
Bermuda	Mauritius
Canada (excluding Quebec)	New Zealand
Isle of Man	Philippines
Israel	Turkey
Jamaica	USA
Japan	Yugoslavia (Federal Republic)[2]
Jersey/Guernsey	

1. Some 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 apply also to those countries.

2. The UK's agreement with Yugoslavia is to be regarded as in force between the UK and the former Yugoslav states of Bosnia-Herzegovina, Croatia and Macedonia. Slovenia is a Member State of the European Union and is treated in line with other EEA countries.

11.2 The terms 'resident' and 'ordinarily resident' in relation to NICs do **not** have the same meaning as they do for tax purposes. The tax rules set out in the first part of this booklet are not therefore relevant. Leaflet NI38 'Social Security abroad' gives guidance on the rules that apply for NI purposes.

11.3 If you want further information about paying UK NICs, or copies of leaflets mentioned in this Chapter, you should contact CAR Residency Newcastle (see paragraph 9 of the Introduction), or your local National Insurance Contributions Office.

Going abroad

EEA countries

11.4 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, as explained in the following paragraphs. Leaflet SA29 'Your social security insurance, benefits and health care rights in the European Community, and in Iceland, Liechtenstein and Norway' gives further details.

11.5 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 paying UK NICs as if you were still in the UK. Your employer will need to apply on your behalf to CAR Residency Newcastle (see paragraph 9 of the introduction), for form E101. This 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.

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. Alternatively you may apply on line at **www.dh.gov.uk/travellers** or by telephone on **0845 606 2030**.

11.6 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. However, 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 forms E102 to the social security authorities in the other country. These forms can be obtained from CAR Residency Newcastle (see paragraph 9 of the introduction).

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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 yourself and any family who accompany you for the period of employment in the other country.

There are also special arrangements that allow you to continue paying UK NICs for longer periods, but usually for no more than five years. The social security authorities in the other country must agree to this.

11.7 Similar rules apply if you are self-employed. You must obtain forms E101 & E102 from CAR Residency Newcastle. Application packs for EHIC's in respect of healthcare cover in any EEA countries are available as per the information provided at 11.5

11.8 Different rules apply if you belong to one of the following groups

- those who work in more than one country
- 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 will continue to pay UK NICs.

11.9 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. However, it may be possible for you to pay UK voluntary NICs to protect your UK basic pension rights. There are more details in leaflet NI38], which contains an application form to pay UK voluntary NICs.

Agreement countries

11.10 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 to this rule, as explained in the following paragraphs. There are information leaflets for each country (see paragraph 11.3 on how to obtain copies).

11.11 If your UK employer sends you to work in 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 depends on the particular agreement. Your employer will need to apply on your behalf to CAR Residency Newcastle (see paragraph 9 of the introduction) 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 arrangements in most of the bilateral agreements.

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

11.12 Not all agreements cover the self-employed. In the case of those that do, similar rules

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apply as for those in employment.

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

11.13 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's country scheme. If so, you will not be required to pay UK NICs. However, it may be possible for you to pay UK voluntary NICs to protect your UK basic pension rights. There are more details in leaflet NI38, which contains an application form to pay UK voluntary NICs.

Other countries

11.14 If you are going to any other country, the position will depend on the domestic rules there. Leaflet NI38 gives further information.

11.15 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 the following conditions apply

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

11.16 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. There are more details in leaflet NI38, which contains an application form to pay UK voluntary NICs.

Should you decide not to pay voluntary UK NICs, your UK 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.

Arriving from abroad

11.17 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, as explained in the following paragraphs.

EEA countries

11.18 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 foreign 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. Similar provisions apply to self-employed people who are working temporarily in the UK. Leaflet SA29 gives further information.

Agreement countries

11.19 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.

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The information leaflet for each country (see paragraph 11.10) gives further details, and also explains if there are provisions for the self-employed in a particular agreement.

Other countries

11.20 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.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

Appendix 1

Interpretation of Gaines-Cooper decision

The published decision of the Special Commissioners in Robert Gaines-Cooper v HMRC (SpC 568, 31 October 2006) attracted some attention from tax practitioners and their clients. In particular, some commentators suggested that the decision meant that HMRC had changed the way it calculates the '91-day test'. This is incorrect.

The '91-day test' is set out in Chapters 2 (Leaving the UK) & 3 (Coming to the UK) of this guidance. The text makes it clear that the '91-day test' applies only to individuals who have either:

- left the UK and live elsewhere, or
- who visit the UK on a regular basis.

Where an individual has lived in the UK, the question of whether he has left the UK has to be decided first. Individuals who have left the UK will continue to be regarded as UK-resident if their visits to the UK average 91 days or more a tax year, taken over a maximum of up to 4 tax years. HMRC's normal practice, as set out in this guidance, is to disregard days of arrival and departure in calculating days under the '91-day test'.

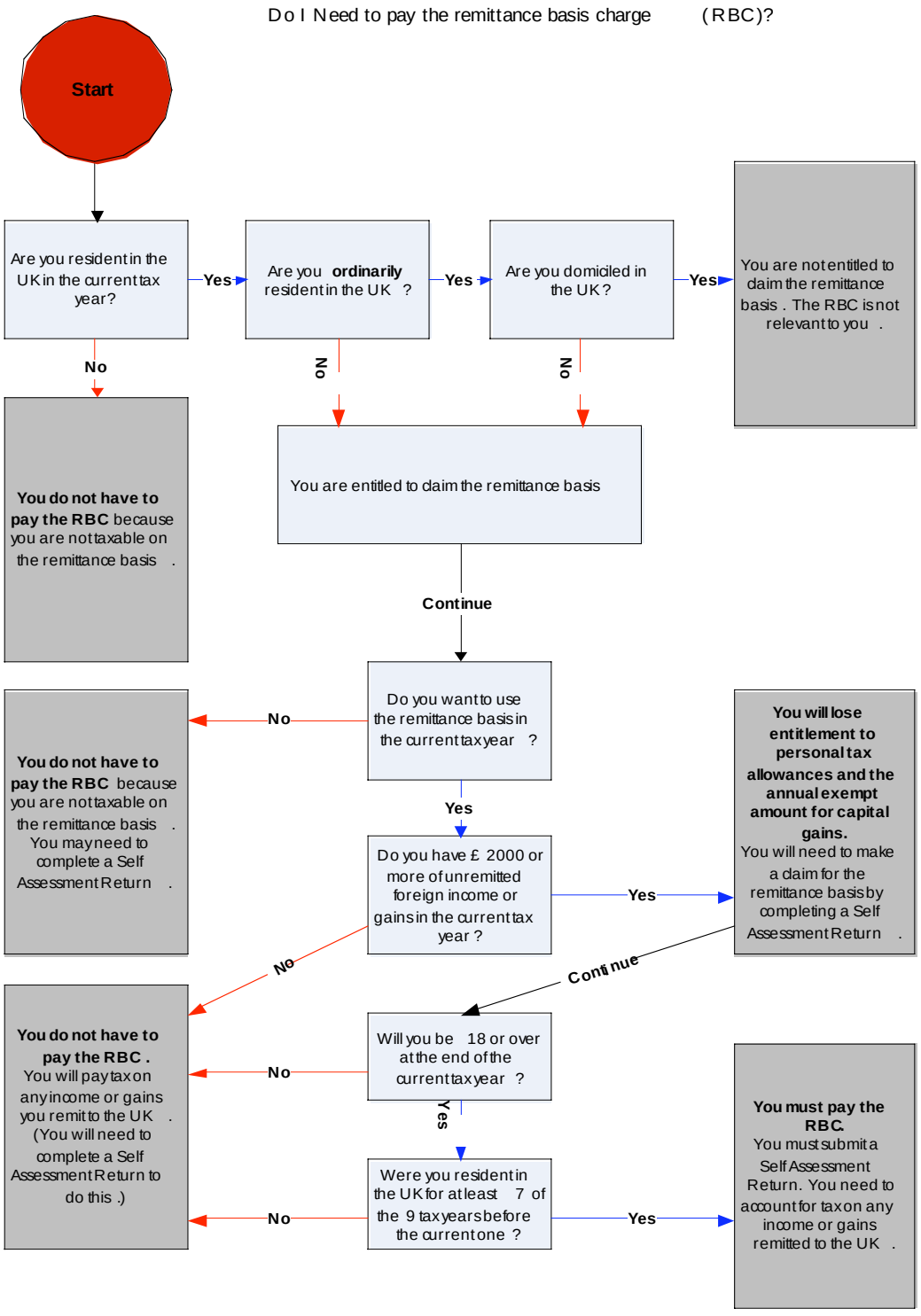
In considering the issues of residence, ordinary residence and domicile in the Gaines-Cooper case, the Commissioners needed to build up a full picture of Mr Gaines-Cooper's life. A very important element of the picture was the pattern of his presence in the UK compared to the pattern of his presence overseas. The Commissioners decided that, in looking at these patterns, it would be misleading to wholly disregard days of arrival and departure. They used Mr Gaines-Cooper's patterns of presence in the UK as part of the evidence of his lifestyle and habits during the years in question. Based on this, and a wide range of other evidence, the Commissioners found that he had been continuously resident in the UK. The '91-day test' was therefore not relevant to the Gaines-Cooper case, since Mr Gaines-Cooper did not leave the UK.

There was no change to HMRC practice about residence and the '91-day test', either in relation to the Gaines-Cooper case or as a result of it. HMRC will continue to:

- follow its published guidance on residence issues, and apply this guidance fairly and consistently;
- treat an individual who has not left the UK as remaining resident here;
- consider all the relevant evidence, including the pattern of presence in the UK and elsewhere, in deciding whether or not an individual has left the UK;
- apply the '91-day test' (where HMRC is satisfied that an individual has actually left the UK) as outlined in this guidance, normally disregarding days of arrival and departure in calculating days under this 'test'.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

Appendix 2



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 .

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Guidance is available on the HMRC web site at **www.hmrc.gov.uk**

We also produce a wide range of leaflets and booklets, each designed to explain a different aspect of the tax system in plain English. Most of these are free. Some you might find useful are listed below.

ESC – Extra Statutory Concessions
DCA 'Appeals' leaflet
Accrued Income Scheme – Taxing Securities on Transfer
Property Income Manual
Capital Gains Tax - An introduction
Customer Guide to Inheritance Tax
SE1 – 'Are you thinking of working for yourself?'
NI38 – Social Security abroad
National Insurance for employers of people working abroad
SA29 - Your social security insurance, benefits and health care rights in the European Community, and in Iceland, Liechtenstein and Norway

Leaflet IR140 was withdrawn in March 2006. Information on the Non Residents Landlords Scheme can be obtained from our website at **www.hmrc.gov.uk**

Leaflet IR90 was withdrawn. Information on Tax Allowances and Reliefs can be obtained from our website at **www.hmrc.gov.uk** or from any HM Revenue & Customs Enquiry Centre

Our factsheet C/FS – 'Complaints and putting things right' tells you what you should do if you are unhappy with our service or the way we have treated you.

Our HMRC List 'Catalogue of leaflets and booklets' gives further information about our publications, most of which you can get from any HM Revenue & Customs Enquiry Centre or Tax Office. Their addresses are in your local phone book under 'HM Revenue & Customs'. Most offices are open to the public from 8.00am to 4.30pm, Monday to Friday, and some are also open outside these hours.

Your local library or Citizens' Advice Bureau may also have copies of our leaflets.

You can get most of our leaflets by phoning our Orderline on **0845 9000404** between 8.00am and 10.00pm, seven days a week (except Christmas Day), or by fax on **0845 9000604.**

When our offices are closed, you can get advice on **Self Assessment** by calling our Helpline, in the evenings or at weekends, on **0845 9000 444.**

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The guidance provided in this booklet is general in nature. If, on the facts of the matter, a dispute arises over the application of this general guidance and the parties cannot resolve their dispute by agreement, the Commissioners will determine any appeals. The Commissioners are bound to decide the legal issues by reference to statute and case law principles rather than HMRC guidance. Where a dispute relates to particular facts the Commissioners will consider the evidence and make findings of fact to which they will apply the law.

Customer Service

HM Revenue & Customs commitment
We aim to provide a high quality service with guidance that is simple, clear and accurate.

We will

- be professional and helpful
- act with integrity and fairness, and
- treat your affairs in strict confidence within the law.

We aim to handle your affairs promptly and accurately so that you receive or pay only the right amount due.

Putting things right
If you are not satisfied with our service, please let the person dealing with your affairs know what is wrong. We will work as quickly as possible to put things right and settle your complaint.

If you are still unhappy, ask for your complaint to be referred to the Complaints Manager.

Customers with particular needs
We offer a range of facilities for customers with particular needs, including

- wheelchair access to nearly all HMRC Enquiry Centres
- help with filling in forms
- for people with hearing difficulties
  - RNID Typetalk
  - Induction loops.

We can also arrange additional support, such as

- home visits, if you have limited mobility or caring responsibilities and cannot get to one of our Enquiry Centres
- services of an interpreter
- sign language interpretation
- leaflets in large print, Braille and audio.

For complete details please

- go online at **www.hmrc.gov.uk/enq**
  or
- contact us. You will find us in *The Phone Book* under HM Revenue & Customs.

Further information on customer service is available at HM Revenue & Customs local offices, set out in our Charters, complaints factsheet (Complaints and putting things right - C/FS) and Codes of Practice.

This guidance does not apply from 6 April 2009. The guidance it contains is replaced by the guidance provided in HMRC6 – Residence, Domicile and the Remittance Basis. It is kept available for those people who need to make reference to IR20 for their tax affairs before 5 April 2009.

These notes are for guidance only and reflect the position at the time of writing. They do not affect any right of appeal.

Issued by
Customer Information Team
HM Revenue & Customs
March 2009