



Guidance Note: Overseas Workday Relief (OWR)

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Status of this guidance

The purpose of this draft guidance is to provide further details on how the draft legislation published on 11 December 2012 is intended to operate. As this legislation is subject to amendment until the Finance Bill 2013 receives Royal Assent, this guidance cannot be relied upon as if it were HM Revenue and Customs' guidance on the final legislation as enacted by Parliament.

Introduction

This note gives you information about overseas workday relief as it will operate when the concept of ordinary residence is withdrawn with effect from tax year 2013-14. The guidance should be read in conjunction with the draft legislation to gain a comprehensive understanding. Comments are invited on all parts of the guidance notes, in particular their scope and coverage, and can be sent to offshorepersonal.taxteam@hmrc.gsi.gov.uk by 6 February.

How to navigate between links in this document

This document contains links to more detailed information within the document. If you follow a link you will need to retrace your steps to continue reading from where you left off. This will be easier to do if your toolbar is set up with the navigation arrows for Previous View and Next View.

You can do this when the document is open on your screen by clicking on the View button on the toolbar, then choose Toolbars from the drop down menu then tick Previous View and Next View. This will set up back arrow and forward arrow icons on the toolbar for Previous View and Next View respectively.

General principles

1. General earnings from employment earned by an individual who is resident in the UK are taxable in the UK when those earnings are received.

2. But where the tax year is:

- one in which the individual is not [domiciled](#) in the UK throughout the year
- one for which the [remittance basis](#) of taxation applies
- the tax year which either immediately follows three consecutive tax years in which the individual was not resident in the UK, or is one of the subsequent two years after such a year; and
- one in which the duties of the employment are carried out partly in the UK and partly overseas

the earnings which relate to duties performed overseas are known as foreign earnings and are only taxable in the UK if they are remitted to the UK. Remittances of foreign earnings may be made in the tax year in which they are received or in any later tax year.

3. If such foreign earnings are not remitted to the UK then they are not taxable. This is referred to as overseas workday relief (OWR). If such earnings are remitted to the UK in that or any subsequent tax year then they will be taxable.

4. The number of claims an individual makes for OWR in their lifetime is not limited. So long as there is a period of three consecutive tax years where the individual was not resident in the UK, then they may make a further claim to OWR even if they have already previously benefitted from the relief.

5. Where the tax year for which OWR applies is a [split year](#) for that individual, OWR will only apply to foreign earnings which relate to the UK part of the year. For these purposes it does not matter whether the year is split into a UK part and then an overseas part of the year or the other way round.

6. Where the tax year for which OWR applies is not a split year OWR will apply to foreign earnings in any part of the tax year, that is, from 6 April onwards.

7. OWR does not apply to earnings which relate to duties performed overseas in the overseas part of a split year. Such earnings are not taxable in the UK, even if they are [remitted](#). Earnings which relate to duties performed in the UK in the overseas part of a split year are taxable in full unless the individual is entitled to exemption from UK tax under the terms of a Double Taxation Agreement; [HMRC6](#) paragraph 9.4 provides further information.

8. OWR does not apply to earnings which relate to duties performed overseas in a tax year for which an individual is not [resident](#) in the UK. Such earnings are not taxable in the UK, even if they are remitted. Earnings which relate to duties performed in the UK in a tax year for which an individual is not resident are taxable in full unless the individual is entitled to exemption from UK tax under the terms of a Double Taxation Agreement; [HMRC6](#) paragraph 9.1.5 provides further information.

9. Note that when calculating the taxable earnings for a tax year in which an individual is not resident in the UK, or for an overseas part of a tax year of UK residence, special rules apply to the general earnings from [overseas Crown employment](#) subject to UK tax.

10. The following four examples demonstrate how the rules apply in practice. In each example the individual is not [domiciled](#) in the UK throughout the period and performs employment duties partly in the UK and partly overseas.

Example 1

Abdul arrives in the UK on 1 February 2014 to begin a work secondment; he has not previously been to the UK and so has not been resident here before. He leaves the UK on 5 April 2017.

He is resident in the UK for the tax year 2013-14 and is eligible for [split year](#) treatment. The UK part of his split year begins on 1 February 2014.

Abdul is also resident in the UK for the tax years 2014-15, 2015-16 and 2016-17. He claims the remittance basis of taxation for the tax years 2013-14, 2014-15, 2015-16 and 2016-17. He is not resident in the UK for the tax year 2017-18.

Abdul's foreign earnings for 2013-14 (from 1 February 2014), 2014-15 and 2015-16 are eligible for OWR and are only taxable in the UK if and when they are [remitted](#) to the UK. In 2016-17 Abdul is not eligible for OWR as he has received the relief in the three preceding tax years. As such his foreign earnings for 2016-17 are fully taxable in the UK.

Provided Abdul remains not resident in the UK for three consecutive tax years following 2016-17 he may be eligible for OWR again as early as the 2020-21 tax year.

Example 2

Burril arrives in the UK on 1 February 2014 to begin a work secondment and has not previously been to the UK and so has not been resident here before. He leaves the UK on 5 April 2017.

He is not resident in the UK for the tax year 2013-14. He is resident in the UK for the tax years 2014-15, 2015-16 and 2016-17. He claims the remittance basis of taxation for the tax years 2014-15, 2015-16 and 2016-17. He is not resident in the UK for the tax year 2017-18.

Burril's foreign earnings for 2014-15, 2015-16 and 2016-17 are eligible for OWR and are only taxable in the UK if and when they are remitted to the UK.

Unlike Abdul, Burril is not resident in the UK in 2013-14 (the tax year in which his UK secondment commenced). Burril is therefore eligible for OWR for 2016-17 because this is the third year for which he is UK resident.

Provided Burril remains not resident in the UK for three consecutive tax years following 2016-17 he may be eligible for OWR again.

Example 3

Colar arrives in the UK on 1 February 2014 to begin a work secondment. He has previously been resident in the UK. He ceased to be resident in the UK on 5 April 2011.

He was not resident in the UK for the tax years 2011-12 and 2012-13. He leaves the UK on 5 April 2017.

He is resident in the UK for the tax year 2013-14 and is eligible for split year treatment. The UK part of his split year begins on 1 February 2014.

He is resident in the UK for the tax years 2014-15, 2015-16 and 2016-17. He claims the remittance basis of taxation for the tax years 2013-14, 2014-15, 2015-16 and 2016-17. He is not resident in the UK for the tax year 2017-18.

Colar has not been non-resident in the UK for three consecutive tax years immediately prior to his secondment to the UK. He is not eligible for OWR for 2013-14, 2014-15, 2015-16 or 2016-17.

Example 4

Drey is employed by a US company and has visited the company's group office in the UK on short business projects on a number of occasions in each of several tax years prior to 2013-14. He has not been a resident of the UK prior to 2013-14.

In 2013-14 Drey works on a short business project in the UK and is resident for the year. He has further business visits to the UK during 2014-15 but is not resident in the UK for that year under the statutory residence test. He is seconded to work at the company's group office in the UK for three years from 1 May 2015. Drey leaves the UK on 5 April 2018.

Drey is resident in the UK for the tax year 2015-16 and is eligible for split year treatment. The UK part of his split year begins on 1 May 2015.

He is resident in the UK for the tax years 2016-17 and 2017-18. He does not claim the remittance basis of taxation for 2013-14. He claims the remittance basis of taxation for 2015-16, 2016-17 and 2017-18.

In 2013-14 Drey was not eligible for OWR because, even though he was not resident in the UK for the three previous consecutive tax years, he had not claimed the remittance basis of taxation for that year.

Drey is however eligible for OWR for (the UK part of) 2015-16 because 2015-16 is one of three tax years immediately following three consecutive tax years for which he was not resident.

He is not eligible for OWR for either 2016-17 or 2017-18 because neither year is one of three tax years immediately following three consecutive tax years for which he was not resident.

Transitional rules

11. Only eligibility to OWR from 6 April 2013 will be subject to the rules contained in this guidance note.

12. Individuals already in receipt of OWR at 5 April 2013 will continue to be eligible for the relief on the basis of the rules for 2012-13 (see [HMRC6](#), Chapter 3 'Ordinary Residence in the UK'). Therefore they will have to be not ordinarily resident in the UK for the period of their claim and meet all the current requirements. They will continue to receive OWR for 2013-14 only if resident in the UK for 2011-12 and 2012-13, or for both 2013-14 and 2014-15 if not resident in the UK for 2011-12 but resident for 2012-13 and their status allows.

Glossary

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Domicile

A taxpayer's domicile is usually where they have their permanent home. Domicile is a general law concept; it is not defined in tax law. A taxpayer's domicile is distinct from their nationality and citizenship and from their place of residence. A taxpayer can be resident for tax purposes in the UK but have a domicile somewhere else, in which case they would be non-domiciled in the UK. Domicile can be a complex matter and further detail can be found in the booklet, Residence, Domicile and the Remittance Basis ([HMRC6](#)).

Remittance basis

This is an alternative basis of taxation which a taxpayer can use only if they are resident, but not domiciled in the UK.

Residence

From 2013-14, an individual's tax residence will be determined under the statutory residence test, for which see below.

Split year

Legislation will be introduced in Finance Bill 2013 as part of the SRT to provide for a tax year in which an individual is resident to be split into a UK part and an overseas part in certain circumstances. Where a tax year is a split year as regards a taxpayer the Bill contains new rules for the taxation of certain income.

Statutory residence test

Legislation will be introduced in Finance Bill 2013 to put on a statutory basis the rules which determine an individual's tax residence. The new statutory residence test will come into force from the start of the 2013-14 tax year. [HMRC Guidance Note: Statutory Residence Test \(SRT\)](#) explains the new rules.