

# United Kingdom: New double tax treaty with United Arab Emirates

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## In brief

The new double tax agreement between the United Kingdom (UK) and the United Arab Emirates (UAE), signed on April 12, 2016, entered into force on December 25, 2016. For UK personal tax purposes, the treaty will be in place from April 6, 2017.

With increasing mobility and collaboration between the UK and UAE (and in particular between the UK, Dubai, and Abu Dhabi), employers and employees will welcome the introduction of a comprehensive double taxation agreement, which covers key areas such as residence and employment income for the first time. In particular, this double tax treaty will allow many UK employers to include UAE short term business visitors (STBVs) on their EP Appendix 4 STBV agreements, providing the relevant conditions are met.

## In detail

### STBVs to the UK from the UAE

#### Current position/treatment

Current HMRC rules allow for a relaxation of PAYE requirements for STBVs from countries with which the UK has a double tax treaty, provided the employer has an EP Appendix 4 STBV agreement and the relevant conditions are met.

Until now, the UK did not have an agreement with the UAE and therefore employers had to carefully assess the PAYE requirements for each day of UK work performed by a UAE resident STBV to ensure PAYE was withheld when due.

#### What will change as of April 6, 2017?

The new UK-UAE double tax treaty contains a standard employment income Article 14, which allows UAE resident STBVs to claim exemption from UK income tax, provided the following familiar conditions are met:

- the employee is present in the UK for no more than 183 days in any twelve month period beginning or ending within the UK tax year in question;
- the employee is paid by, or on behalf of, a non-UK resident employer, and;

- the employee's remuneration is not borne by a UK permanent establishment of the employer.

For many employers, this will allow them to relax the strict PAYE requirements for UAE resident STBVs and give greater scope for business travellers to be exempt from UK tax on their UK workdays, providing the usual conditions are met. This includes considerations regarding cost recharges, residence, the economic employer principle, and whether or not the employer is a branch of the UK company.

Employers should carefully review their existing processes for UK-UAE STBVs in light of the new UK-UAE double taxation agreement and seek professional advice when unclear.

### ***UK residence position for individuals to/from UAE***

#### ***Current position/treatment***

The UK tax treatment of individuals leaving the UK to move to the UAE or individuals from the UAE spending time in the UK, currently depends upon their residence position under the UK's statutory residence test.

Without the protection of a double taxation agreement, if an individual's circumstances means they trigger or fail to break UK residency, it is possible for their employment earnings for the full UK tax year (even if earned in UAE) to be considered UK taxable.

#### ***What will change as of April 6, 2017?***

Under the new UK-UAE tax treaty, Article 4 allows for the determination of residency under treaty rather than relying solely on UK domestic rules.

Notably, an individual is considered resident of the UAE if they are domiciled in the UAE, have habitual abode in the UAE or if their centre of vital interests is in the UAE.

When an individual is both resident in the UK and UAE, treaty residence is determined by looking at the normal treaty tie breaker ties (permanent home, centre of vital interests, habitual abode and nationality) and if all inconclusive by seeking mutual agreement between the tax authorities of the UK and the UAE.

Individuals resident in the UAE now have the opportunity to claim treaty non-residence in the UK (providing they meet the conditions) and exempt UAE source earnings from UK tax even if they remain UK tax resident under the UK's statutory residence test.

#### ***Other articles of note***

*Directors fees* - Directors fees paid to a resident of UAE, but in relation to UK workdays may be taxed in the UK (Article 15), as per the current position.

*Pensions* - Notably pensions are only taxable in the individual's country of residence (Article 17). Therefore, UK expatriates in UAE may claim exemption from UK tax on pension income.

*Non discrimination* - The new treaty does not grant a UK personal allowance to non-UK nationals who are treaty resident in UAE (Article 22), which is in line with the current position.

### ***The takeaway***

The new double tax agreement is a significant change affecting employees moving between the UK and the UAE and for their employers. Employers will need to consider a number of implications:

- Impact on any current/planned assignee movements to/from the UAE.
- Communication to current assignees to/from the UAE so they are aware of the impact of the new double taxation agreement. Some individuals may currently be carefully monitoring their workdays back in the UK to ensure they remain non-UK tax resident. The new double taxation agreement may offer some flexibility to spend additional time in the UK if they are UAE treaty resident.
- Review existing STBV processes and tracking for UK-UAE movements and consider whether UAE STBVs may now be included on an EP Appendix 4 agreement.
- Highlight the new double taxation agreement to business stakeholders, to discuss whether the new double taxation agreement will affect current business travel arrangements.

## ***Let's talk***

For a deeper discussion of how these issues might affect your business, please contact professionals from PwC UK and PwC UAE, including the following:

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