

Temporary non-residence UK expats

This guide explains the temporary non-residence rules and how they can apply to an account holder that returns to the UK.

What are the temporary non-residence rules?

The temporary non-residence rules are anti-avoidance measures, which prevent formerly UK-resident individuals from realising income, or gains that would ordinarily be taxable in the UK whilst non-resident.

Where applicable, income or gains realised as a non-resident can be taxable in the year that the individual returns to the UK.

Who is considered a temporary non-resident?

Individuals that leave the UK for fewer than 5 years (periods of 12 months, not tax years), and prior to leaving have lived in the UK for at least 4 out of 7 of the most

recent years, can be treated as being a 'temporary non-resident' upon returning to the UK.

Once an individual has been resident outside of the UK for more than five years (a minimum of five years plus 1 day), they will no longer be treated as a temporary non-resident upon their return.

What taxes does this impact?

The rules are most commonly seen in the context of capital gains tax.

CASE STUDIES

Temporary non-residence rules apply

Mr Jones took out an Ardan Portfolio Account in 2010 whilst resident in the UAE. In January 2015, at the end of his employment contract, he returns to the UK.

In 2020, after being resident in the UK for over 5 years, he returns to the UAE for another five-year employment contract.

In January 2022, he makes a disposal and realises a gain of £20,000. As Mr Jones is resident in the UAE, there is no capital gains tax liability in either the UAE or UK.

Due to a change in circumstances, in December 2023, Mr Jones returns to the UK. Because Mr Jones was resident outside of the UK for fewer than 5 years, he will be treated as being a temporary non-resident upon his return to the UK. The gain of £20,000 will be deemed to arise in the tax year that Mr Jones returned to the UK (2023/24 tax year) rather than at the time realised.

Temporary non-residence rules do not apply

Mr Jones took out an Ardan Portfolio Account in 2010 while resident in the UAE. In 2015, he returns to the UK at the end of his employment contract.

In 2020, after being resident in the UK for over 5 years, he returns to the UAE for another two-year employment contract.

In January 2022, he makes a disposal and realises a gain of £20,000. As Mr Jones is resident in the UAE, there is no capital gains tax liability in either the UAE or UK.

Instead of returning to the UK in December 2023 (see above example), Mr Jones remains in the UAE until 2026.

Because Mr Jones was resident outside of the UK for more than 5 years, he will not be treated as being a temporary non-resident upon his return to the UK. Therefore, the gain of £20,000 would not be assessable to capital gains tax upon his return to the UK.

WHAT RELIEFS ARE AVAILABLE TO ANYONE CAUGHT?

- Where tax is paid whilst resident in another jurisdiction and again upon return to the UK, it might be possible to file a claim for double taxation relief in the UK

IMPORTANT NOTES

For financial advisers only. Not to be distributed to, nor relied on, by retail clients.

This document is based on our understanding of HM Revenue and Customs (HMRC) practice and may be subject to change.