



# GMS Flash Alert

2020-440 | October 23, 2020



## United Kingdom - HMRC Publishes Guidance on COVID-19 and U.K. Taxation

HM Revenue & Customs (HMRC) has published further guidance on the taxation of unplanned U.K. work-days where an individual was 'stuck' in the U.K. and unable to leave due to COVID-19 travel restrictions.<sup>1</sup>

This follows on from the tax authority's earlier guidance on the application of the U.K. residency rules when considering COVID-19 impacted situations, covered in earlier editions of our *GMS Flash Alerts*: [2020-083](#) (20 March 2020) and [2020-353](#) (12 August 2020).

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### WHY THIS MATTERS

HMRC has previously provided guidance on the impact of COVID-19 on the U.K. Statutory Residence Test (for prior coverage, see *GMS Flash Alert 2020-353*, 12 August 2020), and whether any unexpected days in the U.K. can be disregarded when determining an individual's U.K. residency status. However, that guidance was silent on whether any unplanned U.K. work-days would be taxable in the United Kingdom.<sup>2</sup>

This new guidance will therefore provide welcome clarity to individuals who were unable to leave the U.K. for reasons outside their control relating to COVID-19 and who, in consequence, spent unplanned days working in the United Kingdom.

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### HMRC Guidance Relating to Taxation of Unplanned U.K. Work-Days

HMRC recognizes that cases arise where a non-U.K. resident individual cannot leave the U.K. due to COVID-19, and may subsequently spend time working in the U.K. until he or she can return to his or her home country.

HMRC has confirmed that the U.K. will not seek to tax the employment income of a non-U.K. resident that relates to the

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period between the date (i) the individual originally intended to leave the U.K. (but for prevention due to COVID-19), and (ii) the date he actually left, provided the following conditions are met:

- the U.K. work-days are taxed in the individual's home country, and
- the individual left the U.K. as soon as he reasonably could have done.

HMRC has said it may require proof that an individual could not leave the U.K. when intended due to COVID-19 restrictions, that she paid tax in her home country on earnings attributable to the extra time she spent in the U.K. and that she left as soon as she reasonably could have done.

HMRC has provided an example in its guidance of an individual who was unable to leave the U.K. when originally planned because she was self-isolating. However, the guidance does not confirm whether this applies in other circumstances, such as if there were no available flights to the individual's home location. (KPMG LLP U.K. is seeking clarity from HMRC on this and various other points.)

Please note that although HMRC may not seek to tax these U.K. work-days, if the individual carries out more than three hours of work in the U.K. during the relevant day, it will still count as a 'U.K. work-day' for the purpose of the U.K. Statutory Residence Test. This point is considered in more detail in our earlier GMS [Flash Alert 2020-353](#) (12 August 2020).

### **“Overseas Workday Relief”**

A non-U.K. domiciled, U.K. resident individual would normally be eligible for Overseas Workday Relief in her first three years of U.K. residence. This allows her to exempt the earnings relating to her non-U.K. work-days from U.K. taxation, providing the earnings relating to these days are not remitted to the United Kingdom.<sup>3</sup>

Due to COVID-19 travel restrictions, many of these individuals will have had a higher percentage of U.K. work-days than originally anticipated. HMRC has confirmed that it will nevertheless tax earnings relating to all work done in the U.K., even if the work would have been carried out overseas but for COVID-19 travel restrictions.

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## KPMG NOTE

This guidance is very welcome in relation to those stuck in the U.K. because of COVID-19 and who were working over this period, particularly those who have had to self-isolate. However, further examples of the circumstances in which HMRC will accept that an individual “could not leave the U.K. when you intended” would be welcome.

Some may be disappointed that HMRC has not announced any easements where U.K. resident individuals would normally claim Overseas Workday Relief on their non-U.K. work-days but where their claim is reduced because they are prevented from working outside the U.K. to the extent intended due to COVID-19.

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## FOOTNOTES:

- 1 For HMRC's new guidance click [here](#).
- 2 See HMRC's previously published [guidance on The Statutory Residence Test and Coronavirus](#).
- 3 For HMRC's updated guidance on Overseas Workday Relief, click [here](#).

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