

PwC J HR News

Claiming overseas workday relief

Bank account structures

Individuals who are tax resident in the UK and eligible for overseas workday relief need to consider where they have their employment income paid. One of the conditions for obtaining overseas workday relief is that the proceeds from earnings relating to non-UK workdays are paid and retained offshore. The rules which determine whether there has been sufficient income retained offshore are referred to as the 'mixed fund rules' and determine the order of any remittances made into the UK.

From 6 April 2013 legislation 'special mixed fund rules'

(SMFR) have been introduced. These allow an individual to apply the mixed fund rules in a more straightforward way for employment income derived from both UK and non-UK workdays. The SMFR allows an individual to calculate on an annual basis how much income has been remitted to the UK, reducing administration and the likelihood that excess remittances reduce the available claim for overseas workday relief.

To access the SMFR it is necessary to have employment income paid into a 'qualifying account'.

What are the conditions required to have a qualifying account?

Use an ordinary bank account	The account must be a checking or deposit account. The account can be in joint names with a spouse/partner but only the individual can deposit income into this account.
The account must be located overseas	A bank account located outside the UK must be used. An account located in the Isle of Man, Guernsey or Jersey is considered to be overseas for these purposes.
It must have a balance of less than £10 when employment income is first paid into it	<p>The account will only become qualifying from the point at which it first receives employment income relating to UK and non-UK workdays. Additionally there must be less than £10 in the account when this employment income is paid in. The account will not qualify retrospectively from the start of the tax year.</p> <p>It is possible to clear an existing account of funds such that there is a balance of less than £10 at the point employment income is paid into the account subject to rule regarding previous overseas workday income below. Otherwise a new overseas bank account must be opened.</p>
It must not have previously held earnings eligible for overseas workday relief	<p>A qualifying account can continue to be used for subsequent tax years when overseas workday relief is available. In many cases it will be more appropriate to open a new account each tax year anyway.</p> <p>However it will not be possible to use an overseas account that had overseas workday income paid into it previously. This would apply to an individual who has claimed overseas workday relief before and has returned to the UK and will be eligible for overseas workday relief once again.</p> <p>For individuals claiming overseas workday relief in 2012/13, it is possible to continue using the same account and continue to use the rules in Statement of Practice 1/09 (further detail below).</p>
Only employment income can be paid into the account	Employment income, proceeds from employment related securities and interest income on account funds can be paid into the account. Any other type of income, gain or capital is prohibited.
The account must be Nominated	<p>The account is nominated by making a 'white space note' entry in the annual self assessment tax return. The white space note must specify the details of the account which is nominated.</p> <p>If the individual changes their qualifying account during the tax year, then details of both accounts need to be provided.</p>

Calculating the income remitted from the qualifying account

The advantage of having a qualifying account is that any remittances made into the UK are subject to the special mixed fund rules which allow remittances to be calculated on an annualised basis.

Employment income related to UK workdays is deemed to be remitted first, then income relating to non-UK workdays, then interest income.

Benefits or shares provided as compensation are potentially entitled to overseas workday relief. However if the benefit is provided in the UK or the shares are UK registered, they will be regarded as automatically remitted to the UK and therefore the amount of cash compensation that needs to be retained offshore to achieve a full claim is proportionately greater.

Individuals using Statement of Practice 1/09 (SP 1/09)

Individuals claiming overseas workday relief prior to 6 April 2013 needed to comply with the conditions set out in SP 1/09. Those individuals who will continue to be eligible for overseas workday relief in 2013/14 and 2014/15 can continue to use SP 1/09 if they prefer. They may elect to use the SMFR instead of SP 1/09. If they choose to do this they must clear the balance of their overseas account to less than £10 before it can become a qualifying account under the SMFR.

Red Flags

Investment income, gains or capital sums are paid into the account

A qualifying account can only have employment income paid into it (the proceeds from certain employment related securities count) and the interest generated on those funds. If prohibited sums are paid into the account, then they must be transferred out within 30 days of the individual becoming aware of the deposit. If the error is not rectified within 30 days then the account will cease to be qualifying and the normal mixed fund rules will apply.

It is possible to correct up to two errors in a twelve month period before the account is no longer a qualifying account. If a third error occurs in a twelve month period, even if corrected, the account will cease to be qualifying.

Using an existing overseas account

If an existing overseas account is being used the balance must have less than £10 before it can receive employment income and become a qualifying account. These accounts must therefore be cleared before employment income is paid into it.

Importantly if the account was used in previous years to receive income from overseas workdays it cannot be a qualifying account. The exception to this is an SP 1/09 account used in the 2012/13 tax year.

Both partners/spouses are eligible for overseas workday relief and use the same account

It is only possible for an account to be a qualifying account for one individual. If both partners are eligible for overseas workday relief they must set up two separate bank accounts in order for both to be qualifying.

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