

Status: Point in time view as at 01/12/2014.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Remittance basis rules: employees who meet section 26A requirement is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 2

EMPLOYMENT INCOME: CHARGE TO TAX

CHAPTER 5

[^{F1}TAXABLE EARNINGS: REMITTANCE BASIS RULES AND RULES FOR NON-UK RESIDENT EMPLOYEES]

[^{F1}Remittance basis rules: employees [^{F2}who meet section 26A requirement]]

Textual Amendments

- F1** S. 25 cross-heading substituted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 17](#)
- F2** Words in cross-heading substituted (with effect in accordance with Sch. 46 para. 25 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 9\(2\)\(b\)](#) (with [Sch. 46 para. 26](#))

^{F3}**25** **UK-based earnings for year when employee resident, but not ordinarily resident, in UK**

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Textual Amendments

- F3** S. 25 omitted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 18](#)

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26 Foreign earnings for year when ^{F4}remittance basis applies and employee ^{F5}meets section 26A requirement]]

- (1) This section applies to general earnings for a tax year ^{F6}where section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the employee for that year and the employee ^{F7}meets the requirement of section 26A for] that year, ^{F8}if the general earnings meet all of the following conditions—
- (a) they are neither—
 - (i) general earnings in respect of duties performed in the United Kingdom, nor
 - (ii) general earnings from overseas Crown employment subject to United Kingdom tax, and
 - (b) if the tax year is a split year as respects the employee, they are attributable to the UK part of the year.]
- (2) The full amount of any general earnings within subsection (1) which are remitted to the United Kingdom in a tax year is an amount of “taxable earnings” from the employment in that year.
- ^{F9}(3) Subsection (2) applies whether or not the employment is held when the earnings are remitted.]
- (4) Section 28 explains what is meant by “general earnings from overseas Crown employment subject to United Kingdom tax”.
- ^{F10}(5) See Chapter A1 of Part 14 of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.
- [Any attribution required for the purposes of subsection (1)(b) is to be done on a just ^{F11}(5A) and reasonable basis.]
- ^{F12}(6) Section 15(1) does not apply to general earnings within subsection (1).]]

Textual Amendments

- F4** Words in s. 26 heading substituted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 19\(5\)](#) (with [Sch. 7 para. 82](#))
- F5** Words in s. 26 heading substituted (with effect in accordance with Sch. 46 para. 25 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 9\(2\)\(a\)](#) (with [Sch. 46 para. 26](#))
- F6** Words in s. 26(1) substituted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 19\(2\)](#) (with [Sch. 7 para. 82](#))
- F7** Words in s. 26(1) substituted (with effect in accordance with Sch. 46 para. 25 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 9\(1\)](#) (with [Sch. 46 para. 26](#))
- F8** Words in s. 26(1) substituted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 62\(2\)](#)
- F9** S. 26(3) substituted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 19\(3\)](#) (with [Sch. 7 para. 82](#))
- F10** S. 26(5)(6) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 19\(4\)](#) (with [Sch. 7 para. 82](#))
- F11** S. 26(5A) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 62\(3\)](#)
- F12** S. 26(6) substituted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 62\(4\)](#)

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Modifications etc. (not altering text)

- C1** S. 26 applied by 2007 c. 3, s. 809F(2) (as inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 1](#) (with s. 809F(6)))

[^{F13}**26A Section 26: requirement for 3-year period of non-residence**

- (1) An employee meets the requirement of this section for a tax year if the employee was—
- (a) non-UK resident for the previous 3 tax years, or
 - (b) UK resident for the previous tax year but non-UK resident for the 3 tax years before that, or
 - (c) UK resident for the previous 2 tax years but non-UK resident for the 3 tax years before that, or
 - (d) non-UK resident for the previous tax year, UK resident for the tax year before that and non-UK resident for the 3 tax years before that.
- (2) The residence status of the employee before the 3 years of non-UK residence is not relevant for these purposes.]

Textual Amendments

- F13** S. 26A inserted (with effect in accordance with Sch. 46 para. 25 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 10](#) (with [Sch. 46 para. 26](#))

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