

## Australian contractors temporarily coming to the UK to work – tax and expenses issues

Contractors coming from Australia to contract may fall foul of double-taxation treaties if they don't take care to understand and navigate relevant treaties between the two countries.

They have a range of trading options open to them, which range from doing business via their firm back in Australia, to using a UK-based [PAYE umbrella company](#) or [starting their own UK limited company](#) for their contract work.

The ideal solution will depend on each contractor's personal circumstances. According to [James Abbott](#), of specialist contractor accountant [Abbott Moore](#), it's prudent for Australian contractors to seek expert advice at both ends of the world to help them determine the most tax-efficient trading solution.

### Double-taxation treaty

"Each contractor's affairs will be different, with some having the added personal and financial complexity of leaving a family and home in Australia while they work in the UK," explains Abbott. "Further complications arise if Australian contractors are considered UK tax residents by HMRC."

But by taking expert advice in the UK and Australia, contractors will be able to navigate their way through the double-taxation treaty between the two countries, he confirms.

"Normal best practice is that the UK and Australian tax advisers liaise, advising each other of the implications of local tax laws and the interpretation of the double-taxation treaty," continues Abbott. "Our membership of the UK200 Group gives us access to advisers all over the world, including Australia, and we work with these advisers to calculate and agree on the most tax-efficient approach."

### Choosing the limited company route

Although established Australian contractors may have an existing company in Australia, many UK agencies and clients won't deal with the Australian company, insisting that the contractor uses a UK-based business.

Abbott explains: "An Australian contractor is free to incorporate and manage a UK limited company. But there may be Australian rules requiring overseas firms owned and managed by Australian tax residents to pay corporation tax in Australia. This is another reason that contractors should employ a tax expert in both jurisdictions."

The UK-Australia double taxation treaty says that a company is tax resident where it's effective management is, so if the Australian contractor runs the company from inside the UK it will most likely be subject to UK corporation tax.

### Personal tax affairs, tax residency and double taxation

According to Abbott, Australian contractors could fall into any number of scenarios regarding their personal tax affairs, depending on the length of their contracts, the nationality and place of permanent home of the contractor and the small print in the [double-taxation treaty](#).

"If the contractor spends 183 or more days in the UK during a tax year, they are deemed to be tax resident in the UK," he says, "but they could still be treated resident in the UK if they spend less time here than that."

"But the Australian tax authorities might not want to let the contractor go," continues Abbott, "particularly if the contractor is an Australian citizen and previously tax resident in Australia. That's why the double-taxation treaty has what's called a 'tie-breaker clause'."

If the tie-breaker says that the contractor is deemed resident in Australia, then the contractor will be non-resident in the UK, and taxed in Australia.

### UK employment income always taxed at source, but income can be 'excluded'

However, there's a further complication, as UK employment income will always be taxed in the UK according to UK tax laws.

So Australian contractors declared non-resident in the UK for tax purposes will always have employment income taxed in the UK. But they can take advantage of their non-UK resident tax status and have some of their income 'excluded'; and whilst 'excluded' does not mean 'not taxed in the UK', it does confer tax advantages.

"In practice, the contractor can choose to exclude all unearned income, such as dividends, and the tax due in the UK will be limited to that deducted at source" says Abbott. "The excluded income is taxed entirely at the UK's basic rate and not the higher or top rates of tax, even if the income exceeds the thresholds."

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”

James Abbott, Abbott Moore  
LLP

However, the contractor forfeits their personal allowances if opting to exclude income.”

A contractor declared fully resident in the UK for tax purposes is treated and taxed just like any other UK contractor, with the same rates and allowances. The contractor should ask an Australian tax specialist to advise on the treatment of any earnings repatriated to Australia.

Abbott highlights that it may also be the case that, depending on the Australian tax treatment of unearned income like dividends, and the rules in the double-taxation treaty, the contractor may be advised to pay themselves employment income as the most tax-efficient method of repatriating funds.

## The treatment of expenses for Australian contractors

Abbott cautions contractors about assuming all expenses can be claimed: “Many contractors coming to the UK assume that they can claim the cost of the flights, accommodation on arrival and expenses and subsistence during the contract, but this is by no means always the case.”

HMRC’s rules say that a contractor can claim travel to a temporary workplace. So, if the family home was still in Australia, then the journey to the UK could in theory be claimed. But does the contractor’s residence in the UK qualify as a temporary workplace? Abbott suggests for some contractors this will not be the case.

“Contractors can claim travel to a temporary workplace up until they know they will be working at this location for two years, when the relief stops,” he says. “This is known as the [24 month expenses rule](#). But there is another rule, which says that if the temporary workplace is for the entire duration of that employment, even if this is less than 24 months, then it is not a temporary workplace and expenses cannot be claimed.”

Therefore, if a contractor comes to the UK for a single contract that lasts the duration of their stay, then flights and travel can’t be claimed. However, because it is possible to have more than one temporary workplace, the cost of travel for journeys to the client’s site and receipted subsistence can be claimed.

## IR35, income splitting and spouses tax affairs

“The everyday tax issues facing UK contractors will also impact on Australian contractors to a greater or lesser degree, depending on their tax residence and individual circumstances,” explains Abbott. “For example, it is entirely possible that an Australian contractor is inside [IR35](#) – with everything that entails – and they may also have issues with the Australian equivalent, the [Personal Services Income \(PSI\) rules](#).”

An Australian contractor allocating half the shares in a limited company to a spouse might be subject to scrutiny by HMRC under S669c, but if the spouse remains in Australia, their [dividend income](#) could be ‘excluded’ and subject to Australian tax laws.

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James Abbott

Owner

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James Abbott is the owner of Abbott Moore LLP and often speaks on freelancer / contractor tax matters. He has his own growing portfolio of contractor clients.

Abbott Moore LLP are PCG Accredited Accountants and specialise in providing tax advice to freelancers as well as dealing with their year end accounts and tax returns. [Read Full Profile...](#)

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Clearly, operating a contracting business across more than one tax jurisdiction, with multiple domicile possibilities, can become highly complex. “So,” Abbott concludes, “that is why a contractor should also work with experts in the local tax regime, or with international tax advisers large enough to have specialists they can consult in the countries in question.”

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