

Defence Instructions and Notices (Not to be communicated to anyone outside HM Service without authority)	
Title:	Introduction of Scottish Rates of Income Tax from Tax Year 16/17
Audience:	All Service and civilian personnel, in particular those living in Scotland; and J1 personnel serving Scottish locations
Applies:	1 April 2016
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Replaces:	
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Status:	Current
Released:	This Section is completed by DDC Internal Communications
Channel:	01 Personnel
Content:	HMRC will shortly be writing to those they believe to be Scottish taxpayers and this DIN provides further information on the upcoming devolved income tax changes arising from the Scotland Act 2012
Sponsor:	
Contact:	
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Local Keywords:	SRIT
Supplements: (Please click on the links to access >>>>)	
Related Info:	Gov.uk link
Classification:	OFFICIAL

Key Activities (dates indicative and subject to change)

- Oct 15: Initial guidance published by HMRC to taxpayers.
- Oct/Nov 15: Opportunity for SP and other MOD employees to update their details with HMRC via “Tell HMRC Online” web portal.
- Dec 15: HMRC to write to all taxpayers they judge to be Scottish taxpayers – opportunity for SP and other MOD employees to highlight any errors to HMRC and have them corrected.
- Dec 15/Jan 16: Scottish Government announces SRIT level for Tax Year 16/17.
- MOD provides further information once a decision has been announced by the Scottish Government.
- Feb/Mar 16: HMRC issues new tax codes for Tax Year 16/17.
- Apr 16: SRIT implemented by employers (DBS) through PAYE.

Key Messages

- The new Scottish Rate of Income Tax (SRIT) starts in April 2016 and will be charged on earnings (non-savings and non-dividend) income of those Service and civilian personnel identified as Scottish taxpayers.
- The definition of a Scottish taxpayer focuses on a “place of residence” - in simple terms - where an individual lives in the course of a tax year. For the majority the question of whether or not they are a Scottish taxpayer will be a simple one – they will either live in Scotland and thus be a Scottish taxpayer or live elsewhere in the UK and not be a Scottish taxpayer.
- For those who live in more than one place during a year, simple rules (explained below) help establish whether or not they are a Scottish taxpayer.
- How “place of residence” applies to Service Personnel:
 - All types of Service-provided accommodation (e.g. SFA, SLA, SSFA, SSSA) should be considered “a place of residence”.
 - Accommodation onboard RN vessels whilst at sea and other temporary accommodation occupied during operational deployments should not be considered as a “place of residence”. For these periods, whether afloat or on operations (including for called-up reservists), the “place of residence” continues to be that occupied prior to going to sea or deployment.
- The final decision as to whether an individual is a Scottish taxpayer or not lies with Her Majesty’s Revenue and Customs (HMRC) and not MOD.

Action Required

- All MOD employees are encouraged to go online and provide HMRC with details of their current address, and update HMRC each time that their personal circumstances change. The address given should be the “main place of residence” for tax purposes as outlined below.
- All MOD employees who receive correspondence from HMRC about their taxpayer status should respond promptly if required to do so to correct any assumption made about their “main place of residence”.

Background

1. The Scottish Rate of Income Tax (SRIT) will be implemented by HMRC on behalf of the Scottish Government from April 2016 (Tax Year 16/17). From April 2016, the income tax rates paid by Scottish taxpayers will consist of the main UK rates, minus ten percentage points, plus SRIT added back. The Scottish Government will therefore be deciding each year whether to set SRIT at ten per cent (to keep income tax in Scotland the same as the rest of the UK) or higher or lower than ten per cent (to set income tax levels higher or lower than the rest of the UK). We expect the Scottish Government to announce their 2016 SRIT rate as part of their Budget Statement, either late this year or early next.

2. Both general and detailed technical advice for taxpayers has recently been published by HMRC online at GOV.UK; this can be accessed at www.gov.uk. For most MOD employees, particularly civil servants and part-time reservists, the publicly available guidance should suffice. The following supplementary guidance and examples detailed at Annex A are aimed at Regular and Full-time Reservist (including called-up) Service Personnel (SP). Its contents have been cleared by HMRC officials and should be viewed as augmenting the main HMRC advice.

Determining Scottish taxpayer status

3. The definition of a Scottish taxpayer focuses on a “place of residence” – essentially where someone lives. For the majority the question of whether or not they are a Scottish taxpayer will be a simple one – they will either live in Scotland and thus be a Scottish taxpayer or live elsewhere in the UK and not be a Scottish taxpayer. However, where someone has more than one “place of residence” then the question of whether or not they are a Scottish taxpayer can be more complicated.

4. “Place of Residence”. The term is not defined in legislation so HMRC will applying it in the context that most would commonly understand it, i.e. **an individual’s “place of residence” is a place that a reasonable onlooker, with knowledge of the material facts, would regard as a dwelling in which that person habitually lives; in other words his or her home.**

5. A broad range of different types of accommodation or locations are capable of being a “place of residence”. For service personnel seeking to establish whether or not they are Scottish taxpayers the key consideration should be that all types of Service-provided accommodation (e.g. SFA, SLA, SSFA, SSSA) constitute a “place of residence”. However, for the same purposes, it should be stressed that bed spaces occupied onboard RN vessels whilst at sea and other temporary accommodation occupied during operational deployments will not be viewed by HMRC as a “place of residence”. It has been agreed that for these periods, whether afloat or on operations (including for called-up reservists), the “place of residence” will continue to be viewed by HMRC as the last “main place of residence” as determined prior to going to sea or being deployed.

6. In order for accommodation to be a “place of residence” for Scottish taxpayer purposes it must have actually been lived in by the individual in question during the course of the tax year. Therefore any property owned but rented out to a third party cannot be counted as a “place of residence” for these purposes. However, other residences, such as a parent’s home, may count as a “place of residence” where an SP actually lives there whilst off duty as opposed to just visiting.

A “place of residence” in Scotland AND elsewhere in the UK

7. Where in the course of a tax year, an individual has a “place of residence” both in Scotland and elsewhere in the UK, this may occur through for one of two reasons:

- a. A move from a sole place of residence to another; or
- b. Where there is more than one place of residence throughout the tax year.

8. Sole place of residence. The majority of SP will have only one “place of residence” – their home. When they move to a new home in or out of Scotland, this could affect whether they are a Scottish taxpayer or not. In the majority of circumstances, Scottish taxpayer status will be decided by whether their “place of residence” was in Scotland for longer or at least as long as was elsewhere in the UK. In the rare circumstances that an individual lives in more than two parts of the UK in the course of the year (e.g. Scotland, Northern Ireland and England) Scottish taxpayer status is established if time spent living in Scotland is greater or at least as long as time living in each other part of the UK considered separately (i.e. Scotland 125 days, Northern Ireland 120 days, England 120 days = Scottish taxpayer).

9. More than one place of residence through the year. Some SP may have more than one place at any given time where they live and consider being their home, e.g. a single SP occupying SLA in Catterick during periods of work but living in a flat they own or rent in Edinburgh at all other times. In such circumstances the Scottish taxpayer rules require a “main place of residence” to be identified.

10. Main Place of Residence. **A “main place of residence” is not necessarily where the individual spends the majority of their time, although it commonly may be. It is the “place of residence” with which the individual can be said to have the greatest degree of connection.** When considering where the greatest connection exists, HMRC would look at all of the relevant facts and circumstances to arrive at their conclusion – illustration of the sort of factors taken into consideration can be found at www.gov.uk. Whilst there will be some exceptional cases, in the majority of cases SP are expected to fall into one of the following groups:

- a. For single SP occupying SLA during periods of work but living elsewhere at other times, their “main place of residence” will often be where they choose to live whilst not at work, as the weight of evidence is likely to show there to be a “closer connection” to this location over any work location.
- b. For married SP living at more than one address, the weight of evidence is likely to naturally gravitate towards their “main place of residence” being where their

family lives, even if they spend the majority of the week living elsewhere whilst serving unaccompanied.

c. For SP serving wholly overseas (non-operational appointments, e.g. Germany), unless there is a weight of evidence towards there being a “closer connection” to a “place of residence” in Scotland, they should not be considered Scottish taxpayers.

11. Day Counting. In a very small number of cases an SP may either have no or more than one UK “place of residence” between which they cannot clearly identify one as having primacy over the other(s) and so establish a “main place of residence”. In such cases, where one or more of these residences is in Scotland, HMRC will require the individual to count the days in which they are resident in each residence during the course of the tax year so that a determination may be made on Scottish taxpayer status based upon where the individual spent the most time (i.e. in Scotland compared against elsewhere in the UK).

12. These instances are expected to be extremely rare within the Armed Forces. If an individual believes that they fall into this group then they are encouraged to view HMRC guidance on how to gather and submit any required evidence during the tax year (see www.gov.uk).

13. Change of Circumstances. Where circumstances change during the tax year (e.g. a posting to a new location) the final assessment as to whether an SP remains a Scottish taxpayer or not for that period will depend upon the date on which circumstances change and so what address was the “main place of residence” for the majority of the tax year. If required following notification of a change of circumstances, HMRC may change an individual’s tax code in-year to reflect a change from or a change to Scottish taxpayer status. Alternatively they may apply any change retrospectively requiring any over or underpayment of income tax to be corrected in a later tax year through an amended tax code, as is the case now.

14. The MOD, as the Employer, relieves the individual of reporting certain allowances, benefits, and expenses to HMRC. However the responsibility for reporting changes to place of residence remains with the individual. **Failure to update HMRC with address details may lead to tax payments being incorrect. Deliberate misrepresentation of residency details will be treated by HMRC like any other form of tax evasion.**

15. Any relevant change of circumstance, e.g. change of address, should be registered with HMRC as soon as practicable using their “Tell HMRC Online” tool at www.gov.uk/tell-hmrc-change-of-details, or by post or by phone as follows:

HM Revenue & Customs,
South Wales Area,
Ty Glas
Llanishen
CARDIFF CF14 5YE
Tel: 0845 300 0627

16. In such cases HMRC will usually require an individual’s full name, date of birth, National Insurance number and PAYE employer reference number (Service Personnel – 948/WZ82056; MOD civil servants (non-RFA) – 948/201; RFA employees – 948/M8019C).

17. In order to reduce the possibility of an incorrect tax code being applied it is recommended that all SP use the above online tool to provide HMRC with your current “main place of residence” as your contact address going forward.

18. Worked examples are included overleaf at Annex A and a flowchart summarising the above is at Annex B.

Further devolution of Income Tax powers to Scotland and Wales

19. New legislation is currently going through Parliament to give greater devolved powers to both Scotland and Wales. Assuming these Acts receive Royal Assent in their currently drafted form it is expected that both Scotland and Wales will be given additional powers to vary both the income tax band thresholds and the rates within them as they see fit from some future point, although the Welsh Government will need to hold a referendum and gain agreement from the Welsh electorate before being permitted to enact their powers.

20. MOD will continue to monitor the effects of these changes on the workforce and provide further information as and when required.

WORKED EXAMPLES

A. [REDACTED] is a member of the permanent staff at an Army Reserves unit in Carlisle, England. She lives in her own property in Dumfries, Scotland and commutes the 34 miles between home and work daily. She has no other place of residence.

Cpl Harkins is a Scottish taxpayer as her only place of residence is in Scotland.

B. [REDACTED] is a submariner based at Faslane, Scotland and he typically spends the majority of the year at sea, returning home to his family who live in SFA close to his home port. He has no other place of residence.

[REDACTED] is a Scottish taxpayer as his only place of residence is in Scotland – his time at sea is not counted for these purposes.

C. [REDACTED] is serving unaccompanied in MOD Main Building in London and returns to his wife and family most weekends. His family live in SFA in Glasgow and he stays in SSSA in London during the week.

[REDACTED] is likely to be a Scottish taxpayer. His main place of residence is likely to be considered as in Scotland as he has the closest connection with that address due to his family living there.

D. [REDACTED] is serving accompanied in a NATO appointment at SHAPE HQ in Mons, Belgium. He and his wife live in Belgium in accommodation provided by NATO. The family home he and his wife own, in Scotland, and lived in during his previous posting is rented out for the duration of his posting in Belgium and neither he nor his family stayed there during the tax year.

[REDACTED] will not be a Scottish taxpayer as his only place of residence is not in Scotland – his property in Scotland is not a place of residence for the purposes of Scottish taxpayer status as neither he nor his family live there at any point during the year.

E. [REDACTED] is single and lives in SLA at RAF Lossiemouth, Scotland where he is stationed. He is originally from Newcastle and goes back home to his parent's house in Newcastle most weekends and during periods of leave and standdown. Most of his belongings are still stored in his own room at his parent's house and most of his personal life is centred around Newcastle including friends and membership of numerous sports and social clubs.

[REDACTED] is not a Scottish taxpayer as his main place of residence is in England – although he spends most of the week living in Scotland for work he has the closest connection with his parent's address where he has close ties and where his belongings are kept.

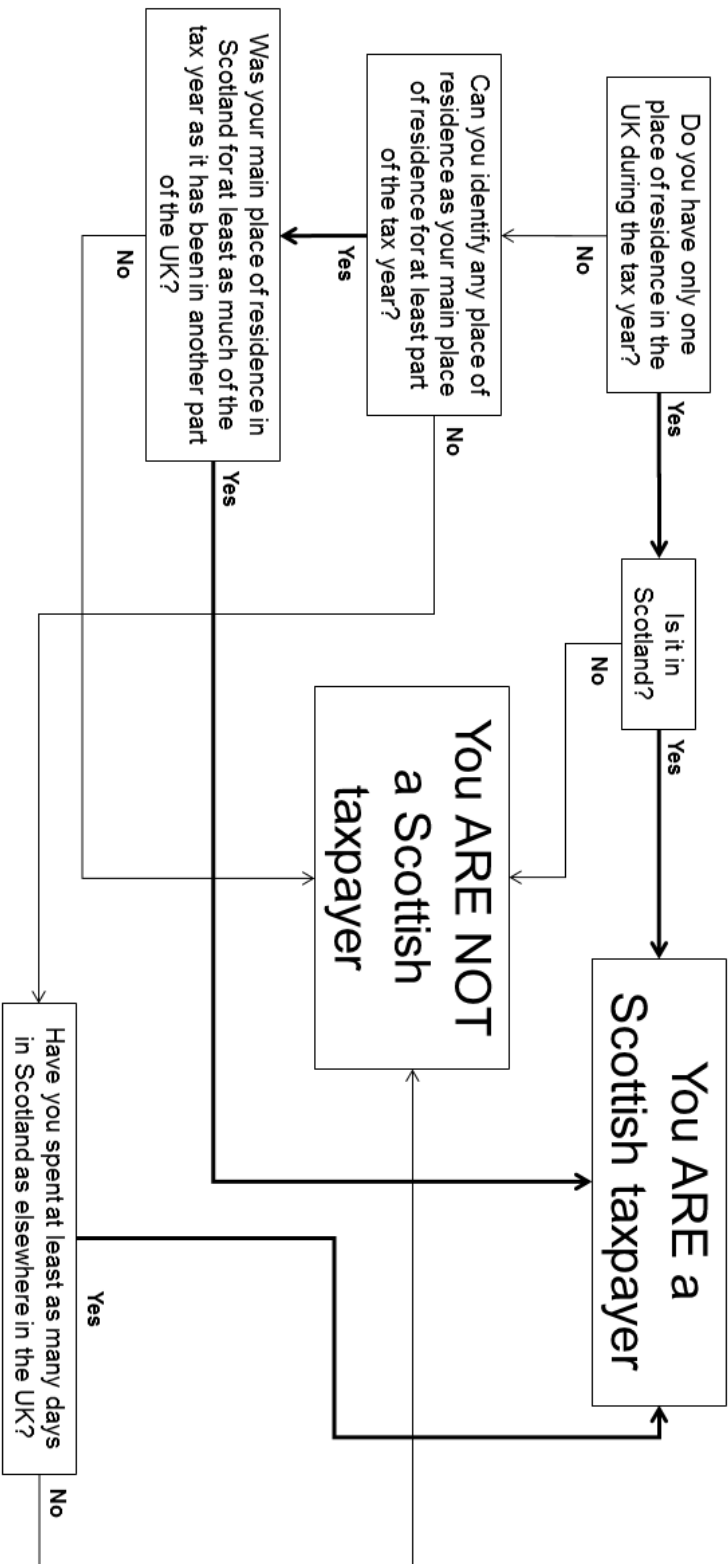
F. [REDACTED] lives and works in Edinburgh and is a volunteer reservist at her local Army Reserve unit. She is called up for deployment overseas and then spends the majority of the tax year overseas on operations before returning home. She has no other place of residence and overall during the tax year spent less than 2 months in Scotland. [REDACTED] **is a Scottish taxpayer as her only UK place of residence is in Scotland – her time on deployment overseas is not counted for these purposes.**

G. [REDACTED] is single and serving in RAF Aldergrove in Northern Ireland at the beginning of the tax year, i.e. April. Part way through the tax year, in July, he is posted to RAF Lossiemouth in Scotland. Later in the tax year, in November, he is promoted and posted as a WO to RAF Northolt in London where he remains for the rest of the tax year. In each location he lives in SLA and has no residences anywhere else. During the tax year he lives in Northern Ireland for 3 months, in Scotland for 5 months and then in England for 4 months.

[REDACTED] has had three places of residence in three different UK countries during the course of the tax year. Scottish taxpayer status in such circumstances is decided by whether the length of time spent with the place of residence in Scotland was greater or the same as the length of time spent with place of residence being in any one other country of the UK. Flt Sgt/WO Hopper is a Scottish taxpayer, despite spending longer elsewhere in the UK than in Scotland, since the 5 months in Scotland was greater than either the 3 months spent in Northern Ireland or the 4 months spent in England.

[Had he returned to Northern Ireland on promotion instead of moving to England then he would have lived in Northern Ireland longer than Scotland, would have had a “closer connection” with Northern Ireland than Scotland, and so would not have been a Scottish taxpayer.]

Definition of a Scottish taxpayer



FLOWCHART