



HM Revenue  
& Customs

# UK-Colombia Double Tax Treaty

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# Overview

1. History and background to the DTA
2. Purpose of the DTA
3. Main features of the UK-Colombia Double Tax Treaty (DTA):
  - a. Persons covered*
  - b. Taxes Covered*
  - c. Permanent Establishment Rules*



# 1. History and Background to the DTA

- A long time in the making!
- The UK started to make tax treaties with other countries around the world in the 1940s and 1950s
- The UK started to make enquires of the Colombian tax administration as early as 1957
- Correspondence between the UK and Colombia carried on through the 80s and 90s
- Colombia started to enter into new DTAs with countries in the 2000s and started the process to join OECD in 2013 – finally joining in 2020



## 2. DTAs – what is the purpose?

- ***To deepen economic ties between our countries***
- ***To support trade and investment by providing certainty as to tax treatment***
- ***To eliminate double taxation and prevent avoidance***
- ***To promote cooperation between tax administrations***



## 2. DTAs – how do they work?

Double taxation occurs when:

- Worldwide + source taxation; or
- Residence in two countries

Double tax is eliminated by:

- Allocation of exclusive right to tax or sharing of taxing rights
- Allowing credit or deduction for tax paid in one country against the tax payable in the other, or exempting the income from taxation in one country where it is taxable in the other



### 3. Main features – a) persons covered

- Natural or legal persons i.e. individuals or companies
- Residents of one or both countries
- Companies are resident where they are:
  - Incorporated or organised
  - Centrally managed

There is a procedure for the tax administrations to cooperate to determine corporate residence, if there is a clash.

The treaty does not generally affect the taxation of a country's own residents.



### 3. Main features – b) taxes covered

Not all taxes!

- DTAs apply to taxes on **income** and **capital gains**, including any new taxes which are identical or substantially similar.
- The DTA does not apply to indirect taxes like VAT
- Some provisions of the DTA are not limited by the general scope:
  - Non-discrimination
  - Exchange of information



### 3. Main features – c) PE rules

The term “permanent establishment” includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place relating to the exploration for or the exploitation of natural resources.

A building site or construction or installation project constitutes a permanent establishment only if it lasts more than **six months**.





### 3. Main features – c) PE rules continued..

What **does not** constitute a PE?

There is a list of activities which are specifically **not** considered to create a PE – a fixed place of business solely for:

- Warehousing (storage, display or delivery)
- Purchasing or collecting information
- Other activity of a preparatory or auxiliary character
- Any combination of these provided the overall activity is preparatory or auxiliary



### 3. Main features – c) PE rules continued..

#### Other ways to create a PE:

- **A dependent agent (“DAPE”)**
  - This is a person who acts on behalf of the company and has, and habitually exercises authority to conclude contracts on behalf of the company
  - Broker or independent agent where not acting truly independently
- **Provision of services in the country**
  - One individual providing services which create the majority of the gross revenues of the company + present for aggregate of 6 months in any 12 months
  - Services performed on the same or connected projects by one or more people for period or periods of 6 months aggregate in any 12 months

