

UK PERSONAL TAX RESIDENCE RULES

Statutory residence test

The Statutory Residence Test (SRT) has applied since 6 April 2013 and determines whether or not an individual is a UK tax resident based on both time spent in the UK and other links to the UK.

There are essentially three parts to the test.

Automatic overseas tests

If any one of the following three tests is met the individual will be non-resident, and there will be no need to look at any other tests:

- The individual was not resident in any of the previous three tax years and spends fewer than 46 days in the UK in the year;
- The individual was resident in at least one of the previous three tax years and spends fewer than 16 days in the UK in the year;
- The individual works “full time” (an average of 35 hours per week) overseas in the year, and during the year:
 - Has no significant breaks (31 days or more) from that work;
 - Spends fewer than 91 days in the UK;
 - Works in the UK for more than three hours on fewer than 31 days.

Automatic residence tests

If none of the Automatic Overseas Tests are met, and if any one of the following tests is met, the individual will be resident:

- The individual spends 183 days or more in the UK in the year;
- The individual has a home in the UK for at least part of the year; the individual is present at that home for at least 30 days in the tax year, and there is a period of at least 91 consecutive days (at least 30 days of which are in the tax year) during which the individual either had no overseas home or had one or more overseas homes but spent fewer than 30 days in any such home in the tax year;
- The individual works “full time” (an average of 35 hours per week) in the UK for at least 365 days, all or part of which falls in the year, and during that period:

- Has no significant breaks from that work;
 - More than 75% of the total number of workdays within the 365 day period are UK workdays.
- There are other automatic tests that can apply in the year of death.

Sufficient ties test

For the less clear cut cases, a mechanical consideration of time spent in the UK and other specific factors referred to as ‘UK ties’, needs to be made.

Different rules apply to “arrivers” and “leavers”, who are defined as follows:

- Arrivers – anyone who has not been a UK resident in any of the previous three tax years;
- Leavers – anyone else (i.e. anyone who has been UK resident in any of the previous three tax years).

The “UK ties” are as follows:

- **Family tie** – An individual has this tie if the individual has a spouse, civil partner, ‘significant other’, or minor child who is resident in the UK (with some relaxation in the rules where there is a child here for full-time education, or when the individual actually sees the child in the UK on 60 days or fewer in the year);
- **Accommodation tie** – An individual has this tie if they have available accommodation in the UK for at least 91 consecutive days, and use this accommodation in the year. (The individual only needs to use the accommodation for 1 night, unless it is the home of a close relative, in which case the individual needs to use the accommodation for at least 16 nights);
- **Work tie** – An individual has this tie if the individual works in the UK for more than 3 hours a day on 40 or more days in the tax year;
- **90 day tie** – An individual has this tie if the individual has spent more than 90 days in the UK in either or both of the two previous tax years;
- **Country tie** – An individual has this tie if the UK is the country in which the individual was present at midnight for the greatest number of days in the tax year.

Under the “Sufficient Ties Test”, residence is determined by using the tables set out below.



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Arrivers

The first four ties listed above need to be considered.

Days spent in the UK	Residence position
0 - 45	Non-resident
46 - 90	Resident if four or more ties
91 - 120	Resident if three or more ties
More than 120	Resident if two or more ties

Leavers

All five ties listed above need to be considered.

Days spent in the UK	Residence position
0 - 15	Non-resident
16 - 45	Resident if four or more ties
46 - 90	Resident if three or more ties
91 - 120	Resident if two or more ties
More than 120	Resident if one or more ties

Note that there are further detailed provisions on how these tests work in the year of death, as well as variations that affect international transport workers.

The tax year is split into periods of residency and non-residency where one of the following sets of circumstances applies (each of which comes with detailed requirements that need to be met):

- The individual starts full-time work overseas in the year;
- The individual is the partner of someone who starts full-time work overseas in the year, who goes to live together with that person overseas;
- The individual ceases to have a home in the UK;
- From part way through the year the individual's only home is (or only homes are) in the UK;
- The individual comes to work full-time in the UK in the year;
- The individual returns from full-time work overseas in the year;
- The individual is the partner of someone who returns from full-time work overseas in the year, who returns to live together with that person in the UK;
- The individual starts to have a home in the UK in the

year, and various other conditions are met.

There is an anti-avoidance provision for individuals who have a temporary period of non-residence, under which certain income from the period of non-residence becomes chargeable in the year of return. This applies where an individual has been UK resident in four or more of the seven years immediately preceding the year of departure and is then non-resident for five years or fewer.

A **day spent in the UK** is any day when the individual is in the UK at the end of the day, subject to the following:

- Transit days are ignored;
- Up to 60 days spent in the UK as a result of "exceptional circumstances" are ignored;
- Where an individual has been resident in the UK for at least one of the three previous tax years, where they have at least three "UK ties", and where they have been present in the UK on more than 30 days without being present at the end of that day, days of presence in excess of 30 are treated as days spent in the UK.

"**Work**" includes not only the performance of normal work duties, but also work travel (ignoring ordinary commuting), work-related training, time spent working (e.g. dealing with emails or phone calls) during what might otherwise be ordinary commuting or private travel, and possibly time on-call or standby. In most cases, work in the UK will start or cease at the point of disembarkation/embarkation in the UK. Where an individual's residence status for 2013/14 or later depends on whether they were resident or not in 2012/13 or earlier, there are some limited transitional provisions whereby an individual can elect to use the new rules to determine whether they were resident in those earlier years. This provision is only for the year under review, and will not alter the actual tax position for the earlier year.

Overseas workday relief

The concept of "Ordinary Residency" was abolished from 2013/14, and there is now a statutory relief that can apply to UK residents who are not domiciled in the UK and who spend time in the year working both inside and outside the UK.

In the tax year which immediately follows three consecutive years of non-residence, and in the subsequent two years after such a year, individuals to whom this relief applies can claim the remittance basis and treat earnings which relate to duties performed outside the UK as taxable in the UK only if they are received in the UK or subsequently brought into the UK.