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Statutory Residence Test

The concept of residence in the United Kingdom is fundamental when determining any individual's UK tax liability. For over 200 years the term residence has never been defined in our tax laws and instead the issue of interpretation in any situation has been dependent upon considering case law and HMRC practice. On 6 April 2013 a Statutory Residence Test (SRT) was introduced into legislation. The new rules were applied with a retrospective effect for the whole of the 2013/2014 tax year.

Maximise your potential



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Rules from 6 April 2013 – Statutory Residence Test (SRT)

The SRT is a criteria dependent test and there is no longer a review of intentions on arriving or the need to demonstrate a distinct break with the UK on leaving. It provides, through a series of tests, a definitive process to determine the UK residence status of any individual. That status applies for income tax, capital gains tax and inheritance tax purposes.

Once that status has been established then other rules determine the extent of an individual's UK tax liability. These other rules may include not just UK statute but also double tax treaties with other countries. These rules are not covered in this factsheet.



Counting days

The SRT relies heavily on the concept of counting 'days of presence' in the UK in the relevant tax year. Consequently, it is important to understand the meaning of this term. The basic rule is a day of presence is one where the individual was in the country at midnight. There are two exceptions to this:



The individual arrives as a passenger on the day in question and leaves the next day without engaging in activities that are unrelated to their passage through the UK



The individual would not have been present in the UK at the end of the day but for exceptional circumstances beyond their control which prevents them from leaving and they intend to leave as soon as circumstances permit.

It is also important to note that there is an additional anti-avoidance rule called the 'deeming' rule which may affect day count.

Deeming Rule

The deeming rule applies for a tax year if an individual:

- Has been resident in 1 or more of the preceding 3 tax years;
- Has at least 3 UK ties for the year;
- Has been present in the UK on more than 30 days without being present at the end of that day in the tax year.





If an individual meets these conditions after the first 30 qualifying days, all subsequent days within the tax year are treated as days the individual spent within the UK.

The deeming rule does not apply to the limit on days spent in the UK under the Third Automatic Overseas test.



Three tests




The SRT is based on a series of three tests which must be considered in a particular order in every case. The tests are applied to the facts in the 'relevant tax year' i.e. the year for which residence status is being determined in the following order:

-  Whether the individual is present in the UK for at least 183 days (midnights) during the relevant tax year.
-  Whether the individual meets any of the Automatic Overseas Tests (AOT) – if an individual meets the criteria for any one of these three overseas tests, they will be considered non-UK resident and no further tests are required.
-  Whether the individual meets any of the Automatic UK Residence Test (ART) – if the overseas tests are not met then the ART must be applied to determine whether the client meets criteria to automatically be considered tax resident in the UK for the relevant year.
-  Whether the individual meets the Sufficient Ties Test (STT) – assuming the client does not meet either of the automatic overseas or automatic residence criteria then the STT is used to determine residence status in the UK.

The conditions relating to each test are discussed in detail below. There are further tests which only apply if the individual has died in the year in question, but these will not be covered in this document.





The Automatic Overseas Test (AOT)

There are three tests under this category, if an individual satisfies any one of these they will be considered non-UK resident in relation to the relevant tax year. The three tests are as follows:

-  The individual was UK resident in one or more of the three preceding tax years and was present in the UK for less than 16 days during the relevant tax year in question.
-  The individual was not resident in the UK in any of the three preceding tax years and spent fewer than 46 days in the UK during the relevant tax year.
-  The individual in question works full time overseas without a significant break from work during the tax year and the number of days on which they work for more than 3 hours in the UK is fewer than 31.

The Automatic UK Residence Test (ART)

If none of the automatic overseas tests apply, then the automatic UK residence tests must be considered. If any one of these tests are met, then the individual will be considered UK tax resident for the year in question. The automatic UK residence tests are as follows:

-  The individual is present in the UK for at least 183 days (midnights) in the tax year.
-  The individual has a home in the UK which is available to them for a consecutive period of 91 days (at least 30 of which are in the current tax year) and they are present in that home for 30 days during the tax year. This test will not apply if the individual spends 30 days or more at an overseas home in the tax year.
-  Please note that a home can be a building or part of a building and can include a vessel or vehicle. It must have a degree of permanence or stability to count as a home, but specific circumstances may have to be considered.
-  The individual carries out full time work in the UK for 365 days (more than 75% of their workdays in the 365-day period in the UK) and at least one day from this 365 period is in the UK.

The Sufficient Ties Test

If no conclusive answer to residence status has arisen under the first two tests, the Sufficient Ties Test must be considered to determine the residence status. This comprises of an analysis of the number of ties the individual has with the UK, the number of days they spend in the UK and their residence status over the three prior years.

The STT reflects the principle that the more time someone spends in the UK, the fewer connections they can have with the UK if they want to be not resident. It also incorporates the principle that residence status should adhere more to those who are already resident than to those who are not currently resident.

Under the STT an individual compares the number of days of presence in the UK against ties. Individuals who know how many days they spend in the UK and how ties they have can then assess whether they are resident.



The five ties used to determine UK residence status are as follows:

- **Family Tie** – where either a spouse, co-habiting partner or minor child is resident in the UK during the tax year.
- **Accommodation Tie** – where there is accommodation available to the individual for at least 91 days in the tax year and at least one night is spent in residence. Accommodation at the home of a close relative can be ignored if the individual spends fewer than 16 nights in residence over the course of the tax year.
- **Work Tie** – where there are at least 40 working days (continuous or intermittent) of three hours or more during the relevant UK tax year.
- **90 Day Tie** – if more than 90 days were spent in the UK by the individual in at least one of the two immediately preceding tax years.
- **Country Tie** – where more days (midnights) are spent in the UK than any other single country over the course of the UK tax year.

This only applies to individuals who were UK resident in at least one of the three previous tax years. An individual who has been resident in the UK in any of the three preceding tax years must consider all five ties and will be considered resident if they meet the criteria for the number of days in residence as shown below:

Days in UK	Number of ties sufficient to establish residence
15 or less	Not Resident
16 - 45	At least 4
46-90	At least 3
91-120	At least 2
121-182	At least 1

An individual who has not been resident in any of the three preceding tax years must consider all the ties apart from the country tie and will be considered resident if they meet the criteria for the number of days as resident as shown below:

Days in UK	Number of ties sufficient to establish residence
15 or less	Not Resident
16 - 45	At least 4
46-90	At least 3
91-120	At least 2
121-182	At least 1

Split year rules

The basic rule will be that if an individual satisfies the conditions of the SRT to be treated as resident for part of the UK tax year then they are resident for the whole of that year. Special rules will apply in certain circumstances to allow a year of arrival or departure to be split into resident and not resident parts as appropriate.

We shall be pleased to discuss whether your plans or circumstances will be eligible for such treatment.



Temporary non-residence rules

The government wants to ensure that individuals are not able to exploit the rules to become non-resident for a short period during which they receive certain types of income or make capital gains. In short, an individual with a history of at least four out of the previous seven years as a sole UK resident will need to maintain non-resident status for at least five years otherwise certain income and all capital gains made in the period of absence will become taxable in the UK in the next year in which they are resident.

The SRT and Inheritance Tax (IHT)

From 6 April 2025 the scope of UK IHT is based on residence and an individual is within scope of UK IHT on worldwide assets while they are Long Term Resident (LTR) in the UK. LTR is triggered after 10 years of UK tax residence out of the previous 20 years and there is also a 10-year tail for those who leave the UK (reduced for those who were resident between 10 and 19 previous years). When calculating “years” of UK residence for the LTR test, the SRT is used, and a split year of residence counts as a “year” of residence for LTR purposes.



How we can help

A change of tax residence is always a major decision and detailed advice is necessary. If you would like further details on any matter contained in this factsheet please contact one of our Global Mobility Tax team members using the details [above](#).

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