

UK statutory residence test

Start ▶





UK statutory residence test

There are many reasons why you may decide to spend time in the UK or leave the UK including; a lifestyle choice, employment reasons or other personal circumstances. Understanding your tax residence position, and its impact on your UK tax exposure is vital.

Spending more time in or out of the UK can happen at short notice and you might expect your residence position to change with immediate effect. However, for UK tax purposes, the date UK tax residence or non-residence begins, and ends is defined by the UK's Statutory Residence Test (the 'SRT').

The SRT, whilst complex, provides more certainty surrounding the steps you must take to determine your residence position for UK tax purposes. Each individual's position must be looked at based on their personal circumstances and detailed travel records should be kept to support your residence position.

The SRT comprises three parts: an automatic non-resident test, an automatic resident test and a sufficient ties test. The tests should be considered in that order but as soon as the conditions of one test are met, the other tests can be ignored.

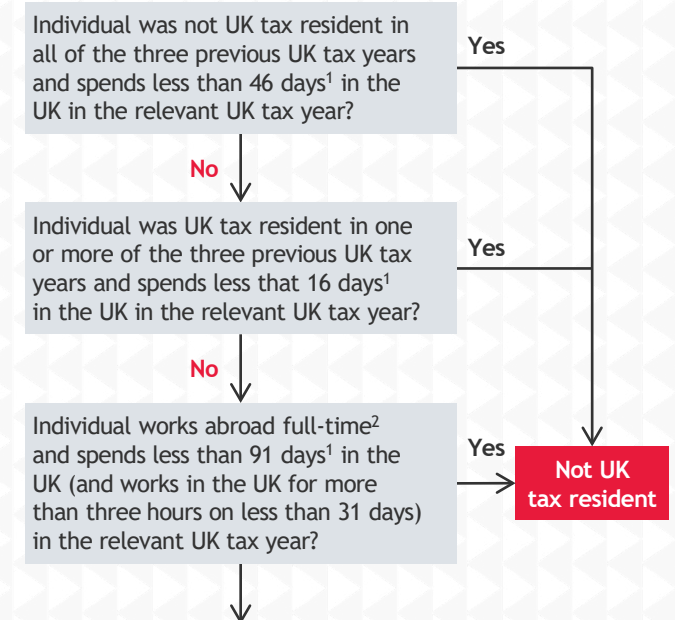
Further complexities

Residence status is determined for a complete UK tax year. However, if your circumstances fit one of the cases for 'split year' treatment to apply, then the tax year of your arrival in or departure from the UK can be split into a resident period and a non-resident period accordingly.

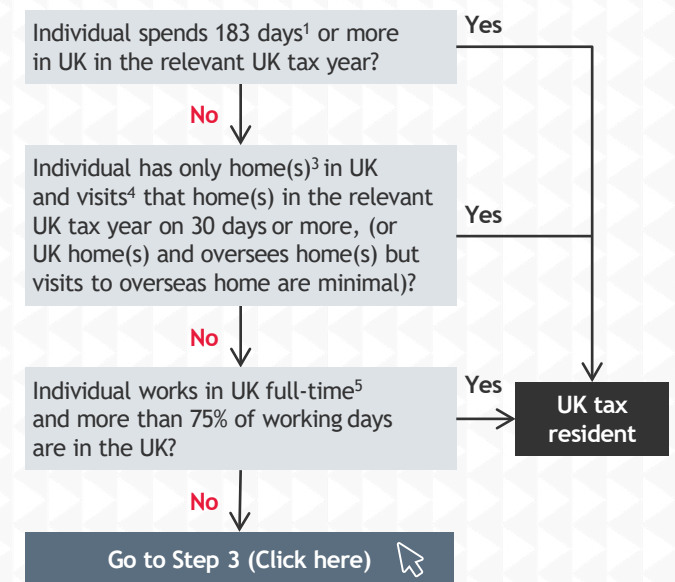
Anti-avoidance provisions also apply to prevent individuals leaving the UK for a short period to realise substantial amounts of income or capital gains. You must be non-resident for a specified period otherwise you will be taxed on certain types of income and capital gains in the year you return to the UK and at the tax rates that apply in the future year.

The flow chart below can assist you in understanding how the number of days you spend in the UK in a tax year, as well as your connections to the UK can impact your residence position for UK tax purposes. However, these rules are complex and wide reaching and the flow chart within this document does not include all the detail and may not give you a definitive answer to your residence position. Personal tax advice based on your specific circumstances is essential.

Step 1 - Automatic Overseas Test



Step 2 - Automatic UK Test





UK statutory residence test

Key definitions

- Presence in the UK at midnight is counted as a UK 'day':** (Apart from the working days tests). Days where you are in the UK whilst purely in transit (e.g. changing planes means you are in a UK airport at midnight), do not count. But if you are involved in an activity outside of travel, e.g. a meeting between flights, the day or day(s) will be counted.
- Full time work abroad:** You average 35 hours a week or more over the relevant tax year with no significant break from overseas work and you spend fewer than 91 days in the UK in the year and the number of days on which you work more than three hours in the UK is less than 31. A significant break is a period of 31 days or more where you work less than three hours a day overseas. (**Note** - there is a specific staged test which must be used to calculate the average hours an individual works outside the UK per week. The test is complex and requires detailed consideration. An individual wishing to rely on the 'full time work abroad' test must ensure they confirm their position by completing the five-step test and be able to evidence work undertaken outside the UK.)
- Home:** HMRC describes a home as 'a building (or part of a building), a vehicle, vessel or structure of any kind which is used as a home by an individual.' An individual does not need to own the 'home'. A 'home' does not include somewhere only used periodically (e.g. a holiday home or temporary retreat). A property being advertised for sale or let, where the individual lives somewhere else and has no access to the property, does not constitute a 'home'.
- Visits:** Individuals 'use' a home they own on a day if they spend any time there (however short). Presence at midnight is not required.
- Full time work in the UK:** (1) You average 35 hours a week or more over any 365 day period with no significant break from UK work, and (2) At least one day of that period is in the relevant UK tax year and on which you do more than three hours work in the UK and (3) More than 75% of the total number of days in the 365-day period on which you do more than three hours of work are days on which you do more than three hours of work in the UK. A significant break (not including annual, sick or parental leave) is a period of 31 days or more where you work less than three hours a day in the UK. (See note in two above, which applies here.)
- Accommodation/a 'place to live':** Includes a holiday home or even a hotel (long term booking) and may include the home of a close relative (if individual stays at a close relative's home for 16 nights or more in tax year). **Note** - this is different from the definition of a 'home'.
- Part days rule for 'leavers' with three or four UK ties only:** Include the number of days in the UK tax year for which the individual was present in the UK for some part of the day but left the UK before midnight - but deduct the first 30 such days.

Step 3 - Individual's UK ties and number of days in UK

Was the individual resident in UK in any of three previous UK tax years?

No ↓ **Arriver** | Yes ↓ **Leaver**

More 'midnights' in UK than in any other country?

Spouse/civil partner/cohabitee or minor child resident in UK?

Accommodation⁶ available in UK for 91 days or more in UK tax year and spent at least one night¹ there?

Work (more than three hours) in UK on 40 or more days in UK tax year?

More than 90 days¹ in UK in either of previous two UK tax years (ignoring all departure days)?

Total ties Total ties

Arrivers	Days in UK in tax year	Leavers
Not resident	0-15	Not resident
Not resident	16-45	Resident only if four or more ties*
Resident only if four ties	46-90	Resident only if three or more ties*
Resident only if three or more ties	91-120	Resident only if two or more ties
Resident only if two or more ties	121-182	Resident only if one or more ties
Resident	183 or more	Resident

*Leavers with three or four ties - Include number of part days present in the UK (i.e. left the UK before midnight) but ignoring first 30⁷ such days.

Note - Different rules apply under the SRT in the year an individual dies.

FOR MORE INFORMATION:

Richard Montague
Partner | Private Client Services

richard.montague@bdo.co.uk

Lee Bijoux
Partner | Private Client Services

lee.bijoux@bdo.co.uk

This publication has been carefully prepared, but it has been written in general terms and should be seen as containing broad statements only. This publication should not be used or relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained in this publication without obtaining specific professional advice. Please contact BDO LLP to discuss these matters in the context of your particular circumstances. BDO LLP, its partners, employees and agents do not accept or assume any responsibility or duty of care in respect of any use of or reliance on this publication, and will deny any liability for any loss arising from any action taken or not taken or decision made by anyone in reliance on this publication or any part of it. Any use of this publication or reliance on it for any purpose or in any context is therefore at your own risk, without any right of recourse against BDO LLP or any of its partners, employees or agents.

BDO LLP, a UK limited liability partnership registered in England and Wales under number OC305127, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. A list of members' names is open to inspection at our registered office, 55 Baker Street, London W1U 7EU. BDO LLP is authorised and regulated by the Financial Conduct Authority to conduct investment business.

BDO is the brand name of the BDO network and for each of the BDO member firms.

BDO Northern Ireland, a partnership formed in and under the laws of Northern Ireland, is licensed to operate within the international BDO network of independent member firms.

Copyright © September 2024 BDO LLP. All rights reserved. Published in the UK.

www.bdo.co.uk