

Global Insight

UK Statutory Residence Test (“SRT”)

The UK introduced a SRT, effective from 6 April 2013, which may have an impact on how you are taxed in the UK.

SRT

In determining tax residence, individuals will take into account certain specified connection factors with the UK (and abroad), and the number of days they spend in the UK. The SRT looks at the individual’s position in the tax year in question, however in some circumstances it looks back to the previous three tax years.

The test falls into three parts. The first two parts look at whether an individual can be conclusively non-resident or conclusively resident. In the absence of meeting these tests, the third part measures the connection factors to the UK and days spent in the UK to determine residence status.

Part A – conclusive non-residence (“the automatic overseas test”)

An individual is not UK resident in a UK tax year if they:

- were non-resident in all of the previous three tax years and they are present in the UK in the current tax year for less than 46 days; or
- were UK resident in one or more of the previous three tax years and they are present in the UK in the current tax year for fewer than 16 days; or
- leave the UK to carry out full-time work abroad, provided they are present in the UK for less than 91 days in the tax year and no more than 30 days are spent working in the UK in the tax year.

An average of 35 hours or more of work per week must be performed to be regarded as working full-time. The average is calculated over the period of full-time work.

A ‘working day’ is defined as any day in which three hours or more work is carried out. ‘Work’ is regarded as performing the duties of your office or employment, or, in the case of self-employed persons, doing something in the course of your

trade. Work-related training will be regarded as work, as will work related-travel.

If an individual does not satisfy the automatic overseas test, they need to consider the automatic residence test.

Part B – conclusive residence (“the automatic residence test”)

An individual will be treated as conclusively resident in a tax year if they:

- are present for 183 days or more in a tax year; or
- have a ‘home’ that is in the UK; or
- carry out full-time work in the UK.

Individuals would be treated as working full-time in the UK if they work in the UK for a period of 365 days with no more than 25% of duties carried out outside the UK during that time.

A home is defined as “a building or part of a building, vehicle, vessel or structure of any kind”. For that building, etc. to be a ‘home’, it must be the individual’s home for more than 90 days, with the individual present in it for at least 30 separate days in the tax year. The individual must not have an equivalent overseas home.

It might be possible for an individual to meet one condition in part A and one condition in part B, for example if their only home is in the UK but they spend very few days in the UK. In this case, part A takes precedence and the individual will be not resident in that tax year.

If an individual does not meet any of the conditions in part B, they are not necessarily non-UK resident and will need to consider the final part of the SRT.

Part C – other connection factors and day counting (“the sufficient ties test”)

Part C only applies to those individuals whose residence status is not determined conclusively by parts A or B, and their circumstances are therefore less straightforward.

Part C reflects the principle that the more time an individual spends in the UK, the fewer connections they can have with the UK if they are to be non-UK resident. There are different rules for those coming to the UK and leaving the UK.

‘Arrivers’ are individuals who were not resident in all of the previous three tax years and ‘leavers’ are individuals who were resident in one or more of the previous three tax years.

The relevant factors are as follows:

- Family – this condition is met if the individual’s spouse or civil partner, or minor children are resident in the UK.
Children who are in education in the UK will not be included for these purposes provided they do not spend more than 20 days in the UK outside term time.

In addition, this connection will not be met if the individual has UK resident minor children and spends less than 60 days in the UK with them during the tax year.

- Accommodation (different definition to ‘home’) – this condition is met if the individual has a place to live in the UK, it is available to them for a continuous period of at least 91 days and the individual spends at least one night in the accommodation during the tax year.
Accommodation owned by relatives will be included if it is used by the individual for more than 15 nights during the year.
- Substantive work in the UK – this condition is met if the individual does substantive work in the UK (more than 40 days in the tax year).
- UK presence in the previous tax year – this condition is met if the individual spent 90 days or more in the UK in either of the previous two tax years.
- More time in the UK than in other countries – this condition is met if the individual spends more days in the UK in the tax year than in any other single country (but this connection is not applicable to ‘arrivers’).

The trade-off between connection factors and days of presence (for ‘arrivers’ and ‘leavers’) is as follows:

Days in the UK	Number of connection factors which make individuals coming to the UK resident (‘arrivers’)	Minimum number of connection factors make individuals leaving the UK resident (‘leavers’)
< 16 days	Always non-resident	Always non-resident
16 – 45 days	Always non-resident	4
46 – 90 days	4	3
91 – 120 days	3	2
121 – 182 days	2	1
> 182 days	Always resident	Always resident

For the purposes of applying the SRT, days in the UK are days in which the individual was in the UK at midnight.

There is a provision to disregard days in the UK for ‘exceptional circumstances’ i.e. for reasons beyond the individual’s control. This includes national or local emergencies, or sudden or life-threatening illness. The number of days that can be disregarded due to exceptional circumstances is restricted to 60 days in any tax year.

We provide our clients with:

- advice to help them understand how the rules will apply to their specific circumstances; and
- help with planning and ways to reduce UK tax and maximise the benefits from the available reliefs e.g. Overseas Workday Relief.

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