

UK statutory residence test

Flowchart

An individual's residence status for UK tax is determined using the statutory residence test (SRT).

The SRT flowchart overleaf is designed to assist individuals in determining their residence status. The legislation and guidance is lengthy and the flowchart and notes can only give a brief summary of the key points. In particular, the flowchart gives only an indication of residence and should not under any circumstances be relied upon to determine UK residence status.

In certain circumstances, the tax year can be split, with the individual being UK resident for part of the year and non-UK resident for the remainder. Detailed advice on split year treatment is essential, if relevant.

Determination of residence status is complex and monitoring of any change in circumstances is required on an ongoing basis. The definitions of these circumstances are listed on the right. Relevant changes in your circumstance that need to be considered as part of the SRT decision making (such as acquiring accommodation) should immediately be notified to your usual contact at Evelyn Partners if you would like us to monitor your residence status.

The SRT has only applied from the 2013/14 tax year onwards. Prior to this, UK tax residence status was determined on the basis of case law. HMRC provided guidance on an individual's tax residence position, but there were no statutory rules. Please consult your usual contact at Evelyn Partners if you require guidance on your pre-2013/14 tax residence position.

Exceptional circumstances and Covid-19

In limited exceptional circumstances, specific days spent in the UK can be ignored when counting days for various of the tests set out in the flowchart overleaf. The exceptional circumstances concession will only apply where the person's inability to leave the UK is out of their control and applies for a maximum of 60 days in any one tax year. HMRC has confirmed that specific circumstances relating to the Covid-19 pandemic, such as official Government advice not to travel from the UK, will be considered exceptional. However, HMRC will consider the facts and circumstances of each case individually, so advice should be sought before placing any reliance on the concession.

For the SRT flowchart, see overleaf.

Key definitions

Tax Year: 6 April in one year to 5 April in the following year.

Days in UK: A UK day is one where the individual is in the UK at midnight. Days in the UK can be ignored in very limited exceptional circumstances, as can transit days. 'Deemed' UK days can be added for leavers with three ties or more.

Full time work: 35 hours per week on average with no significant breaks. Working hours are calculated after adjusting for 'disregarded days', gaps between employment, etc.

A working day: More than three hours in the UK or abroad.

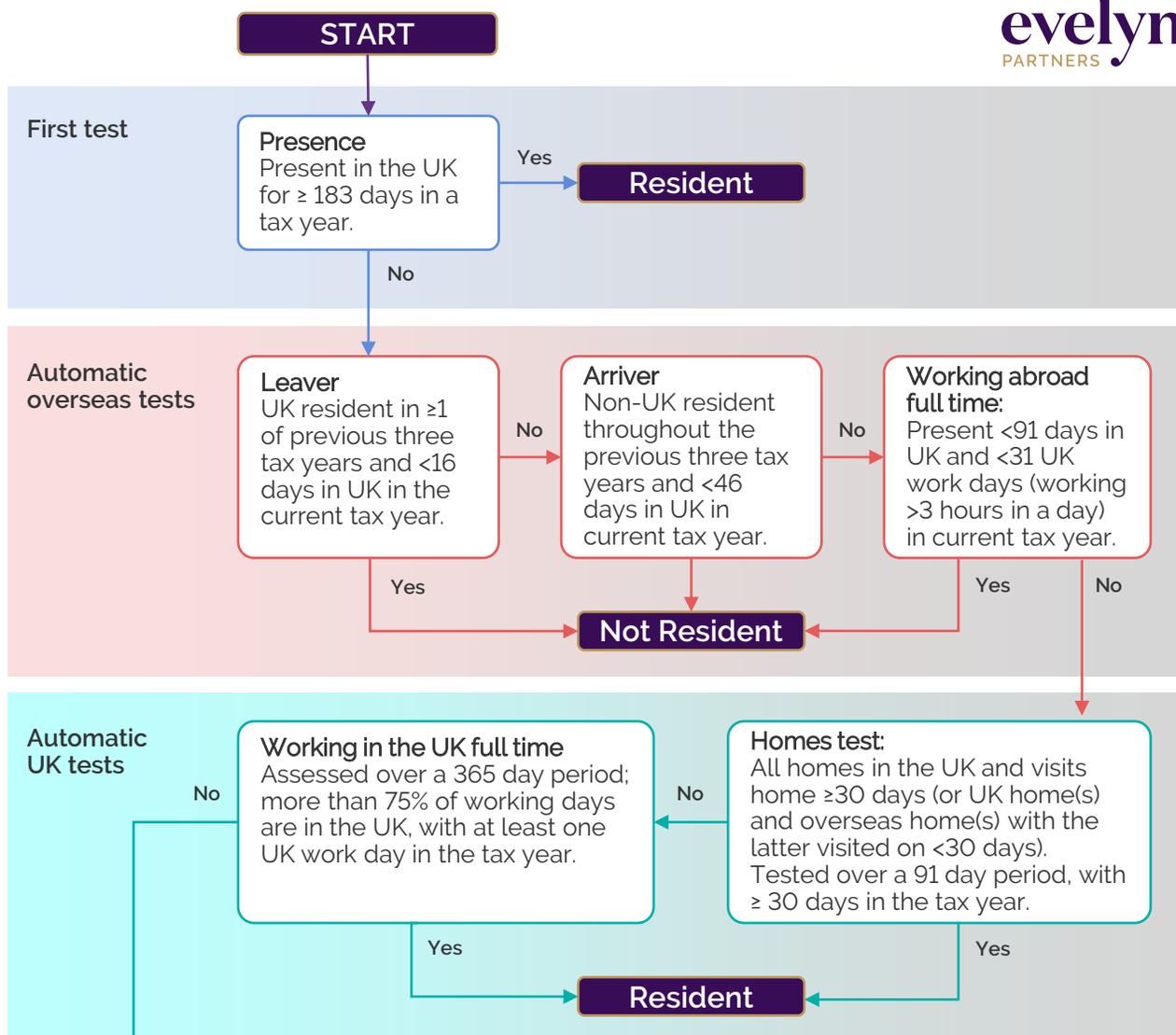
Significant break from work: At least 31 days during which none of the days is: a day on which an individual works more than three hours; or a day when they would have worked more than three hours if they had not been on annual, sick or parenting leave.

Accommodation: A place to live. Can include a holiday home, houseboat or hotel room (stay of at least one night) or a close relative's home (stays total at least 16 nights in tax year).

Home: A place that is reasonably regarded as a person's home. Does not include a place used periodically, eg holiday home or temporary retreat. A property being let commercially will not be a home unless it is available to use under the leasing arrangement.

Visits: If any time is spent in a home, however short, this counts as a visit.

Minor child and ties: Child under 18 will be a tie in the UK unless they are in the UK solely for the purposes of their education, in full time education and spend fewer than 21 days in the UK outside term time (half terms count as term time).



	Days in UK in current tax year	Resident (R) / Not Resident (NR)
Arriver (not UK resident for any of the three prior tax years)	0 – 45	Not resident
	46 – 90	<4 ties NR, 4 ties R
	91 – 120	<3 ties NR, 3 ties R
	121 – 182	<2 ties NR, 2 ties R
	≥ 183	Resident
Leaver (UK resident in at least one of the three prior tax years)	0 – 15	Not resident
	16 – 45	<4 ties NR, 4 ties R
	46 – 90	<3 ties NR, 3 ties R
	91 – 120	<2 ties NR, 2 ties R
	121 – 182	<1 tie NR, 1 tie R
≥ 183	Resident	

Non conclusive;
Ties Test applies.
Need to count number of UK ties and number of days in UK during tax year for arriver or leaver.

***Ties:**

- UK resident family (spouse, civil partner, cohabitee or minor child).
- Accommodation available in UK for 91 days or more in tax year and spend at least one night there.
- Work (more than three hours) in UK on at least 40 days in tax year.
- More than 90 days in UK in either of previous two tax years.
- More 'midnights' in the UK than in any other country (leaver only).