

Statutory residence rules

Statutory residence rules took effect from 6 April 2013 and changed the way in which individuals' UK residence status and, consequently, their income tax and capital gains tax status is determined.

Automatic non-residence

If you have been non-UK resident for the previous three tax years you will be automatically deemed non-UK resident for any year in which you were present in the UK for fewer than 46 days.

If you have been UK resident in any of the previous three tax years, you will instead be automatically deemed non-UK resident for any year if you were present in the UK for fewer than 16 days.

You will also be automatically deemed non-UK resident if you work overseas full time and work in the UK for no more than 30 days (a work day is any day where an individual does more than three hours of work) and spend no more than 90 days in the UK.

Automatic residence

You will automatically be deemed UK resident if you spend at least 183 days in the UK, if you have your only home in the UK for more than 90 days (but only if the home is actually occupied for at least 30 days), or if you are in full-time work in the UK for a continuous 12-month period.

The Sufficient Ties Test

If neither of the automatic tests applies, you need to consider the "sufficient ties test". This looks at the number of ties an individual has with the UK. These ties are combined with day counting into a sliding scale to determine whether an individual is resident or not. The more ties you have with the UK the less time you can spend here without becoming UK resident.

The ties are:

- **Family Tie:** your spouse, civil partner or minor children live in the UK. Time spent in the UK by minor children to attend school will be ignored.
- **Accommodation Tie:** you have accessible accommodation in the UK. An individual has accessible accommodation if they have a place to live in the UK which is available for them to use for a continuous period of at least 91 days in a tax year and they spend at least one night there.
- **Work Tie:** you spend at least 40 days working in the UK, where a working day is defined as three hours.
- **90 Day Tie:** you spent 90 days or more in the UK in either of the two previous tax years.

- **Country Tie:** you spend more days in the UK in the tax year than in any other single country. This criterion only applies to ‘leavers’ (see below).

The rules are slightly different for ‘arrivers’ (those who were not resident in the last three years) and ‘leavers’ (those who were resident in one or more of the last three years). Broadly speaking, it is harder to become non-resident when leaving the UK after a period of residence than it is to become resident when arriving in the UK.

Arrivers

Days spent in the UK	Impact of connection factors on residence
Fewer than 46 days	Always non-resident
46-90 days	Resident if individual has 4 ties or more
91-120 days	Resident if individual has 3 ties or more
121-182 days	Resident if individual has 2 ties or more
183 days or more	Always resident

Leavers

Days spent in the UK	Impact of connection factors on residence
Fewer than 16 days	Always non-resident
16-45 days	Resident if individual has 4 ties or more
46-90 days	Resident if individual has 3 ties or more
91-120 days	Resident if individual has 2 ties or more
121-182 days	Resident if individual has 1 tie or more
183 days or more	Always resident

We hope that this is of help to you in planning any visits to the UK

IMPORTANT NOTE: The comments above describe the position under current legislation, and of course, are subject to change if legislation changes.

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