

Briefing document

Statutory residence test

Introduction

A statutory residence test applies to determine the tax residence status of individuals. The purpose of the statutory test is to set out objective criteria and to provide certainty as to whether or not an individual is UK resident for tax purposes. The rules are detailed and complex and professional advice should be taken. An overview of the rules is set out below.

Basic framework

The test has three main constituent parts. The first two parts look at more straightforward circumstances where an individual will be treated as 'automatically overseas' (i.e. non-UK resident) or 'automatically UK' (i.e. UK resident). The third test applies where neither of the first two tests are met and a wider range of factors must be considered to determine whether or not an individual is UK resident.

1. The 'automatic overseas' test

The first test is the 'automatic overseas test', which allows an individual to spend up to 15 days in the UK in a tax year without being treated as UK resident (or up to 45 days if the individual was non-UK resident throughout the previous three tax years). Those working abroad full-time will also be automatically non-UK resident provided fewer than 91 days are spent in the UK (including fewer than 31 UK workdays).

2. The 'automatic UK' test

If the individual is not automatically non-UK resident, the automatic UK test must be considered. Broadly, an individual will be treated as automatically UK resident in a tax year if he or she is present in the UK for 183 days or more, has his or her only home in the UK for at least 91 consecutive days or works full-time in the UK.

3. The 'sufficient ties' test

If neither of the above tests is satisfied, the third test is considered. This is the 'sufficient ties test' whereby the individual's ties to the UK are considered in conjunction with his or her UK visits. The ties include family ties, available accommodation, substantive UK work, spending more than 90 days in the UK in either of the previous two tax years and, in the case of individuals leaving the UK, time spent in the UK exceeding time spent in another country. The more ties an individual has, the fewer days of UK presence are allowed before being treated as UK resident.

The sufficient ties test enables 'arrivers' to spend more time in the UK before being regarded as UK resident, compared with those leaving the UK. Arrivers are individuals who have not been UK resident in any of the previous three tax years.

The trade-off between UK ties and days of presence (for arrivers and leavers) is summarised as follows:

Days in UK	Minimum number of UK ties which make arrivers UK resident (i.e. individuals who were not UK resident in the previous three tax years)	Minimum number of UK ties which make leavers UK resident
< 16 days	Always non-UK resident	Always non-UK resident
16 - 45 days	Always non-UK resident	4
46 - 90 days	4	3
91 - 120 days	3	2
121 - 182 days	2	1
> 182 days	Always UK resident	Always UK resident

Split year treatment

Tax residence is considered for the tax year as a whole, although there is provision for a split year treatment in some circumstances, whereby the tax year is split between UK and overseas parts. This will apply to many arrivals or leavers though the rules around this are rather complex.

There are also special rules that apply on death.

Complexity

Although the basic framework of the test is straightforward, there is a lot of complexity in the rules. There are a very large number of thresholds to consider and they do not always apply consistently across different parts of the test. Additionally, some terms are quite subjective, such as the definition of a 'home'. The definition excludes holiday homes, but it will not always be obvious where to draw the line between a second home and a holiday home.

Find out more...

This note reflects the law in force as at 18 February 2019. Please be aware that it does not cover all aspects of this subject. To find out more about any aspect of the above, please discuss with your usual Deloitte contact. If you do not have a usual contact, please contact Patricia Mock (pmock@deloitte.co.uk).

For further information visit our website at www.deloitte.co.uk.

This publication has been written in general terms and therefore cannot be relied on to cover specific situations; application of the principles set out will depend upon the particular circumstances involved and we recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Deloitte LLP would be pleased to advise readers on how to apply the principles set out in this publication to their specific circumstances. Deloitte LLP accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 1 New Street Square, London, EC4A 3HQ, United Kingdom.

Deloitte LLP is the United Kingdom affiliate of Deloitte NWE LLP, a member firm of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"). DTTL and each of its member firms are legally separate and independent entities. DTTL and Deloitte NWE LLP do not provide services to clients. Please see www.deloitte.com/about to learn more about our global network of member firms.