

Introductory Guide to UK Tax Residence and Domicile

UK Tax Residence Status

With effect from 6 April 2013, your UK tax residence status is determined using a new statutory test, which is outlined below.

Your UK tax residence status for tax years prior to 6 April 2013 is governed by various common law cases and an assortment of HM Revenue & Customs (HMRC) guides, practices, customs and extra-statutory concessions. This can be a complex and confusing area, and if you need any assistance in this matter we would be happy to speak with you.

The new statutory residence test has three parts:

Part A – factors that will determine when someone is automatically not resident for UK tax purposes.

Part B – factors that will determine when someone is automatically resident for UK tax purposes.

Part C – will apply only to those with more complex affairs who cannot automatically determine their status under Part A and Part B, using various connections with the UK to measure the position. These connections, known as “UK ties”, are then referenced against the amount of time spent in the UK to determine whether UK tax residence exists.

Part A – automatic non-residence

Part A of the test will determine that an individual is automatically not resident in the UK for a tax year if they fall under any of the following conditions, namely they:

- Were not resident in the UK in all of the previous three tax years and they are **PRESENT IN THE UK FOR FEWER THAN 46 DAYS** in the current tax year; or
- Were resident in the UK in one or more of the previous three tax years and they are **PRESENT IN THE UK FOR FEWER THAN 16 DAYS** in the current tax year; or

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- Carry out **FULL-TIME WORK ABROAD**, provided they are present in the UK for fewer than 91 days in the tax year and no more than 30 days are spent working in the UK in the tax year. (In broad terms, they must work full-time abroad for more than one complete UK tax year and a “work day” is a day spent in the UK where more than 3 hours of work are carried out.)

An individual who does not fall within Part A would not necessarily be UK tax resident. They would instead need to consider Part B or Part C of the test.

Part B – automatic residence

If Part A of the test does not apply, an individual will be automatically resident for the tax year under Part B if they meet any of the following conditions, namely they:

- Are **PRESENT IN THE UK FOR 183 DAYS OR MORE** in a tax year; or
- Have **ONLY ONE HOME AND THAT HOME IS IN THE UK** (or have two or more homes and all of these are in the UK or have UK and overseas homes and spend no more than a certain amount of time in the overseas homes); or
- Carry out **FULL-TIME WORK IN THE UK**.

An individual who does not meet any of the conditions in Part B will not necessarily be non-resident; instead they will need to consider Part C of the test.

In cases where an individual satisfies a condition in both Part A and Part B, the individual will be non-resident.

Part C – other connections/day counting – the “sufficient ties” test

As summarised above, Part C will apply only to those individuals whose residence status is not determined by Part A or Part B and, therefore, whose circumstances are less straightforward.

The UK ties referred to in Part C of the test are:

- **FAMILY** – the individual's spouse or civil partner or common law equivalent (provided the individual is not separated from them) or minor children are resident in the UK.
- **ACCOMMODATION** – the individual has available accommodation in the UK and makes use of it during the tax year;

- **SUBSTANTIVE WORK IN THE UK** – the individual has substantive employment or self-employment in the UK (defined as 40 work days of more than 3 hours in the tax year).
- **UK PRESENCE IN PREVIOUS YEARS** – the individual spent more than 90 days in the UK in either of the previous two tax years.
- **MORE TIME IN THE UK THAN IN OTHER COUNTRIES** – the individual spends more days in the UK in the tax year than in any other single country. (This tie only needs to be taken into account for “Leavers” – see below.)

These ties are referenced to the number of days spent in the UK to form a "scale" which then determines under the sufficient ties test whether the individual is UK tax resident or not. There are separate scales for “Arrivers” (individuals who have been non-resident throughout the previous three tax years) and “Leavers” (individuals who were resident at some point in the previous three tax years).

Years of arrival/departure

Under certain circumstances you can “split” a UK tax year and have a period of residence and a period of non-residence within the year. The rules are complex and differ depending on whether you are arriving or leaving. We would suggest taking advice well in advance of your UK arrival/departure to ensure you plan your tax residence status in the most tax efficient manner.

Domicile

Your domicile status has an impact on your UK tax status as it could enable you to file your UK tax returns on the “remittance basis” if you are UK tax resident. This could be to your advantage – see further details below.

Your place of domicile is in broad terms your “homeland” i.e. where you have your long-term permanent home. It is the country (or federal state) with which you have the closest personal, family, social and economic ties, and the country in which you have realistic plans to settle permanently in the future, e.g. on retirement.

Your domicile of origin will have been acquired at birth and will normally be your father's domicile at that time. It is difficult to change a domicile of origin but this is possible if you acquired a new domicile of dependency as a child or a domicile of choice in later life.



For tax years up to 5 April 2017 there were additional tests whereby you could be “deemed” to be domiciled in the UK that applied only for UK Inheritance Tax (IHT) purposes, even if under the above criteria you were considered to be domiciled outside the UK. However, new rules apply from 6 April 2017 where anyone who has been UK tax resident for at least 15 of the previous 20 tax years is “deemed domiciled” in the UK and treated as if they are UK domiciled for all taxes, and not just for IHT. Therefore, the remittance basis ceases to apply from 6 April 2017 for those who are deemed domiciled in the UK.

The 6 April 2017 rule changes also treat anyone born in the UK with a UK domicile of origin as deemed domiciled in the UK while they are UK tax resident (regardless of whether their UK domicile of origin may have been lost/replaced at some earlier point).

Taxation of Employment Income

Whether the earnings of your employment are taxable in the UK will depend on your residence position and domicile status. There are three possibilities:

1. **Resident and domiciled in the UK** – All of your earnings are taxable in the UK. This is regardless of whether the employment duties are performed in the UK or abroad.
2. **Resident but not domiciled in the UK** – If you claim the remittance basis on becoming a UK resident, for the first three tax years of your stay in the UK, the earnings received for duties performed outside the UK are taxed only to the extent that they are paid in or remitted to the UK. Individuals need to ensure they set up a compliant bank account outside the UK to receive their earnings in order to avoid the complex “mixed fund” remittance rules. Special/ transitional rules apply if you became tax-resident in the UK before 6 April 2013, which we can advise on if required.

Furthermore, if you hold an entirely separate non-UK employment which meets specific conditions, and you claim the remittance basis, the earnings from the non-UK employment will only be taxed to the extent that they are paid in or remitted to the UK, although new rule proposals from 6 April 2014 are aimed at restricting the circumstances under which claims can be made.

3. **Non resident in the UK** – You are taxed only on earnings relating to UK duties.

International Tax Treaties may also have an impact on your affairs.

If you are seconded to the UK for not longer than two years, deductions may be available for certain travel and subsistence costs relating to your assignment, e.g. accommodation, utilities, groceries, etc.

Taxation of Personal Income

UK sourced investment income, which includes company dividends and interest, is generally taxable in the UK if you move here, regardless of your residence position. If you are non UK-domiciled, and you claim the remittance basis, you are taxed on foreign investment income etc. only to the extent that it is remitted to the UK although please note that if you claim the remittance basis this will lead to the possible loss of certain UK tax allowances/reliefs unless the unremitted foreign income/gain totals less than £2,000 per year.

Taxation of Capital Gains

If you are tax resident and domiciled in the UK, you will be taxed on gains arising from the disposal of your worldwide assets. If you are non-domiciled and claim the remittance basis, you will be taxed on any UK gains plus any foreign gains remitted to the UK. If you are non-resident of the UK, you will only be taxable on the gains you make on the disposal of UK residential properties and there are special rules and reporting requirements relating to these gains.

Temporary non-residence

If you are tax resident in the UK and leave/become non-resident for a period covering fewer than five years before returning and becoming UK tax resident again, there are some complex anti-avoidance “temporary non-residence” rules you need to be aware of. Under these rules, capital gains made and certain types of income received (including dividends and loan write-offs from companies you control) whilst you are non-resident may be liable to UK tax in the year you return to the UK. The temporary non-residence rules can also apply to certain remittances of foreign income to the UK during the period of non-residence. Special/transitional rules apply if you departed the UK and became non-resident for tax purposes before 6 April 2013, which we can advise on if required.

Tax Return Compliance

You will need to file a UK tax return to claim relief for non UK workdays, any qualifying deductions, foreign tax credits or if you would like to claim the remittance basis. If HMRC issues you with a notice to file a tax return, you are required to submit a tax return for the year in question.

Key Data

UK Tax Authority	HM Revenue and Customs (HMRC)
Website	www.hmrc.gov.uk
UK Tax Year	6 April to 5 April
UK Tax Return due date	31 October (paper filing) 31 January (electronic Filing)
Is joint filing possible?	No
Are filing extensions possible?	No

2018-2019 UK Income Tax Rates

UK Taxable Income Band and National Income Tax Rates

£1 – £34,500	20%
£34,501 - 150,000	40%
£150,001 +	45%

If you are non-domiciled you can file your UK tax return on the arising basis (reporting world-wide income/gains) or the remittance basis (reporting non-UK income/gains only if remitted to the UK). If you have been tax resident in the UK for 7 of the 9 previous tax years you will need to pay a Remittance Basis Charge (RBC) of £30,000 if you want to file your tax return on the remittance basis (unless your unremitted foreign income/gain totals less than £2,000 per year). If you have been tax resident for 12 of the 14 previous tax years the RBC increases to £60,000. Under new rules that apply from 6 April 2017 onwards, anyone who has been UK tax resident for at least 15 of the previous 20 tax years is “deemed domiciled” in the UK and pays UK tax on their worldwide income, with no option to file tax returns on the remittance basis nor to pay the RBC. Prior to 6 April 2017, there was an RBC of £90,000 that applied if you had been tax resident for 17 of the 20 previous tax years, but with the introduction of the new deemed domicile rules this no longer applies.

A tax free Personal Allowance of £11,850 may be available but this is reduced/phased out if annual taxable income exceeds £100,000, or if the remittance basis is claimed (unless the unremitted foreign income/gain totals less than £2,000 per year).

Company dividends of up to £2,000 are received tax-free but otherwise the tax rates for dividends are 7.5%, 32.5% and 38.1%, depending on level of income.

The tax rates for capital gains are generally 10% or 20% depending on level of income, but the rates for gains on residential property and carried interest are 18% or 28%.

There is a capital gains tax Annual Exemption (AE) of currently £11,700. This AE is not available if the remittance basis is claimed (unless the unremitted foreign income/gain totals less than £2,000 per year).

UK National Insurance Contributions (social security) may also be payable depending on your circumstances.

This document is intended as a brief guide only and should not be relied upon to determine UK tax residence and/or domicile status. This document is no substitute for a full and proper review by a qualified professional adviser based on a full knowledge of your personal circumstances.

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