

Tax consulting

Statutory Residence Test

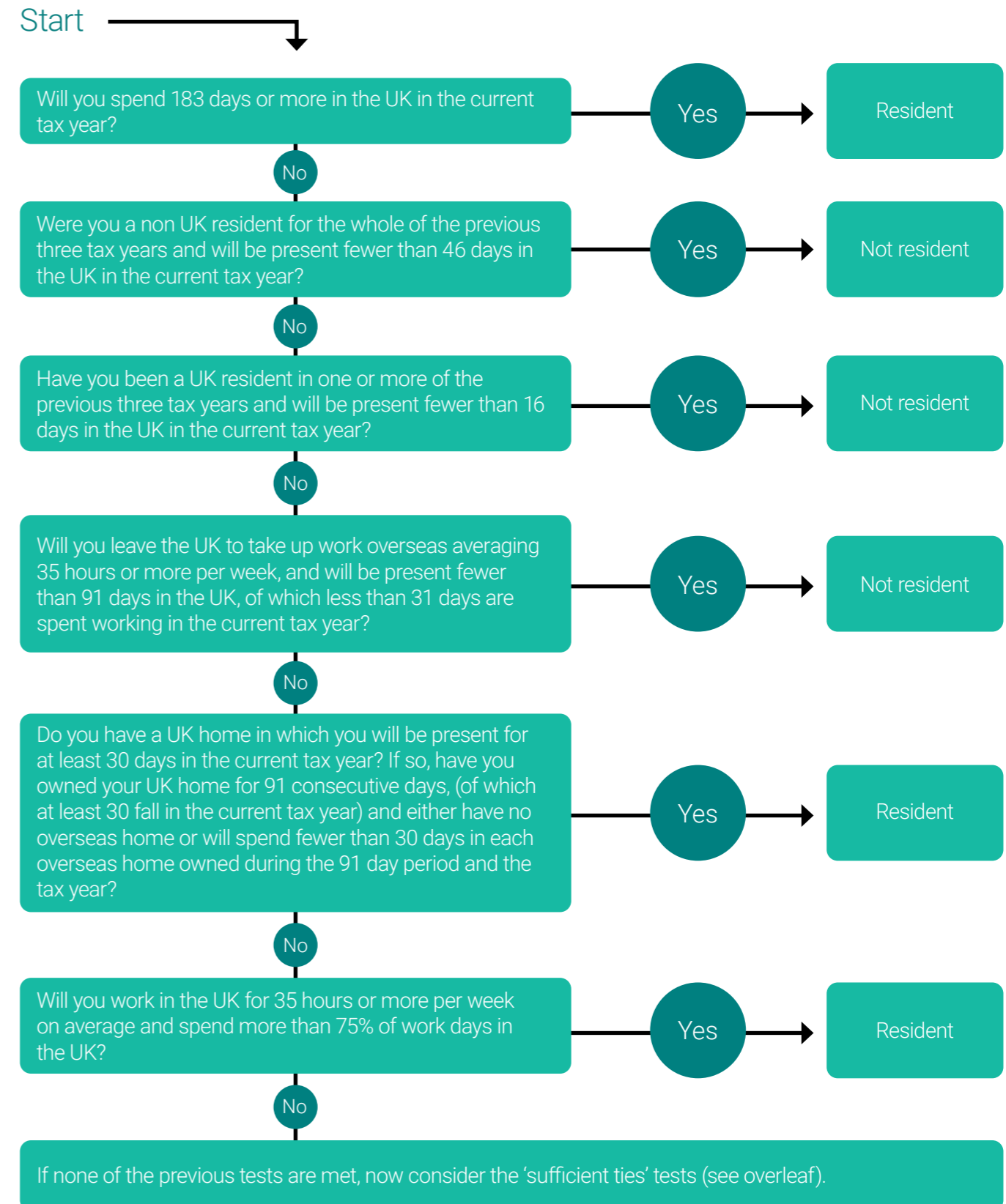


Statutory Residence Test applies to individuals alive throughout the tax year under consideration



Statutory Residence Test

If split year treatment is not applicable



Sufficient ties test

There are two tests – one for arrivers, and a more stringent one for leavers. Someone leaving the UK will generally be a leaver for the first three years after leaving and from the fourth year, be treated as an arriver.

Arriver (not resident in the UK throughout the previous three years)		Leaver (resident in the UK in one or more of the three previous tax years)	
Ties	Tick	Ties	Tick
Minor child/spouse/cohabitee is UK resident		Minor child/spouse/cohabitee is UK resident	
Accommodation available in the UK for at least 91 consecutive days and at least one night is spent there		Accommodation available in the UK for at least 91 consecutive days and at least one night is spent there	
Work in the UK for more than three hours on 40 days or more		Work in the UK for more than three hours on 40 days or more	
More than 90 days in UK in one or two of previous two tax years		More than 90 days in UK in one or two of previous two tax years	
		Present in the UK more than any other country	
Total ties		Total ties	

The following table demonstrates the main differences in the number of days a leaver and an arriver could spend in the UK without triggering UK residence:

Number of ties to the UK	Maximum number of days return to UK	
	Arriver	Leaver
1	182	120
2	120	90
3	90	45
4	45	15

Counting days spent

Generally, the ruling confirms that if an individual is not present in the UK at the end of the day, that day does not count as a day spent in the UK – the so-called 'midnight rule'.

However, in order to prevent manipulation of the midnight rule, there is a deeming rule which overrides the basic provision. This deeming rule only applies if:

- The individual was UK resident in at least one of the three preceding tax years (i.e. a leaver)
- Has at least three UK ties in a tax year
- Is present in the UK in that year for more than 30 'qualifying days' (i.e. days when the individual is present in the UK at some point, but not at the end of the day).

The effect is that once the threshold of 30 qualifying days is met in a tax year, each subsequent qualifying day in the year is treated as a day spent in the UK, irrespective of where the person is at midnight.

There is a concept of exceptional circumstances where an individual may stay up to 60 additional days beyond the normal day count set out in the Sufficient Ties Test (SRT). These additional days must arise due to circumstances beyond the individual's control. Whilst these circumstances are not defined, they are likely to include situations such as serious illness of the individual, their spouse or dependent children.

Split year basis

For individuals leaving the UK, it is possible to claim the split year basis, subject to meeting certain conditions. Split year basis allows an individual to be treated as a non-UK resident from the date of departure. This includes:

- Working full time overseas
- Leaving the UK with your partner who goes to work full time overseas
- Leaving the UK to live abroad and ceasing to have a home in the UK, and after that, spending fewer than 16 days in the UK.

For individuals arriving in the UK, it is also possible to claim the split year basis, subject to meeting certain conditions. This sets the date from which the individual is to be treated as UK resident in the year of arrival, where:

- You start to have a home in the UK
- You start full-time work in the UK
- You or your partner cease full-time work overseas.

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Get in touch to see how we can help

If you have any questions regarding the Statutory Residence Test or any other matters, personal or business, please contact a member of our team below.



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