Residence

What is Residence?
Your residence position is one of the factors that decides what UK tax you pay in the UK on foreign income and gains. It is important to remember that no matter what your residence status, you will normally always pay UK tax on your UK source income.

Residence
Since 6 April 2013, there has been a Statutory Residence Test (SRT) for the UK – this means that the rules for residence are set out in tax law.

You can find out more on the GOV.UK website: www.gov.uk/tax-foreign-income/residence

Prior to 6 April 2013, residence was a general term – there was no legal definition. There is a guide on the GOV.UK website: www.gov.uk/government/collections/tax-on-foreign-income-rules-up-to-5-april-2013

Some points to note:
- Whether you are resident for tax purposes may not be the same as for immigration purposes or whether you consider you are resident under the ordinary, natural meaning of the word.
- It is possible to be resident both in the UK and in another country at the same time; this is called ‘dual residence’ – see below.
- You can be a UK resident even if you are not domiciled in the UK. For more information about domicile see our ‘Domicile’ factsheet at: www.litrg.org.uk/tax-guides/migrants-and-tax-guides-and-factsheets

Are you resident in the UK?
Under the SRT, if you spend fewer than 16 days in the UK in a tax year you are definitely non-resident in the UK. If you are physically present in the UK for 183 or more days during a tax year (usually a day is classed as being in the UK at midnight) you will definitely be resident in the UK. The tax year in the UK runs from 6 April to 5 April. For example, the tax year 2018/19 runs from 6 April 2018 until 5 April 2019.

However, your residence position for tax purposes is not always simply a question of the number of days you spend in the UK during a tax year. You may have to consider other factors too. This means you may also be a UK resident even if you are in the UK for fewer than 183 days in a tax year.

For example, you may be resident if you have a home in the UK, but do not have a home overseas or if you work full time in the UK over a period of 365 days.
Are you resident (continued from Page 1)

You must follow the rules set out in the SRT. You can use the guidance, which can be found on the GOV.UK website at https://www.gov.uk/government/publications/rdr3-statutory-residence-test-srt.

The SRT looks first to see whether or not you are automatically not resident by applying the ‘automatic overseas tests’. If you do not meet this test for more than 40 days in the tax year, you look to see whether you meet any of the ‘automatic UK tests’. If you do not meet the automatic UK tests, you will have to look at the ‘sufficient ties test’ to determine your tax residence.

The sufficient ties test takes into account how many days you have spent in the UK during the tax year and how many different types of ‘ties’ or connecting factors you have to the UK. The more days you have spent in the UK, the fewer ties will be needed to make you tax resident in the UK. The different ties are:

- Having UK-resident family;
- Working in the UK for more than 40 days in the tax year;
- Having available accommodation in the UK;
- Spending more than 90 days in the UK in either of the previous two tax years;
- Spending more days in the UK than any other country.

If you spend a significant amount of time travelling in and out of the UK it is recommended that you keep a diary of where you were each day as this will help you consider your residence status.

Tax if you are UK resident (you may find it useful to read the factsheet ‘Domicile’ in conjunction with this section’)

UK resident and UK domiciled (or ‘deemed UK domiciled’) – you will be taxed in the UK on ALL of your worldwide income and gains in the tax year in which they arise (this includes employment earnings, investment income and most pensions) regardless of whether the income and gains comes from the UK or overseas; this is called the ‘arising basis’. You will normally be entitled to UK tax allowances and income tax reliefs; these include the personal allowance for income tax and the annual exemption for capital gains tax.

For more information on the personal allowance see the factsheet at: www.litrg.org.uk/tax-guides/migrants-and-tax-guides-and-factsheets.

UK resident and not domiciled in the UK – you will be taxed in the UK on your UK income and gains on the ‘arising basis’. You can choose to pay UK tax on your foreign income and gains on either the ‘arising basis’ or the ‘remittance basis’.

If you choose the ‘remittance basis’ you may lose your entitlement to the personal allowance for income tax and the annual exemption for capital gains tax. In addition, if you have been long-term UK resident (but have not yet become deemed UK domiciled), you may have to pay an annual fee to access the Remittance Basis.

However, there are some exceptions which mean that you may not need to pay UK tax on small amounts of foreign income but still retain your tax allowances and escape paying a fee. For more on the remittance basis and these exceptions see the factsheet ‘Foreign Income and Gains’ at: www.litrg.org.uk/tax-guides/migrants-and-tax-guides-and-factsheets.

If you choose the arising basis, there may be double taxation implications to consider if you have foreign income and gains that are also taxed in the overseas location. You may therefore need to consider the terms of any double taxation agreement in place between the UK and the other country to avoid any double taxation. You can see the lists of these agreements (also called ‘tax treaties’) on the GOV.UK website: www.gov.uk/government/collections/tax-treaties.

For more on double taxation see the factsheet ‘Foreign Income and Gains’.

This factsheet is intended to provide general information only and does not constitute advice. Before taking any action, you should get appropriate immigration, benefit or tax advice from a professional adviser which is based on your particular circumstances. We have done our best to ensure that the information in this factsheet is up to date as of April 2018. You can read our full disclaimer on our website: www.litrg.org.uk/legal.
Tax consequences if you are a non-UK resident

If you are not a UK resident then you will usually be taxed in the UK on your earnings from activities carried out within the UK (from employment, self-employment, pension, property and investment income). There will be no UK tax charge on employment earnings or other income from abroad.

If you are not a UK resident then you will usually not be entitled to claim tax allowances such as the personal allowance. However, you may be able to claim these allowances, if you are a current or former employee of the British Crown or you are a citizen of a European Economic Area (EEA) country. The EEA countries are listed here: www.litrg.org.uk/tax-guides/migrants-and-tax/ee-and-eea-countries.

You may be entitled to personal allowances if you are a resident of a country that has a double taxation agreement with the UK, if the terms of that agreement make provision for them. For more information about personal allowances see the factsheet ‘Personal allowances’ at: www.litrg.org.uk/tax-guides/migrants-guides-and-factsheets.

Double taxation

If you are not UK resident you will be taxable on your income arising in the UK. However this UK source income may also be taxable in the country that you remain resident in. You may therefore need to consider the terms of any double taxation agreement in place between the UK and the country you are resident in to avoid any double taxation. You can see the lists of these agreements (also called ‘tax treaties’) on GOV.UK: www.gov.uk/government/collections/tax-treaties.

HM Revenue & Customs produce Helpsheet 304, which provides more information on non-residents and relief under double taxation agreements. You can find the helpsheet on the GOV.UK website at: www.gov.uk/government/publications/non-residents-relief-under-double-taxation-agreements-hs304-self-assessment-helpsheet.
**Dual Residence**

If you are resident in the UK and also another country, both countries may want to tax you on your worldwide income. If there is a double taxation agreement between the two countries, you will have to look at the agreement to find out where you should pay tax.

HMRC produce Helpsheet 302, which provides further information on dual residence. This helpsheet can be found on the [GOV.UK website](https://www.gov.uk/government/publications/dual-residents-hs302-self-assessment-helpsheet).

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**Split year treatment**

Strictly, you are considered as a UK resident for the whole of a tax year when you are resident here for any part of it. But, if you come to or leave the UK part-way through a tax year, the year may be split so that you have a UK part where you are charged to UK tax as a UK resident, and an overseas part where you are charged to UK tax as a non-UK resident.

This is a useful rule as it helps to prevent double taxation situations, for example where you remain tax resident in the country you lived in prior to your arrival in the UK. You can find out more about split year treatment on [GOV.UK](https://www.gov.uk/tax-foreign-income/residence).

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**More information**

You can find out more detail about some of the topics in this factsheet on our website:


**Getting help with your tax**

You can find out where to get help with your tax situation in the ‘getting help’ section of our website at [www.litrg.org.uk/getting-help](https://www.litrg.org.uk/getting-help).

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*This factsheet is intended to provide general information only and does not constitute advice.* Before taking any action, you should get appropriate immigration, benefit or tax advice from a professional adviser which is based on your particular circumstances. We have done our best to ensure that the information in this factsheet is up to date as of April 2018. You can read our full disclaimer on our website: [www.litrg.org.uk/legal](https://www.litrg.org.uk/legal).