

PARTNERS WEALTH MANAGEMENT

AN INTRODUCTION TO

UK Residence (and the Statutory Residence Test)

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Every year a significant number of individuals and families relocate abroad, whether this be leaving the UK or settling in this country. Whatever clients' reasons for moving, there are numerous things to consider, particularly in relation to taxation and therefore your financial planning. This guide is one in a series providing an overview of key topics within this area, in this case particularly focusing on UK residence.

The concept of residence will inevitably be a key consideration for any individual moving to or from the UK, as it has a fundamental impact on a person's potential tax liability. Those resident in the UK are taxable (in the UK) on their worldwide income and gains, whilst those who are non-resident are only taxed on UK sourced income. Relief is available in some circumstances for non-UK domiciled individuals' resident in the UK, which is explored in our Remittance Basis guide.

With such a difference in taxation, correctly identifying an individual's residential status and then correctly reporting to HMRC can be critical. However, determination of your status is largely self-assessed, with no formal process for agreeing your status with HMRC.

Fortunately, on 6 April 2013, a Statutory Residence Test (SRT) was introduced in the UK, which helped to bring some much-needed clarity when determining an individual's residence status. It is vital that individuals seek to gain a thorough understanding of the various provisions and how they apply the test to their personal circumstances.

What is the SRT?

Prior to the introduction of the SRT, the rules relating to residency in the UK were extremely complicated and unclear, being dependent upon a mixture of case law, limited legislation and HMRC guidance. This often gave rise to misinterpretation and confusion. In order to remedy this situation, a new set of rules – collectively known as the SRT – were introduced in the Finance Act 2013, with the aim of simplifying the situation and creating a series of tests capable of producing a consistent determination of UK residence for the vast majority of taxpayers.

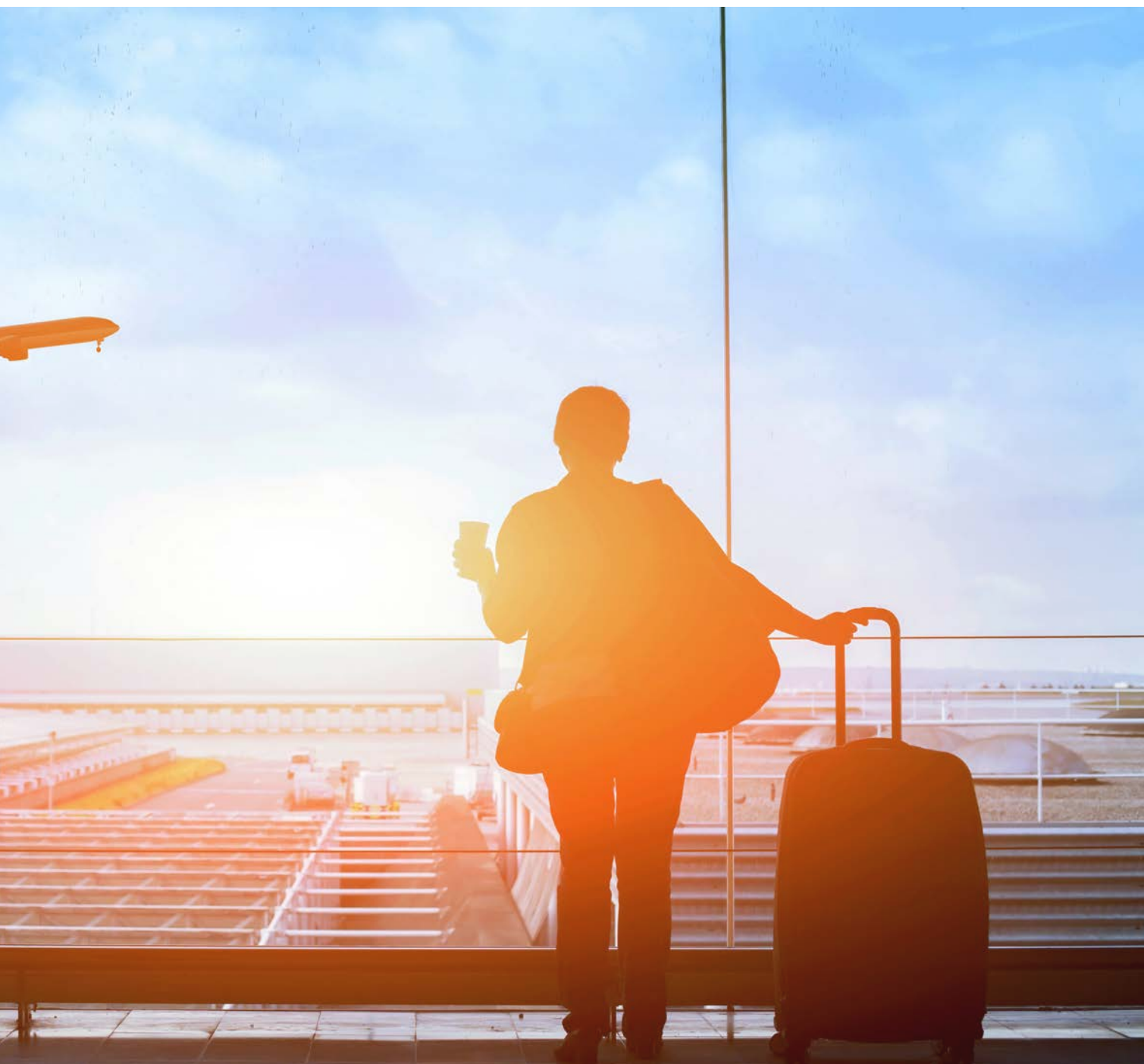


Key components of the SRT

The SRT consists of a number of stages and a variety of rules that, in combination, determine whether an individual is UK resident or non-UK resident for tax purposes in a particular fiscal year.

To determine residential status, you progress through three 'tests', moving onto the next stage only if required:

1. automatic overseas tests
2. automatic UK tests
3. sufficient ties tests



The automatic overseas tests

The first test is to determine if you are automatically an overseas resident. There are three elements to the automatic overseas tests and an individual who meets any of these will automatically be treated as a non-UK resident. The details of the test is set out in HMRC's guidance and focus on a combination of your previous residential status, number of days spent in the UK during the current tax year, and the location of your work.

If, after taking this test an individual does not meet any of the three requirements to be automatically classified as overseas resident, then the next step is to consider the automatic UK tests.

The automatic UK tests

The second test is to determine if you are automatically a UK resident. Again, an individual who meets any of the three elements tested will automatically be considered a UK resident. The simplest element is whether you have spent 183 days or more in the UK, but other aspects rely on less days present in the UK if you have a home or have worked a sufficient number of hours in the UK.

If residence cannot be determined after considering both the automatic overseas test and the automatic UK test, then the sufficient ties test is will need to be considered.

The sufficient ties test

The final test is the most complex, combining five specific ties an individual might have to the UK which, along with the number of days they spent in the UK during the tax year. The five ties of this test are: Family; Accommodation; Work; 90-day and Country.

The number of ties required to be considered resident differs dependant on the number of days spent in the UK and whether the individual is considered an 'arriver' or 'leaver'. The test is skewed so that leavers need to have less ties or less time in the UK than an arriver to be considered overseas resident.

Complex nature of the calculations

While the introduction of the new rules has clarified the provisions relating to residence status, the SRT process itself is still extremely complicated and difficult to understand. A key complexity relates to the intricate nature of the definition of terms such as 'days in the UK', 'sufficient hours', or even 'home'.

Navigating through the process can be an extremely daunting task, which requires detailed record keeping over multiple years and an accurate understanding of how to apply the tests each year.



* We're here to help

Due to the complexity of the SRT and the importance attached to establishing the correct residency, it is vital to seek professional advice when considering your residence status. We have both the experience and knowledge required to help our clients in this particular area and with a range of other international and multi-jurisdictional needs, and we are only a phone call or email away. So, if you have any questions or would like to discuss any issues relating to the SRT or any other specific needs, please contact Nathan Prior, Head of International, on 020 7444 4053 or email nprior@partnerswealthmanagement.co.uk.

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