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# Guidance note: Statutory Residence Test (SRT)

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## Introduction

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### Introduction

1. This guidance note gives you information about the statutory residence test (SRT), introduced in Finance Act 2013, and how HM Revenue and Customs (HMRC) interprets the legislation in the context of applying the SRT to an individual's circumstances. The guidance should be read in conjunction with the statutory residence test legislation, which forms Schedule 45 to the Finance Act 2013, to gain a comprehensive understanding.
2. These changes came into effect for the 2013 to 2014 tax year.
3. The SRT applies for the purposes of establishing your residence status, or the residence status of another person where that is relevant, for:
  - Income Tax
  - Capital Gains Tax, and
  - where relevant
    - Corporation Tax and
    - Inheritance Tax

### How to navigate between links in this document

4. This document contains links (shown in [blue and underlined](#)) to more detailed information within the document. If you follow a link you will need to retrace your steps to continue reading from where you left off. This will be easier to do if your toolbar is set up with the navigation arrows for Previous

View and Next View. 

5. You can do this when the document is open on your screen by clicking on the View button on the toolbar, then choose Toolbars from the drop down menu then tick Previous View and Next View. This will set up back arrow and forward arrow icons on the toolbar for Previous View and Next View respectively.

6. The document contains links to guidance on the HMRC website, particularly links to our manuals. These contain guidance prepared for HMRC staff and are published for taxpayers and their advisors in accordance with the Freedom of Information Act 2000.

7. Where we have incorporated such a link to help you find out more about a particular topic, it will be set out in the form [RDRM12345](#), where the letters represent the title of the manual and the numbers refer to the section and page in the manual.

## Changes in this version

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### RDR3 updates August 2016

This version replaces the version published in May 2016 and incorporates the following changes.

1. Further examples on transit days – [Example 18\(d\)](#) and [Example 18\(e\)](#).
2. Paragraphs [B11](#) and [B12](#) – ‘or’ added. Now reads ‘sudden or life threatening’.
3. Example B2 split into [Example B2 \(a\)](#) and [Example B2 \(b\)](#) for clarification.
4. [Example B3](#) – clarification on dates that can be ignored due to exceptional circumstances.

## The statutory residence test

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### 1. Statutory residence test - the basic rule

1.1 You will be resident in the UK for a tax year and at all times in that tax year (although the effect of this rule is relaxed under [split year treatment](#)), if you do not meet any of the automatic overseas tests and:

- you meet 1 of the [automatic UK tests](#), or
- the [sufficient ties test](#).

1.2 You should take the following steps to ascertain your residence status under the SRT:

**Step 1:** Consider whether you spent 183 days\* in the UK in that tax year. If you did, you will be resident in the UK. If not:

**Step 2:** Consider the 3 automatic overseas tests. If you meet 1 of these you are not UK resident. If you did not:

**Step 3:** Consider if you meet the second and third UK tests. If you meet 1 of these, you are UK resident. If you did not:

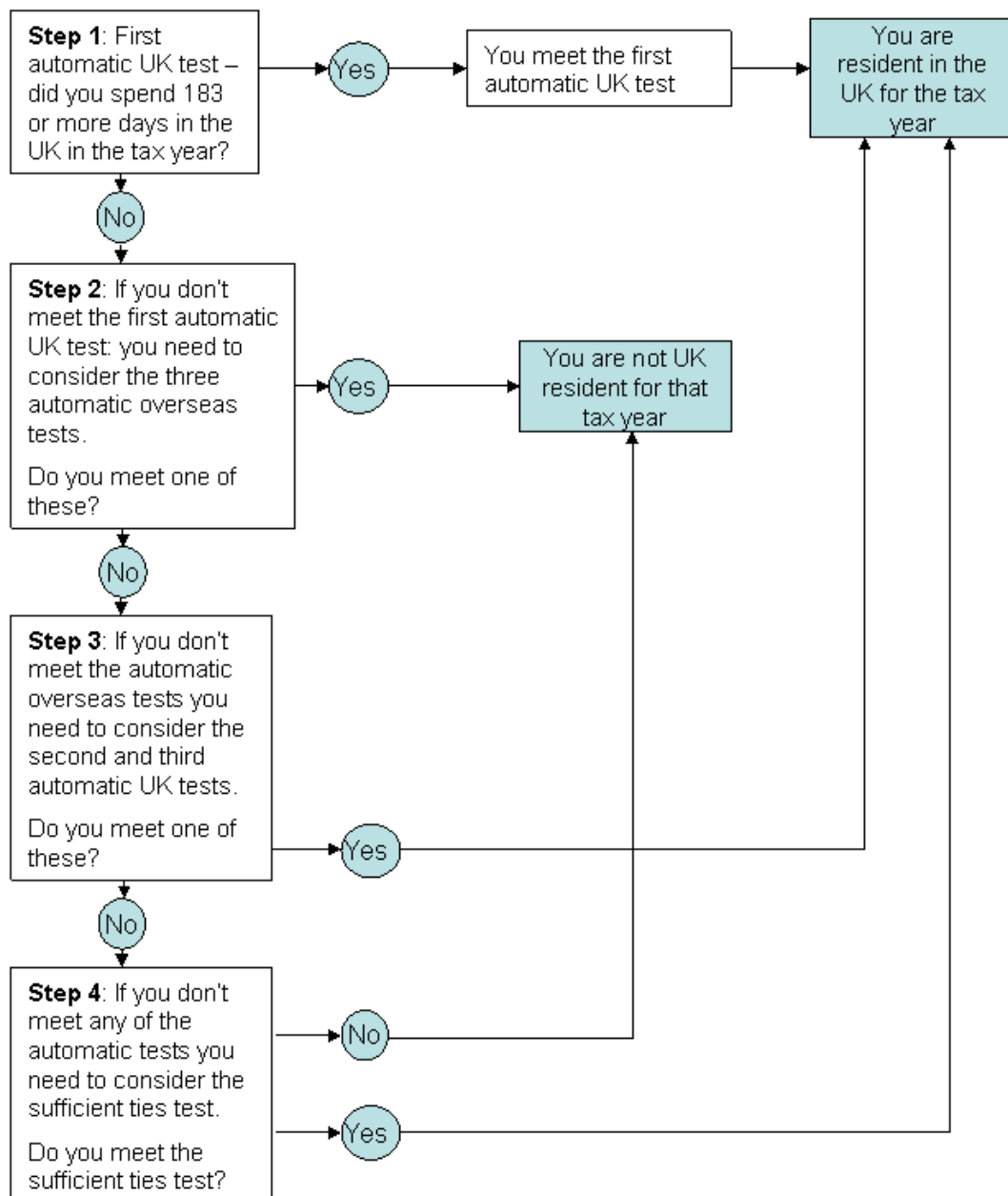
**Step 4:** Consider the sufficient ties test. If you meet this you are UK resident, if you do not meet this, you are not UK resident.

\* For advice on calculating the number of days you have spent in the UK see paragraphs [3.1 and 3.2](#).

1.3 The above steps are shown in the flow diagram on the next page. You can use an online tool to check your residence status - [HMRC's Tax Residence Indicator](#)



### The statutory residence test – an overview



### Automatic overseas tests

1.4 If you meet any of the automatic overseas tests for a tax year, you are automatically non-resident for that year. You should therefore consider these tests first, as if you meet any one of them, you will not need to consider any of the other parts of the test.

### First automatic overseas test

1.5 You were resident in the UK for 1 or more of the 3 tax years preceding the tax year, and you spend fewer than 16 [days](#) in the UK in the tax year. If an individual dies in the tax year this test does not apply.

## The statutory residence test

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### Second automatic overseas test

1.6 You were resident in the UK for none of the 3 tax years preceding the tax year, and you spend fewer than 46 [days](#) in the UK in the tax year.

### Third automatic overseas test

1.7 You [work full-time overseas](#) over the tax year, without any [significant breaks](#) during the tax year from overseas work, and:

- you spend fewer than 91 [days](#) in the UK in the tax year
- the number of days in the tax year on which you [work](#) for more than 3 hours in the UK is less than 31

[Paragraph 1.10](#) explains how to calculate whether you have worked sufficient hours overseas to count as full-time work overseas.

1.8 The third automatic overseas test does not apply to you if:

- you have a [relevant job](#) on board a vehicle, aircraft or ship at any time in the relevant tax year, and
- at least 6 of the trips you make in that year as part of that job are [cross-border trips](#) that:
  - begin in the UK
  - end in the UK, or
  - begin and end in the UK

1.9 If you do not meet any of the [automatic overseas tests](#), you should look at the [automatic UK tests](#). If you meet any of the automatic UK tests you are resident in the UK for the tax year. If you do not meet any of the automatic UK tests you will need to consider the [sufficient ties test](#).

For the application of the automatic overseas tests to deceased individuals, please see [Section 4](#).

### Do you work full-time overseas?

1.10 You will be considered to work full-time overseas if you work for sufficient hours overseas as calculated over the tax year in the case of the third automatic overseas test, or other relevant period in the case of split year Cases [1](#) or [6](#). To calculate if you work sufficient hours overseas, take the following steps (for deceased persons follow the steps given at [paragraph 4.4](#)):

#### Step 1

Identify any 'disregarded days': these are any days in the tax year, or the relevant period in the case of split years, on which you work for more than 3 hours in the UK, including those days when you also do some work overseas on the same day.

## The statutory residence test

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### Step 2

Calculate your 'net overseas hours': add up (for all your employments and/or trades you carried on) the total number of hours that you actually worked overseas in the tax year (not the hours specified in your contract), or the relevant period in the case of split years; do not include in your net overseas hours any hours that you worked overseas on disregarded days.

### Step 3

Calculate the number of days in your 'reference period'. To do this you should subtract from 365 (366 if the tax year includes 29 February), or the relevant period in the case of a split year:

- the total number of [disregarded days](#) (step 1)
- any days that were part of [gaps between employments](#)
- [other days](#) that can reduce the reference period

### Step 4

Divide the number of days in your [reference period](#) (step 3) by 7. If the answer is more than 1 and is not a whole number, you should round your answer down to the nearest whole number. If the answer is less than 1, round up to 1.

### Step 5

Divide your [net overseas hours](#) (step 2) by the number resulting from Step 4. If your answer is 35 or more you have worked sufficient hours overseas during either:

- that particular tax year for the purposes of the [third automatic overseas test](#), or
- the relevant period for split year Cases [1](#) or [6](#)

## Gaps between employments

1.11 If:

- you change employment during the tax year or relevant period
- there is a gap between your employments
- you do not work at all at any time between the 2 employments

you can subtract from your [reference period](#) the number of days in that gap. However, if the gap lasts more than 15 days only 15 days may be subtracted. If the gap spans the end of the tax year you may subtract from your reference period the part of the gap that falls within the tax year, subject to the other conditions above.

1.12 If you have more than 1 change of employment during the tax year, or the relevant period, you can subtract from your reference period up to 15 days for each gap, up to a maximum of 30 days in a tax year, or the modified

## The statutory residence test

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amount in another relevant period (see [Table E](#) for split year Case 1 and [Table G](#) for split year Case 6).

### Example 1

Jack is calculating his reference period and has 2 gaps between employments within the 365-day period he is considering.

The first gap was of 21 days and the second one was of 5 days. Jack does not work at all in either gap. As the first gap exceeded the maximum number of days for a single gap, Jack can only subtract 15 days from his reference period in relation to this gap between employments. He can subtract the full 5 days of the second gap.

Jack therefore subtracts a total of 20 days for gaps between employments from his 365-day period under Step 3 of the sufficient hours calculation.

1.13 The provisions about gaps between employments do not apply if you are self-employed; you cannot make deductions from the relevant period for gaps between self-employed work periods.

1.14 You should also read the [significant break](#) from overseas work information below.

### What other days can reduce the reference period?

1.15 When you are calculating your [reference period](#) you should subtract the following:

- days when you would have worked but were on sick leave and you could not work as a result of your illness or injury
- days when you would have worked but were on [annual leave or parenting leave](#) from work (provided these amounts are [reasonable](#))
- any [non-working days embedded within a block of leave](#) - annual, parenting or sick leave you have subtracted under either of the 2 bullet points above

1.16 No reduction under paragraph 1.13 above may be made in respect of a [disregarded day](#). So if you work:

- for more than 3 hours in the UK (for the purposes of calculating whether you have worked sufficient hours overseas) or
- for more than 3 hours overseas (for the purposes of calculating whether you have worked sufficient hours in the UK)

on a day and then take a half day of annual leave, you should subtract this day as a disregarded day and not as a half day of annual leave. If these types of leave, when added together, do not add up to a whole number of days

## The statutory residence test

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across the reference period, the number of days should be rounded down to the nearest whole number.

### **Annual leave and parenting leave**

1.17 Annual leave, when you are employed, is paid days that you are allowed to be away from work. 'Parenting leave' means maternity leave, paternity leave, adoption leave or parental leave (whether statutory or otherwise allowed by your employer). If you are self-employed, carrying on a trade, vocation or profession, annual leave and parenting leave is time off from work for the same purposes as the purposes for which annual leave or parenting leave is granted to employees.

### **What are reasonable amounts of leave?**

1.18 What is a reasonable amount of annual and parenting leave will depend on your situation, including the:

- nature of your work
- standard number of annual or parenting leave days in the country in which you are working.

1.19 If you are self-employed, carrying on a trade, vocation or profession what are reasonable amounts should be assessed against the annual leave or parenting leave an employee doing similar work might reasonably expect to be entitled to.

### **What is a non-working day embedded within a block of leave?**

1.20 Non-working days are days when you are not normally expected to work (according to your contract of employment or your usual pattern of work) and when you do not, in fact, work. For example:

- weekends if your normal working pattern is Monday to Friday
- if you have an alternative working pattern any days that you are not normally required to work
- public holidays might also be regarded as a non-working day if you are not normally expected to work on them

1.21 Non-working days, be they a single day or a series of non-working days, are only considered to be embedded within a block of leave if they are:

- preceded by at least 3 consecutive days of annual, parenting or sick leave
- followed by at least 3 consecutive days of annual, parenting or sick leave

## The statutory residence test

### Example 2

Anne is working overseas, has had a period of maternity leave and is considering her UK residence status. She finds she needs to consider whether she has worked sufficient hours overseas in the tax year to be treated as working full-time overseas for the purposes of the third automatic overseas test.

Step 1: Anne has no disregarded days.

Step 2: Anne has no sickness absence or gaps between employments. Her normal pattern of employment is for 7 hours and 40 minutes, Monday to Friday. During the tax year she:

- worked as normal between 6 April and 2 June
- started her maternity leave on 3 June, returning to work after 26 weeks, on 2 December
- worked from 2 to 20 December
- took annual leave across the Christmas period from Monday, 23 December through to Wednesday, 1 January, returning to work on 2 January
- worked as usual from 2 January to 5 April; taking 5 days of leave from Monday, 3 February to Friday, 7 February and another 3 days from Thursday, 13 March to Monday, 17 March (dates are inclusive)

Anne calculates her net overseas hours (Step 2)

- between 6 April and 2 June, she worked on 38 days (6 and 27 May were bank holidays)
- between 2 December and 20 December she worked on 15 days
- between 2 January and 5 April she worked on 59 days
- total days worked =  $38+15+59=112$
- on each day she worked for 7 hours and 40 minutes, therefore her total net overseas hours =  $112 \times 7 \text{ hours } 40 \text{ minutes} = 858 \text{ hours } 40 \text{ minutes}$ .

Step 3: To calculate her reference period, Anne starts with the 365 days of the tax year and subtracts (continues on next page):

- maternity leave, including embedded weekends from Monday, 3 June to Friday, 29 November - 180 days (30 November and 1 December do not meet the rules about embedded non-working days).

## The statutory residence test

- annual leave on 23, 24, 27, 30 and 31 January, 3-7 February and 13, 14 and 17 March - 13 days.

As 25 and 26 December and 1 January and all the weekend dates are non-working days that do not meet the rules about embedded non-working days, she makes no adjustment for them.

Anne calculates her reference period:

$$= 365 - 180 - 13 = 172 \text{ days}$$

Step 4 – divide number from Step 3 by 7 =  $172 \div 7 = 24.57$ , which is rounded down to 24.

Step 5 – divide net overseas hours by result from Step 4 = 858 hours 40 minutes  $\div 24 = 35.78$ .

Anne meets the sufficient hours test. She will need to consider whether she meets all other parts of the third automatic overseas test, in particular that the number of days spent in the UK in the tax year is less than 91.

(Example 3 on next page.)

## The statutory residence test

### Example 3

MayLing is considering whether she meets the third automatic overseas test in respect of her work in Italy in the last tax year. She worked for her first employer there for an average of 8 hours a day, 5 days a week, between 6 April and 23 August (20 weeks). During that period she took 9 days annual leave (there were no embedded non-working days); consequently MayLing had worked for 18 full weeks and for only 1 day in another week. She ceased that employment and took a break of 30 days to tour around Italy.

She then took up a new employment, again in Italy, between 23 September and 5 April (27 weeks and 6 days – amounting to 28 working weeks). During that period she worked for 9 hours and 30 minutes from Monday to Thursday and for 4 hours on a Friday. She took:

- 5 days of annual leave; for 3 weeks she only worked 3 long days and a short day, and for 1 week she worked 2 long days and a short day, reducing her number of full working weeks by 5 weeks
- 10 days of annual leave, with 2 embedded non-working days (the Saturday and Sunday in the middle of this 2-week period), reducing her number of full working weeks by 2
- 5 days, continuous, sick leave (with no embedded non-working days), reducing her number of full working weeks by 1

She therefore worked for only 20 full working weeks in this part of the year. MayLing spends no time in the UK in the tax year.

### Step 1

MayLing has no disregarded days.

### Step 2

Net overseas hours:

Employer 1: 18 weeks and 1 day at (5 days x 8 hours) = 728 hours

Employer 2: 20 weeks at ((4 days x 9.5 hours) + 4 hours) = 840 hours

3 weeks at ((3 days x 9.5 hours) + 4 hours) = 97.5 hours

1 week at ((2 days x 9.5 hours) + 4 hours) = 23 hours

Total net overseas hours: = 728+840+97.5+23 = 1688.5 hours.

### Step 3

(continues on next page)



## The statutory residence test

Reference period:

Subtract from 365 days

Disregarded days 0 days

Other days that can be deducted:

- 9 days leave Employer 1
- 15 days leave employer 2
- 2 embedded days
- 5 sick days

$$= 9+15+2+5 = 31 \text{ days}$$

Gap between employments 15 days (total gap 30 days but the amount deducted is limited to 15 days)

Reference period is:  $365-31-15 = 319$  days.

### Step 4

Divide reference period by 7 =  $319 \div 7 = 45.57$  which is rounded down to 45.

### Step 5

Divide net overseas hours by figure at Step 4

$$= 1688.5 \div 45 = 37.52.$$

MayLing meets the sufficient hours test. She will need to consider whether she meets all other parts of the third automatic overseas test, in particular that the number of days spent in the UK in the tax year is less than 91.

## Automatic UK tests

1.22 Subject to not meeting any of the [automatic overseas tests](#), you are resident in the UK for a tax year if you meet:

- any of the automatic UK tests set out below, or
- the sufficient ties test

### First automatic UK test

1.23 You spend 183 [days](#) or more in the UK in the tax year.

## The statutory residence test

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### Second automatic UK test

1.24 The second automatic UK test is relevant if you have or had a [home](#) in the UK during all or part of the tax year.

1.25 You will meet this test if there is at least 1 period of 91 consecutive days, at least 30 days of which fall in the tax year, when:

- you have a home in the UK in which you spend a [sufficient amount of time](#), and either you:
  - have no overseas home, or
  - have an overseas home or homes in each of which you are [present](#) (for no matter how short a period) on fewer than 30 days in the tax year (the [permitted amount of time](#))

1.26 If you have more than 1 home in the UK, you should consider each of those homes separately to see if you meet the test. You need only meet this test in relation to one of your UK homes.

### What is a sufficient amount of time?

1.27 You spend a sufficient amount of time in a UK home if, during the tax year, you are [present](#) in that home on at least 30 days.

### What is a permitted amount of time?

1.28 For the second automatic UK test the permitted amount of time you can be [present](#) (for no matter how short a period) in an overseas home is fewer than 30 days in the tax year.

1.29 The sufficient and permitted amounts of time tests operate in respect of the full tax year. The days when you are present in the home do not need to fall within the 91-day period, but they must fall within the tax year.

(Example 4 on next page)

## The statutory residence test

### Example 4

Stan has lived in Australia all his life. In June 2012 he takes a holiday in London and likes it so much he decides to emigrate to the UK. He spends the next few months preparing for the move. He sells his Australian house (his only home) on 10 January 2014 and arrives in the UK on 25 January 2014. He finds a flat in London and moves in on 1 February 2014. The London flat is now his only home and he lives there for a year.

During tax year 2013 to 2014 Stan is present in his Australian home on 250 days, and he is present in his London flat on 55 days.

In 2013 to 2014 Stan has a home in the UK from 1 February 2014 and is present in it on at least 30 days. Also from 1 February 2014 there is a period of 91 consecutive days at least 30 of which fell in 2013 to 2014 (the tax year under consideration) when Stan has a UK home and no overseas home.

As Stan does not meet any of the automatic overseas tests, he is resident under the second automatic UK test for tax year 2013 to 2014.

### Example 5

Jane has a home in the UK throughout tax year 2013 to 2014 and tax year 2014 to 2015. She is present in that home on more than 30 days during tax year 2013 to 2014.

Jane acquires an overseas home on 1 March 2014 and is present there on 30 days in tax year 2013 to 2014.

Although there is a period of 91 consecutive days, 30 of which fall in 2013 to 2014 (the tax year under consideration), when Jane had both a UK home and an overseas home, there is also a period of at least 91 consecutive days (6 April 2013 to 28 February 2014) when she had a UK home (in which she spent sufficient time in 2013 to 2014) but no overseas home.

Jane is therefore resident in the UK for 2013 to 2014 under the second automatic UK test.

(Example 6 on next page.)

## The statutory residence test

### Example 6

Edith has had a home in Cheshire for many years. It is her only home. Edith retires towards the end of tax year 2014 to 2015 and decides to use her retirement lump sum to see the world.

During tax year 2015 to 2016 she takes 3 long holidays, visiting 22 different countries. She moves around and does not establish a home overseas. She keeps her Cheshire home throughout, returning to it briefly between trips, and is present there on 41 days in tax year 2015 to 2016.

In 2015 to 2016 Edith has a home in the UK in which she is present on at least 30 days in the tax year. During the year Edith has no overseas home.

Edith does not meet any of the automatic overseas tests and therefore she is resident under the second automatic UK test for tax year 2015 to 2016.

### Example 7

At 6 April 2014 Berni considers whether she meets the second automatic UK test for 2013 to 2014:

- she bought a home in the UK on 1 January 2013 - it was her home throughout 2013 to 2014
- she was present in that home on at least 30 days in the tax year 2013 to 2014
- she came to the UK on 10 April 2013 and rented out her overseas home (which she had owned for many years) from 11 April 2013 to 10 March 2014

Therefore, during 2013 to 2014 there was a period of 91 days, 30 of which fell in the tax year during which Berni had a UK home in which she was present for a sufficient amount of time, and had no overseas home. As Berni did not meet any of the automatic overseas tests she is resident under the second automatic UK test.

1.30 If you are unsure about whether your property constitutes a home, you should read [Annex A](#). Remember that in certain circumstances a home can cease to be a home temporarily, which may have a bearing on whether you meet the second automatic UK test.

(Example 8 on next page.)

## The statutory residence test

### Example 8

Rosa is a professional cricketer who lives in New Zealand. She comes to the UK for the summer of 2015 to play for Trinity Bridge Ladies. She rents a house in Dorking for 4 months commencing 1 May 2015. She is present in her Dorking home on 100 days in 2015 to 2016. After the English cricket season ends she returns to New Zealand.

Throughout 2015 to 2016 Rosa owns a house in New Zealand. She is present in that house on 200 days in 2015 to 2016.

While she is in the UK, Rosa lets out her New Zealand home on a commercial basis to a third party, from 1 June to 31 August 2015 (92 days). For that period the New Zealand house is not Rosa's home. There is a period of 91 consecutive days, at least 30 of which fall in 2015 to 2016, when Rosa had a UK home where she spends a sufficient amount of time, and when she does not have an overseas home. Rosa meets the second automatic UK test for 2015 to 2016.

If Rosa had not let out her New Zealand house and it had remained available for Rosa to use throughout the summer, it would have remained her home and Rosa would not meet the second automatic UK test.

1.31 The flow diagram on the next page will assist you in considering your own circumstances under the second automatic UK test.



## The statutory residence test

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### 30-day presence rules

1.32 The effect of the [sufficient amount of time](#) and [permitted amount of time](#) rules is that, for the purposes of the [second automatic UK test](#), you can disregard any home where you are [present](#) on fewer than 30 separate days (individual or consecutive) in the tax year. So, for example, if you are present at your overseas home on fewer than 30 separate days you will have spent no more than the permitted amount of time there and you can disregard that home for the purposes of this automatic UK test. Similarly if you spend fewer than 30 days in a UK home you will not have spent a sufficient amount of time there and you can disregard that home for the purposes of this automatic UK test.

1.33 The 30-day presence rules only apply in respect of time you spend in a place while it is your home. So, for example, if you view a place which you later make your home, the day of your viewing would not count towards the sufficient or permitted amount of time tests.

1.34 You are present at your home on any day that you have been present in it in person, no matter how short a period you were there. It is not necessary to be there at midnight in order for the day to be counted.

1.35 The 30-day presence rules operate on each home separately and independently.

#### Example 9

Fatima has had 4 UK homes for several years. In the tax year under consideration, Fatima is present in her home in Swansea on 15 days, 20 days in her home in Loch Lomond, 29 in her London flat and 29 in her Newcastle flat.

Fatima has been present on 91 days in total in those UK homes. However, as she was not present in any individual home on at least 30 days, she will not have spent a sufficient amount of time in any single UK home. She will not meet the second automatic UK test for the tax year under consideration.

### Third automatic UK test

1.36 You [work full-time](#) in the UK for any period of 365 days, with no [significant break](#) from UK work and:

- all or part of that 365-day period falls within the tax year
- more than 75% of the total number of days in the 365-day period when you do more than 3 hours of work are days when you do more than 3 hours of work in the UK
- at least 1 day which is both in the 365-day period and in the tax year is a day on which you do more than 3 hours of work in the UK

## The statutory residence test

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If you meet these criteria, you will be resident under the third automatic UK test.

1.37 If you identify a period of 365 days when you have worked full-time in the UK, but you do not then meet the 75% test relating to that 365-day period, you must consider whether there is another 365-day period when you do meet the 75% test. If there is no such period, you do not meet the third automatic UK test.

1.38 The third automatic UK test does not apply to you if:

- you have a [relevant job](#), at any time in the relevant tax year, and
- at least 6 of the trips you make in that year as part of that job are [cross-border trips](#) that:
  - begin in the UK
  - end in the UK, or
  - begin and end in the UK

### Example 10

Henri travels to the UK on 1 July 2013 to start a new job on the following day. His posting finishes on 1 July 2014 and he leaves the UK on 6 August 2014, 400 days after he arrived in the UK. Over the 365-day period to 30 June 2014 Henri calculates that he worked full-time in the UK and has not taken a significant break from his UK work during this period. Part of the period of 365 days falls within the tax year 2013 to 2014 and part falls within the tax year 2014 to 2015.

Over the period of 365 days ending 30 June 2014 Henri works for over 3 hours on 240 days, 196 (80%) of which are days when Henri worked for more than 3 hours in the UK. At least 1 day when Henri does more than 3 hours work in the UK falls within the tax year 2013 to 2014 therefore Henri is resident in the UK under the third automatic UK test for tax year 2013 to 2014.

There is also at least 1 day when Henri does more than 3 hours work in the UK within the tax year 2014 to 2015, so Henri also meets the third automatic UK test for that year.

(Example 11 on next page.)



## The statutory residence test

### Example 11

Frank works full-time in Paris for a branch of a multi-national export company. He comes to work in the UK every month for 2 days each month; on both days he works for more than 3 hours in the UK. On 1 September 2013 Frank is seconded to work in the UK for a period of 2 years. Frank returns to the Paris office and works there for more than 3 hours on 2 days each month.

In the period of 365 days ended 5 April 2014 Frank calculates he worked full-time in the UK (the days worked overseas are identified and disregarded at Step 1 of the calculation of full-time work overseas). As Frank worked for more than 3 hours on 2 days each month in the UK prior to September 2013, Frank did not have a significant break from UK work.

In the 365-day period ending 5 April 2014 Frank worked for more than 3 hours on 240 days. However only 150 days (62%) were days when Frank worked for more than 3 hours in the UK. Using that 365-day reference period Frank would not be resident in the UK under the third automatic UK test for 2013 to 2014. Frank needs to check the 75% test against another 365-day period.

In the 365-day period ending 31 August 2014, Frank calculates he worked full-time in the UK. Again days worked overseas are identified and disregarded at Step 1 of the calculation of full-time work overseas. In the 365-day reference period ending 31 August 2014 Frank worked for more than 3 hours on 230 days; 210 days (91%) were days when Frank worked for more than 3 hours in the UK. Part of this 365-day period falls within tax year 2013 to 2014 and at least 1 day in 2013 to 2014 is a day on which Frank worked for more than 3 hours in the UK. Therefore, using the 365-day reference period ending 31 August 2014 Frank is resident in the UK under the third automatic UK test for 2013 to 2014.

(Example 12 on next page.)

## The statutory residence test

### Example 12

Sam has never been resident in the UK. On 3 March 2014, he starts a 2-year contract to work on a North Sea Oil platform in UK waters. Sam is contracted to work 2 weeks off-shore, working 12 hours a day over 14 days, followed by 2 weeks onshore field break.

Unfortunately, half-way through his shift on 9 April 2014, Sam has an accident at work and is medically unfit to work up to 30 April 2014. The doctor certifies that he is fit enough to return to work from 1 May 2014.

From 10 April to 30 April 2014 (21 days), when Sam was unfit to work, there is a period of 14 days (14 – 27 April) which were scheduled non-working days when Sam was on his onshore field break.

For the purpose of calculating whether he meets the third automatic UK test, Sam considers whether he worked sufficient hours in the UK. Usually, his non-working days cannot be deducted from the 365-day period over which his average weekly hours are calculated as they do not meet the rules about embedded non-working days.

However, when calculating whether Sam works sufficient hours in the UK over a 365-day period, the 14 non-working days between 14 and 27 April 2014 can be subtracted from the 365-day period when calculating the 'reference period' at Step 3 of the calculation.

This is because the 14 non-working days are embedded within a period

- where Sam was unfit to work, from 10-30 April 2014

and

- there were at least 3 consecutive days of sick leave before the non-working period

and

- there were at least 3 consecutive days of sick leave after the non-working period

For the purpose of this example we will look at the 365-day period starting on 3 March 2014, the date Sam started work in the UK.

Step 1: there are no disregarded days on which Sam worked more than 3 hours overseas

Step 2: net UK hours (continues on next page)

## The statutory residence test

Sam works for 23.5 days (between 3 March and midway through 9 April) and then for a total of 22 weeks and 5 days between 1 May and 2 March 2015.

Hours worked =  $((22 \times 7) + 23.5 + 5) \times 12 = 2190$  hours

Step 3: calculate the reference period, subtract from 365 the disregarded days and other days that can be subtracted =  $365 - 21 = 344$

Step 4 – divide reference period by 7 =  $344 \div 7 = 49.14$ , rounded down to 49

Step 5 – divide net UK hours by result of Step 4 =  $2190 \div 49 = 44.69$

Sam works sufficient hours in the UK because he works an average of more than 35 hours a week calculated over the 365-day period. He would have to consider other aspects of the third automatic UK test to determine his residence status.

1.39 If any one of the [automatic UK tests](#) applies to you for a particular tax year, and none of the [automatic overseas tests](#) apply, then you are UK resident for tax purposes for that tax year.

1.40 For the application of these automatic UK tests to deceased individuals, please see [automatic UK test for deceased persons](#), below.

### Do you work full-time in the UK?

1.41 You will be considered to work full-time in the UK if you work for sufficient hours in the UK, as calculated over any 365-day period. To calculate if you work sufficient hours in the UK, take the following steps:

#### Step 1

Identify any 'disregarded days': these are any days in the 365-day period on which you work for more than 3 hours overseas, including those days when you also do some work in the UK on the same day.

#### Step 2

Calculate your 'net UK hours': add up (for all your employments and/or trades you carried on) the total number of hours that you actually worked in the UK in the 365-day period (not the hours specified in your contract); do not include in your net UK hours any hours that you worked in the UK on disregarded days.

#### Step 3

Calculate the number of days in your 'reference period'. To do this you should subtract from 365 days:

- the total number of [disregarded days](#) (step 1)
- any days that were part of [gaps between employments](#)
- [other days](#) that can reduce the reference period

## The statutory residence test

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### Step 4

Divide the number of days in your [reference period](#) (step 3) by 7. If the answer is more than 1 and is not a whole number, you should round your answer down to the nearest whole number. If the answer is less than 1, round up to 1.

### Step 5

Divide your [net UK hours](#) (step 2) by the number resulting from Step 4. If your answer is 35 or more you worked full-time in the UK during that particular 365-day period.

### Sufficient ties test

1.42 If you do not meet any of the [automatic overseas tests](#) or any of the [automatic UK tests](#), you should use the sufficient ties test to determine your UK residence status for a tax year. You will need to consider your connections to the UK, called ties, and determine whether your ties, taken together with the number of days you spend in the UK, are sufficient for you to be considered UK resident for tax purposes for a particular tax year.

1.43 If you were not UK resident for any of the 3 tax years before the tax year under consideration, you will need to consider if you have any of these UK ties:

- a family tie
- an accommodation tie
- a work tie, and
- a 90-day tie

1.44 If you were resident in the UK for 1 or more of the 3 tax years before the tax year under consideration, you will also need to consider if you have a country tie. All these ties are defined in [section 2](#).

### Number of UK ties

1.45 The number of [days you spend in the UK](#) in a tax year dictates the number of UK ties that are needed for you to be UK resident. This is set out in the tables on the following page.

## The statutory residence test

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**Table A: UK Ties needed if you were UK resident for one or more of the 3 tax years before the tax year under consideration**

<b>Days spent in the UK in the tax year under consideration</b>	<b>UK ties needed</b>
16 - 45	At least 4
46 - 90	At least 3
91 - 120	At least 2
Over 120	At least 1

**Table B: UK Ties needed if you were UK resident in none of the 3 tax years before the tax year under consideration**

<b>Days spent in the UK in the tax year under consideration</b>	<b>UK ties needed</b>
46 - 90	All 4
91 - 120	At least 3
Over 120	At least 2

1.46 The sufficient ties test is modified when it is applied to deceased individuals. See [paragraphs 4.10 and 4.11](#) and associated tables for further information about this.

### 2. Definition of UK ties

#### A family tie

2.1 The following paragraphs give a general overview of family ties. For more detailed guidance you should refer to [Annex C](#).

2.2 You have a family tie for the tax year under consideration if any of the following people are UK resident for tax purposes for that year:

- your husband, wife or civil partner (unless you are [separated](#))
- your partner, if you are living together as husband and wife or as civil partners
- your child, if under 18-years-old

2.3 For the purpose of the SRT, HMRC will use the same principles applied to tax credits to determine if people are living together as husband and wife or civil partners. You will find further guidance on this point in our manual [TCTM09330](#).

2.4 You will not have a family tie with a child who is under the age of 18 if you spend time with the child in person in the UK on fewer than 61 days (in total) in the tax year concerned. If your child turns 18 during that tax year you will not have a family tie in respect of that child if you see that child in the UK on fewer than 61 days in the part of the tax year before their 18th birthday.

2.5 Any day or part of a day that you see your child in person in the UK counts as a day on which you see your child in the UK.

2.6 Partners can be living together either in the UK or overseas, or both, and still meet this test.

2.7 Separated means separated:

- under an order of a court of competent jurisdiction
- by deed of separation, or
- in circumstances where the separation is likely to be permanent

#### How is time spent in the UK by children in full-time education dealt with for the family tie?

2.8 You will not be considered to have a family tie with a child who:

- is UK resident
- is under 18 years of age
- is in full-time education in the UK at any time in the tax year
- would not be a UK resident if the time they spend in full-time education in the UK were disregarded, and

## Definition of UK ties

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- spends fewer than 21 days in the UK outside term-time - you should treat half-term breaks, and other breaks when teaching is not provided (for example inset days) during a term, as part of term-time

2.9 References to full-time education in the UK are to full-time education at a university, college, school or other educational establishment in the UK and references to time spent in full-time education in the UK is to the time spent there during term-time.

### **Example 13**

Yok Lin attends a boarding school in the UK. Term dates are:

Saturday 6 April to Friday 5 July

Sunday 3 September to Friday 15 December

Sunday 7 January to Friday 23 March

Sunday 15 April to Friday 6 July

She remains in the UK for the half-terms, staying with various friends and relatives but returns to the family home in Thailand during the Christmas and Easter holidays. She spends 2 weeks of the summer break with her friends but travels home to Thailand on 21 July.

As Yok Lin is only in the UK for 14 days outside term-time, her parents will not have a family tie with Yok Lin for the purposes of the SRT.

### **Accommodation tie**

2.10 The following paragraphs give a general overview of accommodation ties. For more detailed guidance you should refer to [Annex A](#) (paragraphs A23 onwards).

2.11 You have an accommodation tie for a tax year if you have a place to live in the UK and:

- it is available to you for a continuous period of 91 days or more during that year, and
  - you spend 1 or more nights there during that year, or
  - if it is at the home of a close relative (see next paragraph), you spend 16 or more nights there during the year.

2.12 A close relative for the purposes of the accommodation tie is a:

- parent or grandparent
- brother or sister
- child or grandchild aged 18 or over

## Definition of UK ties

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They can be your blood or half-blood relative or someone related through marriage or civil partnership. Adopted children are considered to be your children for these purposes.

2.13 Gaps of fewer than 16 days in the availability of the accommodation will count towards the continuous period of availability.

2.14 You have a place to live in the UK if you have a home, holiday home or temporary retreat in the UK, or other accommodation that you can live in when you are in the UK.

### Work tie

2.15 You have a work tie for a tax year if you do more than 3 hours of [work](#) a day in the UK on at least 40 days in that year (whether continuously or intermittently). However, there are special rules about what constitutes 3 hours of UK work for people in [relevant jobs](#).

### 90-day tie

2.16 You have a 90-day tie for a tax year if you have spent more than 90 [days](#) in the UK in either or both of the previous 2 tax years.

### Country tie

2.17 You have a country tie for a tax year if the UK is the country in which you were present at midnight for the greatest number of days in that tax year.

2.18 If the number of days you were present in a country at midnight is the same for 2 or more countries in a tax year, and 1 of those countries is the UK, then you will have a country tie for that tax year if that is the greatest number of days you spend in any country in that tax year. For the purposes of this SRT test presence at midnight in any state, territory or canton into which a country is subdivided is regarded as presence at midnight in that country.



### 3. Days spent in the UK

#### What do we mean by a day spent in the UK?

3.1 You are considered to have spent a day in the UK if you are here at the end of the day (midnight). This is subject to:

- the [deeming rule](#) which will count certain days even though you were not here at midnight
- [transit days](#)
- time spent in the UK due to exceptional circumstances - those days may not count towards the total day count for certain parts of the SRT

3.2 If you consider that you have been in the UK at the end of the day because of exceptional circumstances, and that this will have a bearing on your residence status, you should read our further information on [exceptional circumstances](#) which details those parts of the SRT where they may and may not be taken into account when counting the number of days you spend in the UK.

#### The deeming rule

3.3 A number of the SRT tests require you to count the number of days that you spend in the UK. Days you are present in the UK at the end of the day count as days spent in the UK.

3.4 If you are not present in the UK at the end of the day that day will not count as a day spent in the UK. This is subject to the deeming rule.

3.5 The deeming rule applies to you for a tax year if you have:

- been UK resident in 1 or more of the preceding 3 tax years
- at least 3 [UK ties](#) for the tax year
- been present in the UK on more than 30 days without being present at the end of that day (called 'qualifying days') in the tax year

The deeming rule does not apply to the limit on days spent in the UK under the [third automatic overseas test](#).

3.6 If you meet all these conditions the deeming rule means that, after the first 30 qualifying days, all subsequent qualifying days within the tax year are treated as days that you spent in the UK.

3.7 If you meet the deeming rule, for the purposes of counting up the number of days you have spent in the UK, you must aggregate all your days spent - that is:

- those when you were present at the end of the day plus
- any qualifying days over and above the 30-day threshold

## Days spent in the UK

### Example 14

Angharad does not meet any of the automatic UK or automatic overseas tests for the tax year. She spent 35 days in the UK where she was present at the end of the day, but was also present in the UK on 57 other days, leaving the UK before the end of the day. Without the deeming rule she will be non-resident under the SRT sufficient ties test as she has 3 UK ties but spent only 35 days here. Angharad will however need to consider the deeming rule as she was resident in the previous tax year and has at least 3 ties under the sufficient ties test, therefore she needs to consider [Table A](#).

As Angharad was present in the UK on 57 other days and she meets the deeming rule conditions and therefore must include these further days in her day counting. This gives her a total of 62 days spent in the UK (35 days where she was present at the end of the day, plus 27 qualifying days by virtue of the deeming rule); taken together with her 3 UK ties, this means that she will be resident under the sufficient ties test.

3.8 The deeming rule does not apply for the purposes of deciding if you have a [90-day tie](#) when you are checking whether you have 3 UK ties for the purposes of the deeming rule.

### Example 15

Benedict was resident in the UK for the 2015 to 2016 tax year and needs to establish his residence position for the 2016 to 2017 tax year. In 2016 to 2017 he is present in the UK on 50 days when he is not present at the end of the day. He meets 2 of the deeming rule conditions and needs to determine if he has 3 ties in 2016 to 2017 to see whether the deeming rule applies to him. Assume he has 2 other ties and only the 90-day tie can bring his total to 3.

Benedict then considers whether he has a 90-day tie for the tax year 2016 to 2017. He needs to look back to 2014 to 2015 and 2015 to 2016:

- in 2015 to 2016 he was in the UK at the end of the day on 80 days and on another 45 days he left the UK before the end of the day
- in 2014 to 2015 he was in the UK at the end of the day on 70 days and on another 39 days he left the UK before the end of the day
- for the purposes of the deeming rule only the days when Benedict was in the UK at the end of the day are taken into account, so he does not have a 90-day tie for 2016 to 2017. As he does not have 3 of the other ties he need go no further (the deeming rule does not apply to him). Benedict will then use Table A to see whether he is resident, but his day count will use days on which he was in the UK at midnight only.

## Days spent in the UK

### Example 16

Desmond was resident in the UK for the 2015 to 2016 tax year and needs to establish his residence position for the 2016 to 2017 tax year. He is considering how many days he spent in the UK.

Desmond has 3 UK ties (a country tie, a family tie and an accommodation tie). In 2016 to 2017 he is present in the UK on 50 days when he is not present at the end of the day and also present at midnight on 44 days.

As Desmond meets all 3 of the deeming rule conditions, he considers how many deemed days he spent in the UK – there are 20 days above the 30-day limit, so he has 20 qualifying days to include in his UK day count.

Desmond's total days in the UK are therefore the sum of the 44 days he is present at midnight and the 20 qualifying days, so he spent 64 days in the UK. He then looks at Table A and sees that 64 days and 3 ties make him resident for 2016 to 2017 (assuming that the automatic overseas tests do not apply).

### Transit days

3.9 Transit days do not count towards the total day count for SRT. A transit day is a day when you are travelling from 1 country outside the UK to another country outside the UK, and whilst en route:

- you arrive in the UK as a passenger, and
- leave the UK the next day

provided that, between your arrival and departure, you do not engage in any activities that are to a substantial extent unrelated to your passage through the UK. Merely taking dinner or breakfast at your hotel, in the normal course of events, would be related to your passage. In contrast enjoying a film at the local cinema or catching up with friends would be considered substantially unrelated to your passage through the UK.

Your day of arrival, when in transit, does not count as a day spent in the UK for SRT purposes. However, the following day, when you leave the UK, may be a [qualifying day](#) under [the deeming rule](#).

(Example 17 on next page.)

## Days spent in the UK

### Example 17

Holly regularly visits the UK for work and social engagements. She also travels widely. She is planning to visit her Aunt in Philadelphia, and will be flying in from Rome to connect with her continental flight at Heathrow.

Holly's flight lands at 11:05pm on Monday evening. Her flight to Philadelphia does not depart Heathrow until 11:05am on Tuesday. Holly decides to stay at an airport hotel to catch some sleep, before returning to board the plane for her onward journey. She merely leaves the airport, catches a taxi to the hotel, sleeps, and snatches a quick breakfast before returning to the airport.

The transit arrival day (Monday) spent in the UK would not count as a day for Holly when she considers how many days she spent in the UK at the end of the tax year. The departure day (Tuesday) may count as a qualifying day under the deeming rule.

### Example 18(a)

Holly's brother, Lawrence, has a similarly itinerant lifestyle. He too is visiting their Aunt in Philadelphia, and will be flying in from Toulouse to connect with their continental flight at Heathrow.

Lawrence's flight lands at 5:20pm on Monday evening. Their flight to Philadelphia does not depart Heathrow until 11:05am on Tuesday. Lawrence decides to stay at an airport hotel to catch some sleep before returning to board the plane on Tuesday. In this scenario the midnight spent in the UK will not count as a day spent in the UK for SRT purposes. The departure day (Tuesday) may count as a qualifying day under the deeming rule.

### Example 18(b)

The circumstances are as for 18(a) but Lawrence decides that as he has a long transit period in the UK he will meet up with some friends and go to the theatre.

In this scenario Lawrence's meeting friends and visiting the theatre is regarded as being to a substantial extent unrelated to his passage through the UK and therefore the midnight spent in the UK will count as a day spent in the UK for SRT purposes. The following day (Tuesday) may also count as a qualifying day under the deeming rule.

### Example 18(c)

The circumstances are as for 18(a) but Lawrence meets his team leader for dinner to discuss work related issues. Their meeting lasted for an hour and a half. (Continued on next page)

## Days spent in the UK

In this scenario the meeting with his team leader is regarded as being to a substantial extent unrelated to his passage through the UK and the midnight spent in the UK will count as a day spent in the UK for SRT purposes. The following day (Tuesday) may also count as a qualifying day under the deeming rule.

### **Example 18(d)**

Simon is a lawyer who lives in France but works internationally. A business trip to Canada requires him to transit through the UK. He lands at Gatwick at 18:30 on Tuesday and his onward flight to Canada departs from Heathrow at 14:00 on Wednesday. While Simon is waiting for the shuttle bus to his Heathrow hotel he spots a work colleague from the London office who he has not seen for some time. They go for a coffee and talk about their families and recent holidays. That evening after dinner at his hotel, Simon uses social media to look at his colleague's holiday photographs and then exchanges a few emails with him about them. Before going to bed Simon watches a film on an internet website.

Simon's chance meeting with his colleague and his use of social media and internet websites are regarded as being related to his transit through the UK. This is because the meeting was entirely by chance, not planned, and he and his colleague did not talk about work issues. His use of social media at the hotel is acceptable as it was not used in any way whatsoever for business or work purposes.

Simon's day of arrival in the UK may be treated as a transit day and will not count as a day of presence in the UK for SRT purposes. Simon's departure day (Wednesday) may also count as a qualifying day under the SRT deeming rule.

### **Example 18(e)**

The situation is the same as that for Example 18(d), however Simon and his colleague discuss a litigation case they are both involved in. That evening Simon contacts his boss on his social media site to make him aware of the earlier discussion with his colleague, and they exchanged some emails on the case.

Although Simon met his colleague by chance they discussed both private and work related issues. He also used social media for work purposes. These activities are regarded as being to a substantial extent unrelated to his transit through the UK.

(continued on next page)

## Days spent in the UK

Simon's day of arrival in the UK may not be regarded as a transit day and will be treated as a day spent in the UK for SRT purposes. If Simon works in the UK for more than 3 hours, the day will also count as a UK work day. Simon's departure day (Wednesday) may also count as a qualifying day under the SRT deeming rule.

### Work

3.10 Time spent working is relevant in several places in the SRT:

- the [third automatic overseas test](#) may apply if you work [full-time overseas](#)
- the [third automatic UK test](#) may apply if you [work full-time in the UK](#)
- you will have a [work tie](#) if you work for more than three hours in the UK on at least 40 days in the tax year
- you may be entitled to [split year treatment](#) if you leave the UK to work full-time overseas, or arrive in the UK to work full-time here

### What activities does 'work' cover?

3.11 Work takes its everyday meaning. If you are an employee, work covers the activities you carry out in the performance of your duties. If you are self-employed it covers the activities you carry out in the course of your trade, profession or vocation.

3.12 A voluntary post for which you have no contract of service does not count as work for the purposes of the statutory residence test.

### What else is counted as time spent working?

3.13 Your time spent working includes:

- instances where your employer instructs you to stay away from work, for example while serving a period of notice while you remain on the payroll
- travelling time where the cost would have been a [deductible expense for tax purposes](#) had you incurred and paid for the costs yourself, regardless of whether or not you worked during the travel in question
- travelling time to the extent that you work during your journey, regardless of the rules on tax deductibility
- job-related training:
  - provided or paid for by your employer, or
  - if you are self-employed, where the cost is an allowable deduction against your profit for income tax purposes

### Number of hours worked in a day

3.14 It may be important for you to know how many hours you have worked in a day, because:

## Days spent in the UK

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- in order to meet the [third automatic overseas test](#) you must not [work](#) more than 3 hours a day in the UK on more than 30 days in the tax year
- in order to meet the [third automatic UK test](#) more than 75% of days on which you work for at least 3 hours must be days spent working in the UK
- you will have a [work tie](#) if you work more than 3 hours a day in the UK on 40 days or more

3.15 Even though days on which less than 3 hours of work is carried out in the UK are ignored for SRT purposes, they should still be taken into account when you are calculating your UK taxable income.

3.16 You will need to [keep records](#) which allow you to identify the number of hours you have worked in a given day.

### **Travel to or from a temporary workplace whilst working full-time overseas**

3.17 If:

- you [work full-time overseas](#)
- your [permanent workplace](#) is overseas
- you occasionally travel to a temporary workplace in the UK

the cost of travelling between your workplace overseas and the temporary workplace in the UK is a tax deductible expense and so the time spent travelling is treated as time spent working.

#### **Example 19**

Maalav is working overseas, he has to travel to the UK for a business meeting in London, (the place of the business meeting is a temporary workplace) arranged for Monday morning at 9am. The cost of the journey would have been deductible for tax purposes had he met it himself.

Maalav flies to the UK on Sunday evening; he disembarks his plane at 6am on Monday at Heathrow and after clearing immigration and customs leaves the terminal at 7.30am. Maalav travels directly to his business meeting arriving there at 8.45am. The meeting lasts 2 hours after which he returns to the airport for a return flight the same day.

The time spent travelling from overseas up to the point of disembarking at Heathrow counts as work done overseas. Time spent travelling from disembarking at Heathrow to the place of his business meeting counts as work done in the UK, as does the duration of the meeting and the return journey to Heathrow. As Maalav worked for more than 3 hours in the UK on this day it is also a UK work day.

## Days spent in the UK

### Example 20

Members of Maalav's extended family have continued to live in the UK, in Birmingham. If, in Example 18, he had decided to visit them before his meeting, so arrived in the UK on Friday evening disembarking at Heathrow at 6pm, the time spent travelling from overseas up to the point of disembarkation counts as work done overseas.

The time spent travelling in the UK, from disembarking at Heathrow until he arrives at the family home in Birmingham is [private travel](#), it is not tax deductible and so does not count as work done in the UK. As Maalav did not work in the UK on that day for more than 3 hours, the day is not a UK work day.

On Monday morning Maalav travels from Birmingham to London for his business meeting, the journey takes 2 hours. This journey is not [substantially private travel](#) and so the expense of travel would be tax deductible and the 2 hours count as work done in the UK. Maalav's business meeting lasts 3 hours. His journey to Heathrow, which is business travel, and time in the airport (until departure) takes a further 2 hours 50 minutes; this is counted as work done in the UK. Maalav has worked for a total of 7 hours and 50 minutes; as he has worked for more than 3 hours this Monday is a UK work day.

3.18 Being on-call or stand-by may count as time spent working depending on the conditions of your employment and the nature of your duties.

### Example 21

Paula works as an engineer and is contractually required to be on-call for 4 nights a month in addition to her normal full-time attendance. She is paid a retainer for those 4 nights, in addition to being paid for any work done if she is called out. The 4 nights are counted as working time.

### Example 22

Franek is a self-employed locksmith who keeps his mobile phone switched on 24 hours a day to receive customer calls. For the purposes of calculating working time, Franek should only include the time spent carrying out his jobs and the related travelling time.

## What is a significant break from overseas work/work in the UK?

3.19 You will have a significant break from UK work if at least 31 days go by and not one of those days is a day on which you:

- [work](#) for more than 3 hours in the UK, or



## Days spent in the UK

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- would have worked for more than 3 hours in the UK, but you do not do so because you are on [annual leave, sick leave or parenting leave](#)

If you have a significant break from UK work you will not qualify for full-time work in the UK.

3.20 You will have a significant break from overseas work if at least 31 days go by and not one of those days is a day on which you:

- work for more than 3 hours overseas, or
- would have worked for more than 3 hours overseas but you do not do so because you are on annual leave, sick leave or parenting leave

If you have a significant break from overseas work you will not qualify for full-time work overseas.

### Location of work

3.21 In most cases work is considered to be done at the location where it is actually done rather than where an employment is held or a trade, profession or vocation is carried on.

#### **Example 23**

Robert is an employee of a French clothing manufacturer and he is based in Paris. He spends 2 days each month working in Glasgow to meet company clients. For those 2 days Robert is working in the UK, regardless of where he is usually based.

3.22 Any work you do during your journey to or from the UK counts as overseas work whether you travel by air, sea or through a tunnel under the sea. If you are crossing the land border between Northern Ireland and the Republic of Ireland, work you do in Northern Ireland is work done in the UK, work done in the Republic of Ireland is work done overseas.

3.23 For journeys to the UK, the overseas work period ends when you disembark from that aircraft, ship or train in the UK.

3.24 For journeys from the UK, the overseas work period starts when you get on the aircraft, ship or train taking you out of the UK.

(Example 24 on next page.)

## Days spent in the UK

### Example 24

Shirley flies from Spain to Heathrow Airport where she disembarks her plane and transits to catch a second flight from Heathrow to Glasgow.

Her journey from Spain to Heathrow counts as work done overseas (assuming the cost would have been tax deductible had she met it herself). Once she disembarks the plane, the time she spends in the airport terminal and flying to Glasgow counts as work done in the UK.

### Example 25

Robert travels to the UK from Paris by Eurostar and leaves the train at London St Pancras to catch connecting trains to Glasgow. The costs of his journey would have been tax deductible had he met them himself.

His train journey from Paris to St Pancras counts as work done overseas. After disembarking at St Pancras, the rest of his journey counts as work done in the UK.

There is a different rule if you have a job on board a vehicle, aircraft or ship which is a relevant job.

### **Workers with jobs on board vehicles, aircraft or ships (relevant jobs)**

3.25 If you have a job on board a vehicle, aircraft or ship, you might have a 'relevant job'. If so, some parts of the statutory residence test will apply slightly differently to you.

You have a relevant job if:

- you hold an employment where your duties consist of duties which are performed on board a vehicle, aircraft or ship while it is travelling, or
- you carry on a trade and the activities of that trade or the services you provide are on board a vehicle, aircraft or ship while it is travelling and you have to be present in person on board the vehicle, aircraft or ship while it is travelling

and substantially all of the trips you make in performing those duties or carrying on those activities are cross-border trips; that is trips that involve crossing an international boundary at sea, in the air or on land.

(Example 26 on next page.)

## Days spent in the UK

### Example 26

Angela is a self-employed consultant whose job is to carry out safety assessments on international aircraft at Heathrow airport. She does not travel with the aircraft in order to do her work. As the services which Angela provides are not provided while the aircraft is making cross border trips, she does not have a relevant job.

3.26 Examples of relevant jobs may include pilots, airline cabin crew, cross-channel ferry staff, mariners, fishermen and lorry drivers where substantially all of the trips are cross-border trips. Although each case will turn on its own facts, you are likely to be considered to have a relevant job if 80% or more of your trips involve cross-border trips.

3.27 In deciding whether or not you fall within one of the categories of relevant job you should ignore duties or activities of a purely incidental nature. For instance, where a pilot whose job consists of making long haul international flights attends a meeting in the UK to hear an announcement about the airline's restructuring, the duties spent at the meeting are incidental to the duties of flying the plane and so can be ignored.

### Example 27

Preeya is a member of a cabin crew on board flights between London and Switzerland for a short haul airline. For 1 month during the year, she changes her shifts and works on UK domestic flights. However, substantially all of the trips she makes in performing her duties are cross border ones; Preeya does have a relevant job.

3.28 You will not have a relevant job simply because you occasionally work during a journey from one country to another, for example, if you catch up on business emails during a flight from your base in one country to visit a client in another country.

### Workers with relevant jobs and the third automatic UK and overseas tests

3.29 If you have a relevant job at any time during the year, neither the [third automatic UK test](#) nor the [third automatic overseas test](#) will apply to you if you make at least 6 [cross-border trips](#) in the year that either begin or end in the UK. This means that you cannot be UK resident on the grounds that you work full-time in the UK and that you cannot be non-UK resident on the grounds that you work full-time overseas. However, you can still determine your residence status by reference to the other automatic tests where they apply to you. If you do not meet any of the other automatic tests, you will need to consider the [sufficient ties test](#) to determine your residence status.

## Days spent in the UK

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3.30 If you have a relevant job but make fewer than 6 cross-border trips in a tax year, the [third automatic UK test](#) and the [third automatic overseas test](#) will apply to you in determining your residence status.

### Workers with relevant jobs and the UK work tie

3.31 For the purposes of the [work tie](#), on any day on which you make a cross-border trip starting in the UK, you will be treated as having worked more than 3 hours in the UK on that day.

#### Example 28

Amit has a relevant job and he starts work as cabin crew an hour before his plane takes off from the UK for a continental destination. Although he only worked for 1 hour in the UK, for the purposes of the work tie this day counts as a UK work day.

3.32 If your cross-border trip starts from outside the UK, you will be treated as not having worked more than 3 hours in the UK, provided you do not make another trip on the same day which starts in the UK.

3.33 For any day on which you do not make a cross-border trip the normal work tie rules apply, so you will have a day that counts as a day for the work tie if you actually work in the UK for more than 3 hours. This would include work-related activities such as training.

3.34 If on a single day you make both a cross-border trip starting in the UK and a cross-border trip starting overseas, the trip starting in the UK will count as more than 3 hours work and the day will be regarded as a UK work day.

#### Example 29

On another day, Amit starts work as cabin crew in the UK when his plane takes off for Paris. The plane is turned around and makes a return flight to the UK. Amit has worked on cross border trips both leaving from and arriving in the UK. As he has a relevant job, for the purposes of the work tie this is treated as a UK work day.

3.35 The above rules apply no matter how late or early in the day your cross-border trip began or ended, and whether or not you started and completed your cross-border trip on the same day.

3.36 If you undertake a [cross-border trip](#) in a series of stages over a number of days, each day will be treated separately for the purposes of determining which days you spent working in the UK.

## Days spent in the UK

### Example 30

Sally is employed by a haulage company to transport fresh produce to Spain. On day one she travels from Birmingham to Dover (taking more than 3 hours), on day 2 she travels from Dover to Toulouse, and on day 3 she completes her journey in Barcelona.

On day 1 Sally does not make a cross-border trip but, as she works in the UK for more than 3 hours, she has a UK work day for the purposes of the work tie.

On day 2, she made a cross-border trip starting in the UK. Sally will have another UK work day for the purposes of the work tie.

On day 3, Sally has not crossed the UK border and nor is it a day on which she has worked for more than 3 hours in the UK, so it will not be a UK work day for the purposes of the work tie.

### Deductible travel expense for tax purposes

3.37 Deductible travel expenses for tax purposes are those where the expenses would have been deductible when calculating

- your earnings from employment and the travel would have fallen under the following categories:
  - the travel expenses were necessarily incurred on [travelling in performance of the duties of your employment](#)
  - the travel was required for [necessary attendance in the performance of the duties of your employment](#)
  - the travel was required for [travel between group employments](#)
  - the travel was [travel between employments where the duties are performed abroad](#)

or,

- the expenses would have been deductible when calculating the [profits of your trade](#)

### 4. Application of the SRT to deceased persons

4.1 The first automatic overseas test does not apply to someone who dies in the tax year under consideration. The other automatic overseas tests and automatic UK tests can be applied, but may need to be modified depending on the date of death. There are some additional specific tests for deceased persons. These tests and modifications are detailed in this section.

#### Automatic overseas tests for deceased persons

##### Fourth automatic overseas test

4.2 The fourth automatic overseas test applies to an individual who dies in the tax year under consideration. The deceased will not be UK resident for the tax year in which they die if they spent fewer than 46 [days](#) in the UK during that year and:

- they were not resident in the UK in the 2 preceding tax years, or
- they were not resident in the UK in the preceding tax year, and the tax year before that was a [split year](#) by virtue of Case [1](#), [2](#) or [3](#)

##### Fifth automatic overseas test

4.3 The fifth automatic overseas test applies to an individual who dies in the tax year under consideration. The deceased will not be UK resident for the tax year in which they die if:

- they were not resident in the UK for the 2 preceding tax years because they met the [third automatic overseas test](#) for each of those years, or
- they were not resident in the UK in the preceding tax year because they met the third automatic overseas test for that year and the tax year before that was a [split year](#) by virtue of Case [1](#)

and

- they met the modified conditions of the third automatic overseas test for the period from the start of the tax year in which they die to the day before death

4.4 The fifth automatic overseas test looks at full-time work overseas in the tax year of death, but it considers only the period from the start of the tax year to the day before death. The [sufficient hours calculation](#) must be modified by applying it to this shorter period and there must be no [significant break](#) during this work period. To calculate if a deceased person has worked sufficient hours overseas, take the following steps:

##### Step 1

Identify any disregarded days: these are any days, from the start of the tax year in which the individual died to the day before death, on which the

## Application of the SRT to deceased persons

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deceased worked for more than 3 hours in the UK, including those days when they also did some work overseas on the same day.

### Step 2

Calculate the 'net overseas hours': add up (for all their employments and/or trades carried on) the total number of hours that the deceased worked overseas, from the start of the tax year in which they died to the day before death; do not include in the net overseas hours any hours that the deceased worked overseas on disregarded days.

### Step 3

Calculate the number of days in the 'reference period'. You should consider only the days in the period from the start of the tax year up to and including the day before the date of death. From that number you should subtract:

- the total number of [disregarded days](#) (step 1)
- any days that were part of [gaps between employments](#)
- [other days](#) that can reduce the reference period

### Step 4

Divide the number of days in the [reference period](#) (step 3) by 7. If the answer is more than 1 and is not a whole number, you should round your answer down to the nearest whole number. If the answer is less than 1, round up to 1.

### Step 5

Divide the [net overseas hours](#) (step 2) by the number resulting from Step 4. If the answer is 35 hours or more, the deceased has worked sufficient hours overseas.

4.5 If the deceased person does not meet the [fourth or fifth automatic overseas tests](#) you should consider the fourth automatic UK test for deceased persons detailed below.

### Fourth automatic UK test for deceased persons

4.6 The [first, second and third automatic UK tests](#) can apply to deceased individuals. Additionally under the fourth automatic UK test, a deceased individual will be UK resident in the tax year if:

- they were UK resident for each of the 3 preceding tax years by virtue of meeting 1 of the automatic UK tests (and none of the automatic overseas tests)
- the tax year before they died was not a split year (assuming the year in which they died was a year of non-residence)
- when they died they had:
  - their [home](#) in the UK, or
  - if they had more than 1 home, at least 1 of them was in the UK

## Application of the SRT to deceased persons

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- if they had a home or homes overseas during all or part of the tax year they did not spend a sufficient amount of time in the overseas home(s) in the tax year

4.7 If the deceased had more than 1 home, each of those homes must be looked at separately, and the deceased must have spent less than the sufficient amount of time in all of their overseas homes to have been UK resident in the tax year in question.

4.8 Whether the deceased had a home in the UK at the date of death is a determining factor for this test. You should therefore refer to the guidance at [Annex A](#).

### What is a sufficient amount of time?

4.9 If the deceased was either:

- [present](#) in their overseas home for a total of at least 30 days, either consecutively or intermittently, in the tax year, or
- present in their overseas home on every day of the tax year until, and including, the day of their death

they will have spent sufficient time in that overseas home for the purposes of the automatic UK test for deceased persons and so will not be UK resident under that test.

#### Example 31

Fred has lived and worked in the UK his whole life. On 10 April 2015 Fred dies whilst on a 2 week holiday in Spain. Fred:

- does not meet any of the automatic overseas tests
- does not meet any of the first 3 automatic UK tests
- was resident for each of the previous 3 tax years and would not meet the criteria for split year treatment for 2014 to 2015
- had his home in the UK at the time he died
- did not have an overseas home

Fred is therefore resident under the fourth automatic UK test.



## Application of the SRT to deceased persons

### Example 32

Freda has lived and worked in the UK, and been UK resident, for the 5 tax years up to 2015 to 2016. In June 2016 Freda retires, buys a home in France and leaves the UK to live there. Freda keeps her UK home, which she uses as a base on return trips to the UK.

Freda dies in July 2017. Apart from a 2-week visit to the UK in May 2017, where she stayed in her UK home, Freda spent every night in her French home. In the year of her death Freda has spent a sufficient amount of time in her overseas home and so is not resident under the fourth automatic UK test.

### Deceased individuals and the sufficient ties test

4.10 The UK ties may need to be considered in respect of a deceased person.

4.11 In respect of a deceased person who was resident for 1 or more of the previous 3 tax years the number of days shown in [tables A](#) and [B](#) must be reduced proportionately. The proportion is determined by reducing the number of days shown in the tables to reflect the number of whole months left in the tax year after the individual's death. A whole month means the whole of January, the whole of February and so on, except April where 6-30 April counts as a whole month. This results in revised time spans as set out in Tables C and D on the following pages.

## Application of the SRT to deceased persons

**Table C: UK Ties needed by a deceased person who was UK resident for one or more of the 3 tax years before the tax year under consideration**

No of ties	Date of death													
		6 Apr to 30 April	1 May to 31 May	1 Jun to 30 Jun	1 Jul to 31 Jul	1 Aug to 31 Aug	1 Sep to 30 Sep	1 Oct to 31 Oct	1 Nov to 30 Nov	1 Dec to 31 Dec	1 Jan to 31 Jan	1 Feb to 29 Feb	1 Mar to 5 Apr	
		<b>Days spent in UK in year of death</b>												
At least 4 ties	Not more than	4	7	11	15	19	22	26	30	34	37	41	45	
At least 3 ties		5-7	8-15	12-22	16-30	20-37	23-45	27-52	31-60	35-67	38-75	42-82	46-90	
At least 2 ties		8-10	16-20	23-30	31-40	38-50	46-60	53-70	61-80	68-90	76-100	83-110	91-120	
At least 1 tie	over	10	20	30	40	50	60	70	80	90	100	110	120	

## Application of the SRT to deceased persons

**Table D: UK Ties needed by a deceased person who was UK resident for none of the 3 tax years before the tax year under consideration**

No of ties	Date of death													
		6 Apr to 30 April	1 May to 31 May	1 Jun to 30 Jun	1 Jul to 31 Jul	1 Aug to 31 Aug	1 Sep to 30 Sep	1 Oct to 31 Oct	1 Nov to 30 Nov	1 Dec to 31 Dec	1 Jan to 31 Jan	1 Feb to 29 Feb	1 Mar to 5 Apr	
		<b>Days spent in UK in year of death</b>												
All 4 ties		4-7	8-15	11-22	15-30	19-37	23-45	27-52	31-60	34-67	38-75	42-82	46-90	
At least 3 ties		8-10	16-20	23-30	31-40	38-50	46-60	53-70	61-80	68-90	76-100	83-110	91-120	
At least 2 ties	over	10	20	30	40	50	60	70	80	90	100	110	120	

### 5. Split year treatment

#### What is a split year?

5.1 Under the SRT, you are either UK resident or non-UK resident for a full tax year and at all times in that tax year. However, if during a year you either start to live or work abroad or come from abroad to live or work in the UK the tax year will be split into 2 parts if your circumstances meet specific criteria:

- a UK part for which you are charged to UK tax as a UK resident
- an overseas part for which, for most purposes, you are charged to UK tax as a non-UK resident

5.2 [RDR1](#) provides a broad guide to the taxation of different income sources to help you determine the impact split year treatment will have on the tax you pay.

#### When is a tax year split?

5.3 You must be UK resident for a tax year under the SRT to meet the criteria for split year treatment for that year. You will not meet the split year criteria for a tax year for which you are non-UK resident under the SRT.

5.4 Split year treatment in the context of the SRT applies only to you in your individual capacity. It does not apply to individuals acting as personal representatives. It applies in a limited way to individuals acting as trustee of a settlement in determining the trustees' residence status:

- if the individual becomes or ceases to be a trustee of the settlement during the tax year
- provided that the period they are a trustee falls within the overseas part of the tax year for that individual

5.5 Split year treatment will not affect whether you are regarded as UK resident for the purposes of any [double taxation agreement](#).

#### When will you receive split year treatment?

5.6 There are 8 sets of circumstances where you might meet the criteria for split year treatment for a particular tax year. Three cover situations where you might go overseas part way through the tax year, these are Cases 1-3, and 5 cover situations where you might come to the UK part way through the tax year, these are Cases 4-8.

5.7 If your circumstances fall within more than 1 Case of split year criteria then the Cases must be considered in the following priority order (to determine which Case/split year date applies to you):

- if you were UK resident in the year prior to the tax year in question and your circumstances for that year fall within 2 or more of Cases 1 to 3:

## Split Year Treatment

- [Case 1](#) has priority over Cases 2 and 3
- [Case 2](#) has priority over [Case 3](#).
- if you were not UK resident in the year prior to the tax year in question and your circumstances fall within 2 or more of Cases 4 to 8:

First case applying	Second case applying	Case taking priority
<a href="#">Case 5</a>	<a href="#">Case 6</a>	Case with earlier split year date.
<a href="#">Case 7</a> (but not Case 6)	Case 5	Case with earlier split year date.
Two or all of Cases <a href="#">4</a> , <a href="#">5</a> and <a href="#">8</a> (but not Cases 6 or 7)		Case or Cases with the only (or the earlier) split year date.

### What is the split year date?

5.8 In relation to split year Cases 4 to 8, the split year date means the final day of the overseas part of the year for that Case. The overseas part of the year for Cases 4 to 8 is defined in the relevant paragraphs below.

### Case 1: Starting full-time work overseas

5.9 You may meet the criteria for [split year treatment](#) for a tax year in which you begin [full-time work overseas](#). You must:

- be UK resident for the tax year in question
- be UK resident for the previous tax year (whether or not it was a split year)
- be non-UK resident in the following tax year because you meet the [third automatic overseas test](#)
- satisfy the [overseas work criteria](#) during a relevant period.

### Case 1: Relevant period

5.10 A relevant period is any period consisting of 1 or more days that:

- begins with a day that falls within the tax year
- is a day on which you do more than 3 hours work overseas
- ends with the last day of the tax year

### Case 1: Overseas Work criteria

5.11 You will satisfy the overseas work criteria if you:

- [work full-time overseas during a relevant period](#)
- have no [significant break](#) from overseas work during that period
- do not work for more than 3 hours in the UK on more than the [permitted limit of days](#) during that period

## Split Year Treatment

- spend no more than the [permitted limit of days](#) in the UK during that period

### Case 1: Calculating whether you work full time overseas during the relevant period

5.12 Apply the [sufficient hours overseas](#) calculation to the [relevant period](#) with these modifications:

- the maximum number of days you can subtract from the reference period for [gaps between employments](#), is reduced from 30 days to the [permitted limit of days](#) that can be subtracted for gaps between employments

5.13 Table E sets out the permitted limits for Case 1 – the appropriate portions of the full-year permitted limits

**Table E**

Overseas part of year starts on													
	6 Apr to 30 Apr	1 May to 31 May	1 Jun to 30 Jun	1 Jul to 31 Jul	1 Aug to 31 Aug	1 Sep to 30 Sep	1 Oct to 31 Oct	1 Nov to 30 Nov	1 Dec to 31 Dec	1 Jan to 31 Jan	1 Feb to 29 Feb	1 Mar to 31 Mar	1 Apr to 5 Apr
X – permitted limit on days where you can work more than 3 hours and maximum number of days that can be subtracted for gaps between employments	30	27	25	22	20	17	15	12	10	7	5	2	0
Y – permitted limit on days spent in the UK	90	82	75	67	60	52	45	37	30	22	15	7	0

### Case 1: Overseas part of a tax year

5.14 The overseas part of the tax year starts on the first day of the [relevant period](#), as long as you meet the [overseas work criteria](#) for that period.

## Split Year Treatment

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### Case 1: UK part of a tax year

5.15 The UK part of the tax year is the period from the start of the tax year until the start of the overseas part.

#### Example 33

Richard has lived and worked in London for the last 10 years and is UK resident for tax purposes. He is seconded abroad by his employer for a 3 year period. His overseas contract starts on 3 November 2014 when he takes up duty at his new office in Madrid. This example assumes he fails the third automatic overseas test for 2014 to 2015 but meets it for 2015 to 2016.

On 2 December 2014 he returns to the UK office to finish off a project he was involved in before his secondment. His work in the UK is completed on 16 December 2014 (11 UK workdays and 4 non-working days). He then takes leave until 28 December (12 days) flying back to Madrid and resuming work on 29 December. On his return to Madrid he works only at the Madrid office until 5 April.

Richard calculates that he meets the criteria for Case 1 split year treatment from 3 November, this being the first date on which he works for more than 3 hours overseas. Using table E he calculates that between 3 November 2013 and 5 April 2015 he can spend 37 days in the UK and work for more than 3 hours in the UK for up to 12 days.

Richard determines that:

- he was UK resident for the previous tax year (2013 to 2014)
- he is resident in the UK for the current year (2014 to 2015) and that he does not meet the third automatic overseas test
- he was non-UK resident for 2015 to 2016
- he calculates that he meets the sufficient hours overseas test for the period 3 November 2014 to 5 April 2015
- he did not exceed the limits of 12 UK work days and 37 days spent in the UK between 3 November 2014 and 5 April 2015, and
- he had no significant break from overseas work during the period.

To determine that he worked full time overseas during a relevant period, Richard did the calculations below. (Continues on next page)

## Split Year Treatment

His reference period;

Days in the period 3 November 2014 to 5 April 2015 = 154

Less

- Disregarded days 11

(Days spent working more than 3 hours in the UK)

- Annual, sick and parental leave 8

(leave on 17, 18, 19, 22, 23, 24, 27 and 28 December)

- Embedded non-working days 2

(20&21 December)

- Gaps between employments Nil

Total 21

Reference Period = 133 days

Sufficient Hours Test

All hours worked overseas from 3 November 670

Less

Hours worked overseas on disregarded days Nil

Net overseas Hours 670

Divide Reference Period by 7 ( $133 \div 7$ ) = 19

Divide net overseas hours by 19 ( $670 \div 19$ ) = 35.26

Richard meets the sufficient hours overseas test because his average over the reference period (3 November 2014 to 5 April 2015) is more than 35.

For Richard, the UK part of the tax year ends on the 2 November 2014 and the overseas part starts on 3 November 2014 (the earliest date from which he meets all the conditions of the sufficient hours overseas test.

(Example 34 on next page.)



## Split Year Treatment

### Example 34

Amanda has been living in the UK since she was born and is UK resident for tax purposes. She has worked in the media industry for 5 years and gets a job as a reporter on a 3-year contract based in India. She moves there on 10 November 2013 and lives in an apartment provided by her new employer. She meets the overseas work criteria from 10 November 2013.

She returns to visit her family over the Christmas period for 2 weeks, and does not work while she is there.

Amanda remains working in India throughout the tax year 2014 to 2015, again only returning for a 2-week period over Christmas.

Amanda will receive split year treatment for tax year 2013 to 2014 because:

- she was UK resident for 2012 to 2013 and 2013 to 2014
- she is non-UK resident for 2014 to 2015 and meets the third automatic overseas test for that year

From 10 November 2013 until 5 April 2014 she:

- does not work at all in the UK
- spends 14 days in the UK, which is less, by reference to [Table E](#) above than the permitted limit of 37 days

For Amanda, the UK part of the tax year will end on 9 November 2013, and the overseas part of the tax year will start on 10 November 2013.

### Case 2: The partner of someone starting full-time work overseas

5.16 You may receive split year treatment for a tax year if your [partner](#) meets the conditions for [Case 1](#) split year treatment for that year or the previous year and you move overseas so that you can continue to live with them while they are working overseas. You must:

- be UK resident for the tax year being considered for split year treatment
- be UK resident for the previous tax year (whether or not it is a split year)
- be non-UK resident for the tax year following the tax year being considered for split year treatment
- have a partner whose circumstances fall within Case 1 for the tax year or the previous tax year
- have been living together in the UK either at some point in the tax year or the previous tax year

## Split Year Treatment

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- move overseas so you can live together while your partner is working overseas
- in the period beginning on your deemed departure day and ending on the last day of the tax year either:
  - have no [home](#) in the UK or, if you have homes in both the UK and overseas spend the greater part of the time living in the overseas home
  - spend no more than the [permitted limit of days](#) in the UK.

### Who is considered to be your partner?

5.17 Your partner is your husband or wife or civil partner, or someone you are living with as husband and wife or civil partner. For the purposes of the SRT we will consider 'living together' against similar criteria to those we use for Tax Credits purposes. You will find further guidance on this point in [TCTM09330](#).

### Case 2: Deemed departure day

5.18 The deemed departure day is the later of:

- the day you join your partner to live together overseas; and
- the day which is the first day of the [overseas part of the year](#) under Case 1 for your partner

### Case 2: Overseas part of a tax year

5.19 The overseas part of the year is the part of the year beginning with the deemed departure day and ending on the last day of the tax year.

### Case 2: UK part of a tax year

5.20 The UK part of the tax year is the period from the start of the tax year until the start of the overseas part.

(Example 35 on next page.)

## Split Year Treatment

### Example 35

Peter is Amanda's husband (see [Example 34](#)). He too had lived in the UK for all his life and was resident in the UK for tax purposes. He travels with Amanda on 8 January 2014 to live with her in India, having given up his job. Amanda and Peter have let their flat in the UK for a 3-year period, commencing on 9 January 2014.

Once in India, Peter spends his time following his lifelong hobby as a lepidopterist, cataloguing Indian butterflies. He spends all his time there, except for the Christmas trips to the UK with Amanda.

Peter will receive split year treatment for tax year 2013 to 2014 as he meets the Case 2 conditions:

- he has no home in the UK after 8 January 2014
- he was UK resident for 2012 to 2013
- he is non-UK resident for 2014 to 2015

From 8 January 2014 until 5 April 2014 he spends less than the permitted limit of 22 days in the UK ([Table E](#)).

For Peter the UK part of the tax year will end on 7 January 2014 and the overseas part of the tax year will start on 8 January 2014, the day he joined Amanda to live together in India.

5.21 If you separate from your partner after the deemed date of departure (i.e. the day the overseas part of the split year started from), you will still be given split year treatment, provided you meet all the other conditions for Case 2.

### Case 3: Ceasing to have a home in the UK

5.22 In this instance, you may receive [split year treatment](#) for a tax year if you leave the UK to live abroad and you cease to have a UK home.

You must:

- be UK resident in the tax year
- be UK resident for the previous tax year (whether or not it was a split year)
- be non-UK resident for the following tax year
- have one or more [homes](#) in the UK at the start of the tax year and at some point in the year cease to have any home in the UK for the rest of the tax year.

5.23 From the point you cease to have a home in the UK you must:

## Split Year Treatment

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- spend fewer than 16 [days](#) in the UK
- in relation to a particular country, either:
  - become resident for tax purposes in that country within 6 months
  - be present in that country at the end of each day for 6 months, or
  - have your only home, or all your homes if you have more than 1, in that country within 6 months

### Case 3: Overseas part of a tax year

5.24 The overseas part of the year is the period which starts on the date in the tax year you cease to have a home in the UK until the end of the tax year.

### Case 3: UK part of a tax year

5.25 The UK part of the tax year is the period from the start of the tax year until the start of the overseas part.

#### Example 36

Maureen has been based in the UK for most of her working life, and has been resident here for tax purposes. On holiday in Bali in the summer of 2013 she meets Maurice, who lives and works in the United Arab Emirates.

Some 12 months later, they marry. Maureen resigns from her job and moves out of her home on 24 September 2014. She spends the nights of 24 and 25 September in a hotel and flies out to the UAE to live with Maurice on 26 September 2014. She has no close family in the UK and does not return to the UK in the remainder of the tax year. She does not take up any employment in the UAE. Maurice and Maureen plan to live in the UAE for at least another 5 years.

Maureen will receive split year treatment for 2014 to 2015 as she meets the Case 3 conditions.

- she was UK resident for 2013 to 2014
- she is non-UK resident for 2015 to 2016
- from 24 September 2014 until 5 April 2015 she has no home in the UK and spends fewer than 16 days in the UK
- she had established her only home is in UAE within 6 months

For Maureen, the overseas part of the tax year will start on 24 September 2014, the day she no longer had a home in the UK.

### Case 4: Starting to have a home in the UK only

5.26 You may receive split year treatment for a tax year if you did not meet the only home test at the start of the tax year but at some point in the tax year

## Split Year Treatment

that ceases to be the case and you then continue to meet the [only home](#) test until the end of the tax year.

You must:

- be UK resident for the tax year
- be non-UK resident for the previous tax year
- not meet the [only home test](#) at the start of the tax year but at some point in that tax year you do meet the only home test and continue to do so until the end of the tax year
- not meet the [sufficient ties test](#) for the part of the tax year before the day on which you meet the only home test - when you are considering whether you have sufficient UK ties in this part of the year, you should reduce the day count limits in the sufficient UK ties [tables](#) by substituting the values from the table below

**Table F**

Day before satisfying only home or having a UK home tests is												
	6 Apr to 30 Apr	1 May to 31 May	1 Jun to 30 Jun	1 Jul to 31 Jul	1 Aug to 31 Aug	1 Sep to 30 Sep	1 Oct to 31 Oct	1 Nov to 30 Nov	1 Dec to 31 Dec	1 Jan to 31 Jan	1 Feb to 29 Feb	1 Mar to 5 Apr
For 15 substitute	1	2	4	5	6	7	9	10	11	12	14	15
For 45 substitute	4	7	11	15	19	22	26	30	34	37	41	45
For 90 substitute	7	15	22	30	37	45	52	60	67	75	82	90
For 120 Substitute	10	20	30	40	50	60	70	80	90	100	110	120

5.27 You meet the only home test if you have only 1 [home](#) and that home is in the UK or, if you have more than 1 home, all those homes are in the UK.

### Case 4: Overseas part of the tax year

5.28 The overseas part of the tax year starts at the beginning of the tax year and ends the day before the earliest point at which you meet the only home test.

### Case 4: UK part of the tax year

5.29 The UK part of the tax year is the period from the end of the overseas part until the end of the tax year.

## Split Year Treatment

### Example 37

Olan has been working for his employer in Germany for the last 5 years. He had no UK ties and was not resident in the UK. On 1 June 2013 Olan moves to the UK to look for work here. He rents out his flat in Germany on a 2 year lease, from 27 May 2013

He arrives in the UK and stays in temporary accommodation while he finds a flat to rent. He signs a 12 month lease on a flat in London on 1 July 2013.

He starts UK employment on 22 July 2013 and remains in the UK for a further 2 years.

Olan receives split year treatment for 2013 to 2014 as he meets the Case 4 conditions:

- he is non-UK resident for 2012 to 2013
- he started to have his only home in the UK during the tax year and that continued until at least the end of the tax year
- he had no UK ties from 6 April 2013 to 1 July 2013

For Olan the overseas part of the tax year will end on 30 June 2013, and the UK part of the tax year will start on 1 July 2013, the day he started to have his only home in the UK.

Note: Olan might also meet the criteria for Case 5 or Case 8 split years, but priority is given to the case where the overseas part is the shortest.

### Case 5: Starting full-time work in the UK

5.30 You may receive [split year treatment](#) for a tax year if you start to [work full-time in the UK](#) and you meet the [third automatic UK test](#) over a period of 365 days. If there is more than one such period then the UK part of the year will run from the beginning of the first such period.

You must:

- be UK resident in the tax year
- be non-UK resident for the previous tax year
- not meet the [sufficient ties test](#) for the part of the tax year before the point you first meet the [third automatic UK test](#) - when you are considering whether you have sufficient UK ties in this part of the year; you should reduce the day count limits in the sufficient UK ties tables as shown in [Table F](#)

## Split Year Treatment

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### **Case 5: Overseas part of the year**

5.31 The overseas part of the tax year starts at the beginning of the tax year and ends at the point you first meet the third automatic UK test by working full-time in the UK.

### **Case 5: UK part of the year**

5.32 The UK part of the tax year is the period from the end of the overseas part until the end of the tax year.

(Example 38 on next page.)

## Split Year Treatment

### Example 38

Andrea arrived in the UK on 20 May 2013 from Poland for a 2 week visit. She stays with her sister who is working in the UK. This is her first trip to the UK and she has never previously been UK resident for tax purposes. Just before Andrea is about to return to Poland, she is offered a part-time job at a hotel. This will be her first ever job. She starts work on 10 June 2013. For the first 8 weeks of her employment she works 20 hours a week (5 hours a day) but from 5 August 2013 she is offered full-time hours of 40 hours a week. She takes 20 days leave during the tax year; there are no non-working days embedded within any of her periods of leave.

Although for the first 8 weeks of her employment she only works 20 hours per week, she works out that she meets the third automatic UK test from 10 June 2013 as follows:

Step 1: In a 365-day period there are 0 disregarded days when she did more than 3 hours of work overseas.

Step 2: Total number of UK hours worked during the 365 period (8 weeks x 20 hours & 40 weeks x 40 hours) = 1760 hours

Step 3: Subtract 0 disregarded days and 20 other days that can be deducted from 365 = which leaves a reference period of 345 days.

Step 4: Divide the reference period by 7:  $345 \div 7 = 49.29$ , which is rounded down to 49

Step 5: Divide Andrea's net UK hours by 49 (the result of Step 4):

$$1760 \div 49 = 35.91 \text{ hours}$$

Andrea's hours average out at over 35 over the 365-day period from 10 June 2013 (which is a day on which she worked more than 3 hours in the UK); she meets the third automatic UK test from that date.

Andrea meets the criteria for Case 5 split year on the basis that:

- she was non-UK resident in the previous year
- she meets the third automatic UK test for the 365-day period commencing 10 June 2013 (which is a day on which she worked more than three hours in the UK)
- in the part of the tax year from 6 April until 10 June 2013 she did not have sufficient UK ties. See [Table F](#)



## Split Year Treatment

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### Case 6: Ceasing full-time work overseas

5.33 In some circumstances you may receive Case 6 split year treatment if you were non-UK resident in the previous tax year because you worked full time overseas and you cease to work full-time overseas in the tax year to which split year treatment applies. You must:

- be UK resident for the tax year in question
- have been not UK resident for the tax year before the year in question because you either:
  - satisfied the [third automatic overseas test](#) for that year or,
  - if the year was 2012 to 2013, worked full-time overseas for the whole of the tax year under the rules in force prior to the Statutory Residence Test), see [HMRC6](#)
- have been UK resident for 1 or more of the 4 tax years before the year in which you are not UK resident under the previous bullet point
- be UK resident in the tax year following the year in question (whether or not it is a split year)
- satisfy the [overseas work criteria](#) for a relevant period

### Case 6: Relevant period

5.34 A relevant period is a period that:

- begins with the first day of the tax year
- ends with a day in that tax year on which you do more than 3 hours work overseas

### Case 6: Overseas work criteria

5.35 You will satisfy the overseas work criteria if you:

- [work full-time overseas during a relevant period](#)
- have no [significant break](#) from overseas work during that period
- do not work for more than 3 hours in the UK on more than the [permitted limit of days](#) during that period
- spend no more than the [permitted limit of days](#) in the UK during that period

### Case 6: Calculating whether you work full-time overseas during the relevant period.

5.36 Apply the [sufficient hours overseas](#) calculation to the [relevant period](#) with these modifications:

- the maximum number of days you can subtract from the reference period for [gaps between employments](#), is reduced from 30 days to the [permitted limit of days](#) that can be subtracted for gaps between employments

## Split Year Treatment

5.37 Table G sets out the permitted limits for Case 6 – the appropriate portions of the full year permitted limits.

**Table G**

UK part of year starts on												
	6 Apr to 30 Apr	1 May to 31 May	1 Jun to 30 Jun	1 Jul to 31 Jul	1 Aug to 31 Aug	1 Sep to 30 Sep	1 Oct to 31 Oct	1 Nov to 30 Nov	1 Dec to 31 Dec	1 Jan to 31 Jan	1 Feb to 29 Feb	1 Mar to 5 Apr
X – permitted limit on days where you can work more than 3 hours in overseas part of the year or maximum number of days which may be subtracted from the reference period on account of gaps between employment	2	5	7	10	12	15	17	20	22	25	27	30
Y – permitted limit on days spent in the UK in overseas part of year	7	15	22	30	37	45	52	60	67	75	82	90

### Case 6: Overseas part of the tax year

5.38 The overseas part of the tax year will be from the beginning of the tax year until the last day of the latest period for which you satisfy the sufficient hours test, when tested between the beginning of the tax year and that day.

### Case 6: UK part of the tax year

5.39 The UK part of the tax year is the period from the end of the overseas part until the end of the tax year.

## Split Year Treatment

### Example 39

Edward left the UK on 1 November 2010 to work full-time for a company based in Switzerland. Prior to this date he had always lived, worked and been resident in the UK. He has kept an apartment in the UK throughout his time in Switzerland so he had a place to stay whenever visiting family in the UK.

Edward retires from his employment, his last overseas workday being 31 October 2014. He returns permanently to the UK on 3 November 2014 and takes up residence in his apartment. Edward also has an apartment in Switzerland which is up for sale, but until a buyer is found he continues to use it when he visits Switzerland.

Provided Edward did not exceed the limits for days spent working more than 3 hours in the UK or days spent in the UK before the UK part of the tax year commenced (see [Table G](#)), he will receive split year treatment under Case 6 for 2014 to 2015 as follows:

- he is not resident in the UK for 2013 to 2014 tax year because he met the test for full-time work overseas for that tax year
- from 6 April 2014 until 31 October 2014 he worked full-time overseas
- he was UK resident for one or more of the 4 tax years (2009 to 10, 2010 to 11, 2011 to 12, 2012 to 13) before the year in which he was not UK resident (2013 to 14)
- he is UK resident for the tax year following his return to the UK, 2015 to 2016 tax year (he has retired permanently to the UK)

Edward does not meet Case 4, Case 5 or Case 8 criteria for split year treatment. The overseas part of the tax year ends on 31 October 2014 which is the day that Edward finished his spell of working full-time overseas and the UK part of the tax year starts on 1 November 2014.

### Case 7: The partner of someone ceasing full-time work overseas.

5.40 You may have been living abroad with your [partner](#) while they were in [full-time employment overseas](#). If your partner stops working overseas and returns or relocates to the UK and you decide to join them here then you may qualify for Case 7 split year treatment. You must:

- be UK resident for the tax year
- have been not resident in the UK for the previous tax year
- have a partner whose circumstances fall within the criteria for [Case 6](#) split year treatment, either in the tax year in question or in the previous tax year
- move to the UK on a day in the tax year so you can continue to live together with your partner on their return or relocation to the UK

## Split Year Treatment

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- be resident in the UK for the following tax year
- in the part of the year before your deemed arrival day either:
  - you have had no [home](#) in the UK at any time or
  - if you had homes both in the UK and overseas, you spent the greater part of the time living in your overseas home
- not exceed the [permitted limit of days](#) spent in the UK in the overseas part of the tax year before the UK part of the year commenced

### Case 7: Deemed arrival day

5.41 The deemed arrival day is the later of:

- the date that is the first day of the UK part of the year for your partner under [Case 6](#), and
- the date on which you move to the UK so that you can live together in the UK with your partner

### Case 7: Overseas part of the tax year

5.42 The overseas part of the tax year is the period from the beginning of the tax year until the deemed arrival day.

### Case 7: UK part of the tax year

5.43 The UK part of the tax year is the part of the year beginning with the deemed arrival day and ending at the end of the tax year.

#### Example 40

Joan is Edward's wife (see [Example 39](#)). Joan lived with Edward in Switzerland for the duration of his employment. She also retires from work and returns to live in the UK with Edward. However she does not return on 3 November with her husband; she arrives in the UK on 8 November 2014 having worked her notice at her part-time job (20 hours a week) in Switzerland.

Provided Joan did not exceed the limits for days spent in the UK before the UK part of the tax year commenced, she meets the criteria for Case 7 for 2014 to 2015 as follows:

- she was not UK resident for the 2013 to 2014 tax year
- she does not qualify for Case 6 as she did not meet the criteria for the third automatic overseas test - nor does she qualify for Cases 4, 5 or 8
- her husband will receive Case 6 split year treatment
- she is resident in the UK for the tax year following her return to the UK, 2015 to 2016
- she has come to the UK to continue to live with her husband (continued)

## Split Year Treatment

The UK part of the tax year 2014 to 2015 starts on 8 November 2014 when Joan moves to the UK.

### Case 8: Starting to have a home in the UK

5.44 If you have no [home](#) in the UK but at some point during the tax year you start to have a home in the UK then you may meet the criteria for Case 8. You must:

- be resident in the tax year
- be non-resident for the previous tax year
- be UK resident for the following tax year (this must not be a split year)
- have no UK home at the beginning of the tax year but start to have a UK home at some point during the tax year and continue to have a UK home for the rest of the tax year and all of the following tax year
- not have [sufficient UK ties](#) to make you UK resident in the period from the 6 April to the point you start to have a UK home - when you are considering whether you have sufficient UK ties in this part of the year, you should reduce the day count limits in the sufficient [UK ties tables](#) by substituting the values from [Table F](#)

### Case 8: UK part of the tax year

5.45 The UK part of the tax year starts on the date you have a home in the UK and continues until the end of the tax year.

### Case 8: Overseas part of the tax year

5.46 The overseas part of the tax year is from the beginning of the tax year until the start of the UK part of the year.

(Example 41 on next page.)

## Split Year Treatment

### Example 41

Nicola is retired. She is non-resident in the UK for tax purposes having lived in Cyprus for a number of years. She has a home in Cyprus and she also has a property in the UK which has been let out on a commercial basis for the last few years. She has recently become a grandmother and decides that she will now split her time between Cyprus and the UK so that she can see more of her grandson who lives in the UK.

She comes back to the UK and moves into the UK property when the rental agreement with her tenant expires on 4 August 2014. She now has 2 homes, 1 in each country.

Between 6 April 2014 and 4 August 2014 when she started to have a UK home, Nicola only spent 4 days in the UK, visiting her daughter, and therefore did not exceed the limit for days spent in the UK in the overseas period before she started to have the UK home.

Nicola meets the criteria for Case 8 for 2014 to 2015 on the basis that:

- she was not UK resident for 2013 to 2014
- she is UK resident for 2015 to 2016 (Nicola is possibly dual resident in UK and Cyprus)
- she continues to have a home in the UK for the rest of 2014 to 2015 and the following tax year
- she did not have sufficient UK ties to make her resident from 6 April 2014 until 4 August 2014

Nicola does not meet the criteria for Case 4, 5, 6 or 7 split year treatments.

The UK part of the split year starts on 4 August 2014 which is when Nicola starts to have a home in the UK.

## Period of temporary non-residence

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### 6. Period of temporary non-residence

6.1 When you return to the UK after a period of temporary non-residence, you may be charged to tax on certain income and gains you received (or remitted to the UK) in that period of temporary non-residence.

#### Temporary non-residence

6.2 You will be regarded as temporarily non-resident if:

- following a [residence period](#) where you have [sole UK residence](#), 1 or more residence periods occur for which you do not have sole UK residence
- in 4 or more of the 7 tax years immediately preceding your [year of departure](#) you had either:
  - sole UK residence for the tax year, or
  - the year was a [split year](#) that included a residence period for which you had sole UK residence, and
- your [period of non-residence](#) is a period of 5 years or less

For these special rules not to apply, your period of non-residence must exceed 5 years, that is, a minimum period of five years plus 1 day. For example, 4<sup>th</sup> May 2015 to 4 May 2020.

#### Meaning of residence period

6.3 In relation to whether you are temporarily non-resident, a residence period is either:

- a full tax year
- the overseas part of a split year, or
- the UK part of a split year

#### Meaning of sole UK residence

6.4 You will have sole UK residence for a [residence period](#) consisting of an entire tax year if you are resident in the UK for that year, and there is no time in that year when you are [Treaty non-resident](#).

6.5 You will have sole UK residence for a residence period consisting of part of a [split year](#) if the residence period is the UK part of that year and there is no time in that part of the year when you are Treaty non-resident.

#### Treaty non-residence

6.6 You are Treaty non-resident at any time if, at the time, you fall to be regarded as resident in a country outside the UK for the purposes of [double taxation agreements](#) having effect at the time. You are Treaty resident in the United Kingdom if, at the time, you fall to be regarded as resident in the UK for the purposes of double taxation arrangements having effect at the time.

## Period of temporary non-residence

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### Start and end dates for period of temporary non-residence

6.7 Your period of temporary non-residence starts from:

- the date immediately following the last residence period in which you were solely resident in the UK (referred to as Period A) or,
- if split year treatment applies to you, the date following that on which the last residence period for which you had sole UK residence ends

The period of temporary non-residence ends on the day before the date of the start of the next residence period for which you have [sole UK residence](#).

### Meaning of year of departure and period of return

6.8 Your year of departure is the tax year consisting of or including the last residence period in which you were solely resident in the UK or, if split year treatment applies to you, the date following that on which the last residence period for which you had sole UK residence ends.

6.9 The new temporary non-residence rules only apply if your year of departure (as defined here) is 2013 to 2014 or later. Note that the year of departure may fall earlier than the year in which you physically leave the UK.

6.10 Your period of return is the first residence period after period A for which you have sole UK residence.

(Example 42 on next page.)



## Period of temporary non-residence

### Example 42

Max has had sole residence in the UK for the previous 10 years. On 22 February 2015 Max moves to Poland and is considered resident there from this point, as well as retaining his UK residence up to the end of the tax year. From 22 February to 5 April 2015 he is treaty non-resident.

For the purpose of this example, Max does not satisfy the conditions for split year treatment in tax year 2014 to 2015.

Max is not solely UK resident from 22 February 2015 but he will remain UK resident for the tax year. As this is not a split year, [Period A](#) will end at the end of the tax year 2013 to 2014, because that is the end of the last tax year in which Max was solely UK resident. His year of departure for the purpose of applying the temporary non-resident provisions is therefore 2013 to 2014, even though he actually physically left the UK on 22 February 2015. The next residence period begins on 6 April 2014 and Max will begin to be regarded as temporarily non-resident from this point.

Max returns on 26 May 2018 and split year treatment applies.

Max has sole UK residence from 26 May 2018. He is treaty resident for the UK part of the year. His temporary non-residence ends on 25 May 2018. The period of temporary non-residence is 6 April 2014 to 25 May 2018 inclusive, which is less than 5 years and so Max is within the scope of the temporary non-residence provisions.

(Example 43 on next page.)

## Period of temporary non-residence

### Example 43,

Louis moves to the UK on 9 January 2014, becoming resident here for 2013 to 2014. He satisfies the conditions for split year treatment for 2013 to 2014 and is treaty resident in the UK from arrival.

On 4 January 2018, Louis moves to the USA. He becomes a US tax resident and is not treaty resident in the UK from that point onwards. He satisfies the conditions for split year treatment and his overseas part of the split year starts on 4 January 2018.

Louis returns to the UK on 9 March 2023 and split year treatment applies. He is treaty resident in the UK from the date of his return.

Louis meets the '4 out of 7' test for tax years immediately preceding the year of his departure.

- 2013 to 2014 was a split year which included a residence period for which Louis had sole UK residence
- 2014 to 2015, 2015 to 2016 and 2016 to 2017 were full tax years for which he had sole UK residence
- 2017 to 2018 was the year of departure. It was a tax year that included a residence period for which he had sole UK residence (6 April 2017 to 3 January 2018). This last period is [period A](#)

Louis has more than 1 residence period immediately following period A in which he does not have sole UK residence. The first such period is 4 January 2018 to 5 April 2018 (the overseas part of the split year in the year of his departure).

By the time Louis returns he has been non-resident for more than 5 years (4 January 2018 to 8 March 2023), therefore he is not temporarily non-resident for the purposes of the statutory residence test. He does not need to be non-resident for 5 complete tax years in order to be outside the scope of the temporary non-residence provisions.

### Tax when returning to the UK after a period of temporary non-residence

6.11 If you are within the scope of the temporary non-residence rules, you will become liable to tax in the year or part year (in the case of a [split year](#)) of your return to the UK on certain of your income and gains:

- accruing
- arising, or
- remitted to the UK

## Period of temporary non-residence

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during periods when you were temporarily non-resident. These are considered briefly below.

6.12 You will become liable to tax on:

- certain pension payments, lump sums and certain other charges
- income taxable under the [disguised remuneration rules](#)
- remitted foreign income (for remittance basis users)
- distributions from closely controlled companies
- loans to participators written off or released
- chargeable event gains
- offshore income gains, and
- capital gains

The temporary non-residence charges for these items will apply as if the income or gain arose in the period that you returned to the UK. The following sections provide more information on the income and gains affected.

### Transitional arrangements

6.13 The rules outlined above will only apply to tax years where the year of departure as defined in the SRT is 2013 to 2014 or later. If the year of your departure was 2012 to 2013 or earlier, the former provisions (which are more limited in scope) continue to apply.

#### Example 44

Max was resident in the UK for the previous 10 years. On 22 February 2013 Max moves to Poland. The 2012 to 2013 year would be the year of departure under the new and former provisions.

If Max returns to the UK and becomes resident for the 2014 to 2015 year then Max's liability in respect of income and gains arising while he was in Poland are considered under the former provisions.

### Pension income

6.14 A range of pension-related income, lump sums and gains fall within the temporary non-residence rules. These are listed below.

- withdrawals from a flexible drawdown pension fund - this replaces and updates the existing temporary non-residence charge. [EIM74050](#) contains detail of the rules
- certain lump sums paid under an employer-financed retirement benefit scheme ('EFRB'). [EIM15010](#) contains detail of the rules
- certain steps comprising payment of a lump sum relevant benefit (or, for remittance basis users, the remittance of such a lump sum relevant benefit), comprising a 'relevant step' for the purposes of the disguised remuneration rules

## Period of temporary non-residence

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- certain lump sums paid by UK pension schemes in respect of which a charge on receipt is removed by a [double taxation agreement](#). See [EIM74060](#) for more information.
- certain taxable property deemed income and gains of a pension scheme charged to tax on a scheme member - this replaces and updates the existing temporary non-residence charge, detailed guidance will be provided in due course and a link to that guidance will appear here.

6.15 Where you receive, or become entitled to, any of the above during a period of temporary non-residence you will be taxed as if you received, or became entitled to, them in the period of your return.

### Example 45

Toby leaves the UK on 5 August 2013 for a 6 year contract of employment abroad. He is 56, has reached normal minimum pension age, and has lived all his life in the UK.

Toby receives £100,000 as a tax-free pension commencement lump sum and £300,000 in flexible drawdown from his UK registered pension scheme on 20 April 2014. As he is not resident in the UK for tax year 2014 to 2015, in accordance with the terms of the double taxation agreement between the UK and the country in which Toby is resident at the time, no Income Tax is deducted or due in respect of the £300,000 paid as flexible drawdown.

Due to a change in his personal circumstances Toby has to return to the UK earlier than he had anticipated; he becomes UK resident once more for 2016 to 2017 (UK part of split year commencing 2 September 2016). He therefore finds that he was temporarily non-resident under the statutory residence test.

Under the relevant provisions the £300,000 taken as flexible drawdown is a 'relevant withdrawal'. As it was paid during Toby's period of temporary non-residence and was not charged to tax in the UK, the £300,000 is taxable as pension income as though it accrued in the period of Toby's return to the UK rather than at the time it was received.

### Remitted foreign income

6.16 Where you:

- use the [remittance basis](#), and
- remit [relevant foreign income](#) to the UK during the period in which you are [temporarily non-resident](#)

you will be treated as having remitted that relevant foreign income to the UK in the period of your return. This replaces and updates the existing temporary non-residence charge. [RDRM32510](#) contains detail of the rules.

## Period of temporary non-residence

### Example 46

Marie returned to the UK during the tax year 2018 to 2019 after a period of residence abroad.

She originally left the UK to become resident abroad on 2 September 2013 (end of [period A](#)) and so her year of departure was 2013 to 2014. She had been resident in the UK for the 7 years before her departure and claimed the remittance basis in those years.

While Marie was resident abroad she remitted to the UK the following relevant foreign income (RFI):

- £15,000 RFI from 2009 to 2010 remitted in 2014 to 2015
- £18,000 RFI from 2010 to 2011 remitted in 2014 to 2015
- £18,000 RFI from 2011 to 2012 remitted in 2015 to 2016
- £20,000 RFI from 2012 to 2013 remitted in 2016 to 2017

Total £71,000

As she was not resident in the UK, this income was not taxed when remitted here.

On her return to the UK on 1 June 2018 (the beginning of the UK part of split year 2018 to 2019), Marie is within the special rules because her period of temporary non-residence was less than 5 years. She will be liable to UK tax on these earlier remittances which took place when she was temporarily non-resident. They will be chargeable to UK tax in 2018 to 2019, the tax year of her return.

### Distributions from closely controlled companies

6.17 Where you receive, or become entitled to, distributions from a UK or overseas company during a period of [temporary of non-residence](#), and the company:

- is a close company, or
- if it is an overseas company, it would have been a close company had it been UK resident

and you are either,

- a material participator in the company, or
- an associate of such a participator

## Period of temporary non-residence

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at a point within the tax year of departure (the UK part if [split year treatment](#) applies) or the previous 3 years, then the distributions are charged to UK tax as if you received them in the period of your return.

6.18 If the distribution is a dividend, the charge does not apply to dividends that relate to trade profits that arose in the period of temporary non-residence.

6.19 HMRC will accept any just and reasonable attribution of dividends to post-departure trade profits that accords with the facts.

### Loans to participators released or written off

6.20 If:

- you have received a loan or an advance from a company, and
- that loan or advance is released or written off whilst you are [temporarily non-resident](#)

a charge arises at the time, regardless of whether you are UK resident. However, this charge may be removed under the terms of [double taxation](#) agreements between the UK and the country in which you are temporarily resident. When the original charge is removed under these conditions, a new liability will arise on the period of your return. See [CTM61657](#) for more information.

### Chargeable event gains

6.21 Where a chargeable event gain arises on a:

- life insurance
- life annuity, or
- capital redemption policy

when you are temporarily non-resident, you will be liable to tax on the gain in the period of your return. For more details of the policies affected by this charge, see [IPTM3300](#). For detailed guidance on the interaction between chargeable event gains and temporary non-residence, see [IPTM3734](#).

### Capital gains

6.22 If you have a capital gain that arises in a period when you are temporarily non-resident (including any gains attributed to you), and the gains are not already charged by other provisions, then the gains will be chargeable to Capital Gains Tax for the period of return. This replaces and updates the temporary non-residence provisions where the year of departure was 2012 to 2013 or an earlier year, details of which are in [CG26100](#). See [CG26500](#) and [CG26800](#) for guidance if you left the UK in 2013 to 2014 or a later year.

## Period of temporary non-residence

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### Offshore income gains

6.23 Where you have an offshore income gain that arises during a period when you are [temporarily non-resident](#), that gain is treated in a similar way to a capital gain, as explained above.

### 7. Record keeping

#### What records should I keep for SRT purposes?

7.1 You will need to keep records and documents to support the statements you make when you are:

- considering the statutory residence test, or
- giving specific responses to questions in the Tax Residence Indicator (TRI) tool

In many cases your circumstances will be straightforward and you will not need to retain paperwork over and above any documentation you might normally be expected to keep for your own or your employer's purposes.

#### Home

7.2 When considering whether you had a home in the UK or abroad, HMRC would look for evidence to establish your presence at a particular home and whether or not a home existed. The following information would help establish the facts:

- general overheads - utility bills which may demonstrate that you have been present in that home, for example, telephone bills or energy bills, which demonstrate usage commensurate with living in the property
- TV/satellite/cable subscriptions
- local parking permits
- membership of clubs, for example sports, health or social clubs
- mobile phone usage and bills pointing to your presence in a country
- lifestyle purchases pointing to you spending time in your home – for example, purchases of food, flowers and meals out
- presence of your spouse, partner or children
- engagement of domestic staff or an increase in their hours
- home security arrangements
- increases in maintenance costs or the frequency of maintenance, for example having your house cleaned more frequently
- insurance documents relating to that home
- SORN notification that a vehicle in the UK is 'off road'
- re-directed mail requests
- the address to which you have personal post sent
- the address to which your driving licence is registered
- bank accounts and credit cards linked to your address and statements which show payments made to utility companies
- evidence of local municipal taxes being paid
- registration, at your address, with local medical practitioners
- what private medical insurance cover you have, is it an international policy?



## Record keeping

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- credit card and bank statements which indicate the pattern and place of your day by day expenditure

7.3 The above list is not definitive; no one piece of evidence will demonstrate the existence of your UK or overseas home with the requisite time spent there. HMRC will consider the weight and quality of all the evidence as, taken together, a number of pieces of evidence may be sufficiently strong to demonstrate your presence in a particular home.

7.4 Where your home has changed from a holiday home to your home for the purposes of the SRT, the change in occupation could be evidenced by, amongst other things:

- utility bills which may show an increase in usage
- changes you have notified to:
  - local municipal authorities, or
  - the company providing your buildings and contents insurance

### **Working hours and location of work done - records**

7.5 Where your residence status is determined by the automatic tests relating to [working full-time in the UK](#) or [overseas](#), you should keep information and records relating to:

- the split in your working life between the UK and overseas, particularly noting days where you [worked](#) (including training, being on stand-by and travelling) for more or less than 3 hours
- the nature and duration of your work activities - a work diary/calendar or timesheet is likely to indicate this - you may find that it would be beneficial to ensure your diary is sufficiently detailed, maybe reflecting hours worked and the nature of your work, for example reviewing and responding to emails, meetings, or filing travel claims
- breaks you had from working, for example between jobs, and why
- your periods of annual, sick or parenting leave
- time you spend visiting dependent children (those under the age of 18) when they are in the UK
- time you had to spend in the UK owing to [exceptional circumstances](#):
  - what your circumstances were
  - what you did to mitigate them where that was possible, for example making alternative travel arrangements
- your contracts of employment, and documentation/communications which relate to these, particularly to curtailment or extension of these or other changes to them

## Record keeping

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### The sufficient ties test

7.6 Where you have [connections to the UK](#), such as family, accommodation, work or time spent here, you should keep information and records that will allow you to work out:

- in which countries you have spent your days and midnights, for example:
  - your travel details
  - booking information, or
  - tickets, and boarding cards
- if you left the UK to live or work abroad:
  - the date you left the UK
  - visa or work permit applications, etc. if you had to make them
  - contracts of employment
- if you come to live or work in the UK:
  - the date you arrive here
  - visa or work permit applications
  - documentation relating to you taking up employment or ceasing your previous employment
- when you were present at your [home](#) or homes, or other available [accommodation](#)
- how long you owned or rented those homes, for example when you purchased, sold or leased those homes
- the time your home was unavailable for your use, for example because it was rented out.

### 8. Transitional provisions

#### Use of the SRT to determine residence status for tax years before 2013 to 2014

8.1. If you are considering your residence status for the tax years 2013 to 2014, 2014 to 2015, 2015 to 2016, 2016 to 2017 or 2017 to 2018 under the [automatic overseas tests](#) or the [sufficient ties tests](#) of the SRT you will need to know your residence status for 1 or more of the 3 tax years prior to 2013 to 2014 (pre-commencement tax years). You may also need to know this to determine whether [split year treatment](#) is due.

8.2. The normal position is that your residence status for a pre-commencement tax year is determined by the rules that applied in that year and which are explained in HMRC's booklet [HMRC6](#) - Residence, domicile and remittance basis.

8.3. However, for the purpose of determining your UK residence status in the tax years 2013 to 2014, to 2017 to 2018 (or the application of the split year rules to those years) you can elect to determine your residence status for a pre-commencement tax year by reference to the SRT tests.

8.4. An election applies only to a pre-commencement tax year and solely for the purpose of determining your residence status for tax years from 2013 to 2014 to 2017 to 2018. It does not change your actual tax residence status for the year(s) to which the election applies nor does it affect your tax liability in those years.

8.5. An election may be made whether or not your actual residence status for a pre-commencement year has been determined.

8.6. If your residence status for a pre-commencement year has not been settled, then making an election may enable you to determine your residence status for 2013 to 2014 or a later year under the SRT without waiting for the position for the earlier year to be finalised.

#### Making an election

8.7. If you choose to make an election to determine your residence status for a year prior to 2013 to 2014 by reference to the SRT, the election:

- must be made in writing, either on your Self Assessment return or in a letter sent to [HMRC](#)
- must be made no later than the first anniversary of the end of the relevant year to which it applies or, if the year is a split year, the first anniversary of the end of that year
- is irrevocable

## Transitional provisions

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8.8. If it is necessary for you to determine whether a year prior to 2013 to 2014 is a split year you must reach your decision by reference to the relevant Extra Statutory Concession (ESC) applicable in that year. The split year rules in the SRT do not apply. The relevant ESCs are:

- [A11](#)
- A78 (see part 8.9 of [HMRC6](#))

or, if these do not apply

- [D2](#)

### Example 47

Norman is preparing to determine whether or not he is UK resident in tax year 2013 to 2014 under the automatic overseas tests. He needs to know whether he was resident in the UK in 1 or more of the previous tax years. He knows his UK residence status for tax years 2010 to 2011 and 2011 to 2012, but not for 2012 to 2013. He decides that, to work out his residence status for 2013 to 2014, he would prefer to use the SRT test to determine his residence status for 2012 to 2013 rather than apply the rules that applied in that tax year. He must make the election to HMRC in writing by 5 April 2015.

### Application of the SRT rules for tax years before 2013 to 2014 for someone who dies on or after 6 April 2013

8.9 In the fourth automatic UK test, someone who dies during the tax year under consideration must have met 1 of the automatic UK tests and not met any of the automatic overseas tests for the previous 3 years. If the previous years in question are before tax year 2013 to 2014, these conditions should be read as simply requiring the deceased person to have been resident in those tax years.

8.10 In the fifth automatic overseas test, someone who dies during the tax year under consideration must have met the third automatic overseas test (modified if the earlier of those years is a split year) for both of the 2 previous tax years. If the years in question are before tax year 2013 to 2014, this condition should be read as simply requiring the deceased person to have been non-resident in those previous tax years (the earlier year meeting this condition if ESC [A11](#) applied to the deceased on leaving the UK that year).

### Anti-avoidance (temporary non-residence) provisions

8.11 The anti-avoidance provisions in force up to 17 July 2013 which cover:

- chargeable gains
- income withdrawals under certain foreign pensions
- income withdrawals under registered pension schemes, and
- relevant foreign income charged on the remittance basis

## Transitional provisions

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will continue to apply after that date, if the [year of your departure](#) from the UK is a year prior to the tax year 2013 to 2014. However, your residence status for tax year 2013 to 2014 and subsequent tax years will be determined solely by reference to the SRT tests. For additional information on temporary non-residence see [section 6](#) of this guidance.

8.12 In addition, the two temporary non-residence provisions in secondary legislation which cover:

- pension scheme deemed property income charges and
- offshore income gains

will continue to apply and have been updated by Statutory Instrument to reflect the new language of the SRT.

### Annex A: Home and accommodation

#### The statutory residence test concept of 'home'

A1 This guidance provides information about how HMRC interprets the term 'home' in the context of applying the SRT to an individual's circumstances. It must be read in conjunction with the statutory residence test legislation, which forms Schedule 45 to the Finance Act 2013 particularly paragraph 25 of the Schedule, to gain a comprehensive understanding.

#### How do I know if I have to read this annex?

A2 This guidance is intended primarily to help individuals apply the [second automatic UK test](#) (in paragraph 8 of the Schedule containing the SRT legislation) to establish their UK residence position. However, this guidance applies to the term 'home' used throughout the SRT.

A3 As the meaning of 'home' can vary according to its context it is not possible for this guidance to provide an absolute definition of the term. What this guidance does is to give indicators outlining the characteristics that a home will generally have. We give some general examples of what a home may or may not be; whether a place is or is not a home will always be dependent on the facts and circumstances of its use by the individual. HMRC may choose to enquire into those facts and circumstances.

A4 For the purpose of the SRT we consider that a person's home is a place that a reasonable onlooker with knowledge of the material facts would regard as that person's home.

A5 The concept of home as described in this guidance relates only to the SRT. The guidance does not apply for the purpose of applying the residence Article under a [double taxation agreement](#). Double taxation agreements have additional qualifiers that are not included as part of the SRT and so the 2 terms do not have the same meaning.

A6 It is possible to have more than 1 home, either in the same country or in more than 1 country.

A7 The vast majority of people will have only one place where they live and this will be their home. If an individual has more than 1 place to live then each of those places may be a home. In this situation, whether or not either place is a home will be determined by the facts.

#### Why the meaning of 'home' matters for SRT

A8 An individual may be resident under the [second automatic UK test](#) if they have a home in the UK. Also:

- an individual will get [Case 2 split year treatment](#) only if they have no home in the UK at any time, or have homes in both the UK and

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overseas but spend the greater part of the time living in the overseas home.

- an individual will get [Case 3 split year treatment](#) only if they no longer have any home in the UK.
- an individual will get [Case 4 split year treatment](#) on the basis of coming to live in the UK only if they cease to have any home overseas
- an individual will get [Case 8 split year treatment](#) only if they have no home in the UK at the start of the tax year but then acquire a home and continue to have a home in the UK
- the definition of an [accommodation tie](#) includes having a home in the UK

Home takes the same meaning in all these places.

### **The principles and characteristics of a home for the purpose of the statutory residence test**

A9 A home can be a building (or part of a building), a vehicle, vessel or structure of any kind which is used as a home by an individual. It will be somewhere which an individual uses with a sufficient degree of permanence or stability to count as a home.

#### **Example A1**

Jim lives in a mobile home with his wife. They travel extensively throughout the UK to wherever Jim can find work. They keep their personal belongings in the mobile home, take most of their meals there, and with the exception of their annual holiday abroad, sleep in it every night. It is where Jim and his wife spend most of their time when Jim is not working. It is their home.

#### **Example A2**

Mary comes back to the UK to take up employment after spending 3 years studying abroad. She has given up the tenancy on the flat she occupied abroad and moves into her parents' house. Her parents' house is her home.

A10 A home will remain an individual's home until such a time as it stops being used as such by them.

(Example A3 on next page.)

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### Example A3

William has business interests in both Switzerland and the UK. He flies to Switzerland each Monday returning to the UK every Thursday. In Switzerland he lives in a rented flat. When in the UK he lives with his family at the family home which he has owned for many years. In this situation both properties are his homes.

William subsequently decides he does not need to spend so much time in Switzerland and starts to travel there less frequently. He sub-lets his flat in Switzerland retaining no rights to use it, choosing instead to stay in whatever hotel can accommodate him. He now has only 1 home, which is in the UK.

A11 A place can still be a home even if an individual does not stay there continuously. If, for example they move out temporarily but their spouse and children continue to live there, then it is still likely to be their home.

### Example A4

Elizabeth is seconded to New York for 2 months by her UK employer. She stays in a hotel when she is there. Prior to her secondment she lived with her husband in their home in London. Her husband continues to live and work in the UK. When Elizabeth returns to the UK after her secondment she returns to live with her husband in their London home. The London house was Elizabeth's home throughout the period of her secondment.

A12 You should note that if you have a home (either in the UK or overseas) that your family do not visit as they live in another of your homes, this will not mean, when taken in isolation, that the home cannot be your home.

A13 If an individual moves out of their home temporarily it may still remain their home.

### Example A5

Asif has lived and worked in the UK for many years, occupying the same apartment in Liverpool since the day he arrived here. Asif's father lives in Sweden and is seriously ill. Ten months ago Asif decided to take a career break to care for his father and moved to Sweden. He does not know how long he will be out of the UK.

Since moving to Sweden Asif has not returned to Liverpool, but his apartment remains empty and available for him to return to whenever he wants. In this situation Asif will have a home in both Liverpool and Sweden even though he is spending all of his time in Sweden.

A14 A place that is used as a home will remain a home even if it is temporarily unavailable, for example, because of damage or renovation.



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### Example A6

Rachel and Tom's kitchen and dining room have suffered flood damage. The estimated clean-up and repair operation will take 6 weeks, so they stay with Rachel's parents while the work is being done. The property will remain their home even though Rachel and Tom are unable to stay there for the time being.

A15 Your home starts to be your home as soon as:

- it is capable of being used as your home, for example, you have taken ownership of it, even if it is temporarily unavailable because of renovation
- you actually use it as your home

If the first point above is satisfied, but in fact you never actually use it as your home, then it will not be your home.

### Example A7

Aneta moved from Poland to the UK and completed the purchase of her new house on 1 June. Whilst it was empty she stayed with friends, until her belongings arrived. These were moved in by the removal firm on 15 June.

Aneta stayed in her new home overnight that night. However, as she had arranged to have some extensive refurbishment done to her bathrooms and kitchen, she stayed in a local hotel and with colleagues whilst the main works were carried out. She moved into her home on a permanent basis on 15 July.

For SRT purposes we would consider that the house became Aneta's home from 15 June.

[Example A8 deleted from April 2016 version]

A16 The key points are that:

- a place must be capable of being used as a home, even if it is temporarily unavailable, and
- an individual must actually use it as a home

### **What is not considered to be a home for the purpose of the statutory residence test?**

A17 If an individual moves out of their home completely and makes it available to let commercially on a permanent basis it will not be their home during the period it is let unless they or their family retain a right to live there. This can happen, for example, where the rental agreement permits the individual to use the property or part of the property as living accommodation.

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### Example A9

Ivan left the UK to work in Germany. He lets the flat he previously lived in to a tenant on a 2-year lease. After 18 months he was made redundant and returned to the UK. The rental agreement on his flat gave exclusive use of the property to the tenant so Ivan arranged to stay with relatives and friends until the lease expired. For the period his property was let it is not his home.

However, if the rental agreement had allowed Ivan to use the flat and he had stayed there when he visited the UK it would have remained his home throughout.

A18 A place that has never been capable of functioning as a home cannot be a home. For example, a property purchased in such a state of disrepair that it is not capable of being lived in as a home, is not a home until such time as it becomes habitable.

A19 If an individual completely moves out of a property and makes no further use of it whatsoever it will no longer be their home.

### Example A10

Harry's new job requires him to travel extensively around Europe. He spends some time working in the UK but most of his work is carried out in other countries. He decided to sell his UK property. On 3 June he put his furniture and belongings in storage and 2 weeks later he handed the keys to his estate agent. He did not return to his UK property after 3 June and stayed in hotels or with friends on the occasions when he came back to the UK. The property is not his home from 3 June, the date he put his furniture and belongings in storage.

A20 A property which is used as nothing more than a holiday home, temporary retreat or something similar is not a home. So a holiday home where an individual spends time for occasional short breaks, and which clearly provides a distinct respite from their ordinary day to day life will not be a home. However if there comes a time when an individual's use of a holiday home or temporary retreat changes so that it is used as a home it will become a home from the time of the change. It will then continue to be a home until such time as circumstances change again and it ceases to be used as a home.

### Example A11

Jenny lives in Birmingham and works from home. She also owns an apartment in Spain which she rents out apart from 2 to 3 weeks a year when she takes her holiday there. The Spanish property is not her home.  
(Continued on next page)

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However, Jenny then decides to live in the Spanish apartment throughout the British winter time, from October to March. Her use of the property has changed from being somewhere she used for an occasional short break to somewhere she uses as a home for part of the year. The property is her home from the point she commences using the property as her home.

A21 A property, vehicle or other 'home' that an individual never stays in will not be their home. For example a property purchased solely as an investment or a property bequeathed to an individual and which they never stay in will not be a home. This will not be the case if they start to use the property as a home.

### Example A12

Jamal purchases a house in the UK as an investment. Although the property is furnished it is currently standing empty because he cannot find a suitable tenant. Jamal has never stayed in the property. The UK house is not his home.

A22 A building, vehicle, vessel or structure, or the like, can be an individual's home even if it is not owned by them. Ownership or a legal form of tenancy makes no difference. For example a property that an individual rents or in which an individual lives with their parents, another member of their family or others will be a home if they use it as their home.

### The statutory residence test accommodation tie

A23 This section provides information about what HMRC considers to be an accommodation tie in the context of applying the SRT to an individual's circumstances. It should be read in conjunction with the SRT legislation in paragraph 34 of the Schedule to gain a comprehensive understanding.

A24 This guidance is intended to help individuals apply the sufficient ties test (paragraphs 17 to 20 and 31 to 38 of the Schedule) to establish their UK residence position.

A25 If an individual cannot determine their residence by reference to an [automatic UK test](#) or an [automatic overseas test](#) they will need to consider the [sufficient ties test](#). The sufficient ties test sets out a number of defined connection ties that need to be considered when determining their UK residence position.

A26 One of the ties is the accommodation tie. Any accommodation that is available for an individual's use while they are in the UK:

- must be available to them for a continuous period of at least 91 days during the tax year and
- the individual must use it for at least 1 night during that tax year

### **Example A13**

Peter left the UK last year to travel the world. He let his UK property on a 2 year lease and has no rights to use the property. Peter has no home in the UK.

Before leaving the UK Peter agreed with his cousin that he could stay with her on any occasion he was in the UK. This is more than a casual offer; Peter's cousin is fully prepared to put Peter up for several months at a time should he need it. He made 2 visits to the UK this year, each for 10 days, and stayed with her. Peter has an accommodation tie this year.

A27 The main difference between the term 'home' for SRT purposes and available accommodation is that accommodation can be transient and does not require the degree of stability or permanence that a home does.

A28 If an individual does not have a home in the UK they may still have an accommodation tie if they have a place to live in the UK.

### **The principles and characteristics of accommodation as a UK tie**

A29 Although this guidance gives some general examples of what an accommodation tie may or may not be, whether somewhere is or is not an accommodation tie will always be dependent on the facts and circumstances of its use by the individual. HMRC may choose to enquire into those facts and circumstances.

A30 Accommodation can be a building, a vehicle, vessel or structure of any kind which is available to live in. It can also be a holiday home, temporary retreat or similar.

(Example A14 on next page.)

### Example A14

Mary has lived and worked in the USA for many years. Her uncle has a holiday houseboat in the UK where he has agreed Mary can stay any time she wishes, for as long as she wishes, when she comes here. Mary's uncle does not allow other people to stay in the houseboat.

Last year Mary came to the UK twice. She made arrangements to stay for 3 weeks with a friend and for 4 weeks with her brother. Although the houseboat was available for a continuous period of at least 91 days, Mary did not use it at all. Therefore, she had no accommodation tie in respect of the houseboat last year.

This year Mary again visited the UK twice, spending her 5-week summer holiday on her uncle's houseboat. This year Mary has an accommodation tie as the houseboat is available for a continuous period of at least 91 days and she has stayed on it for at least 1 night.

A31 An individual does not have to own the accommodation. Ownership, form of tenancy, or legal right to occupy the accommodation makes no difference.

A32 Accommodation can be any type of accommodation. For example, accommodation provided by an employer, a holiday home, a temporary retreat or something similar.

### Example A15

Simone has lived and worked in France all her life. She and her brother purchased a cottage in the UK several years ago as a holiday home. The cottage is let for most of the year but June, July and August are always kept free so that Simone or her brother can stay there. There is sufficient accommodation in the cottage to ensure that Simone is able to stay there, even when her brother and his family are also there.

Simone spent 2 weeks in the cottage last year and 3 weeks this year. Simone has an accommodation tie both last year and this year.

A33 Accommodation is regarded as available to you for a continuous period of 91 days if you are able to use it, or it is at your disposal, at all times throughout that period (subject to the 16 day gap rule covered below). If a relative were to make their home available to you casually, for a social visit, say, it will not mean that the accommodation would be regarded as being available to you. However, if it is available to you for a continuous period of 91 days and you use it casually, it will be a tie.

A 34 Similarly, a casual offer from a friend to 'stay in my spare room any time' will not constitute an accommodation tie unless your friend really is prepared to put you up for 91 days at a time (whether he actually does so or not).

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### Example A16

Sacha visits the UK on business and usually stays in different hotels. On one of these visits he takes an opportunity to attend the Wimbledon Tennis Championships. A business associate who lives in Wimbledon invites Sacha to stay at his flat for 3 nights rather than use a hotel. The arrangement is a one-off invitation and the accommodation is not available to Sacha for 91 days. It is not an accommodation tie.

A35 If there is a gap of fewer than 16 days between periods when accommodation is available the gap period is ignored and accommodation is regarded as being available throughout.

### Example A17

Hyo lives and works in Poland. He is his company's European sales manager. This year he will be responsible for launching a new product in the UK and will need to spend time here. His sales force are on the road the last week of every month so he books a room in the same hotel for the first 3 weeks of June, July, August, and September.

Hyo has an accommodation tie this year.

A36 The rules change slightly if an individual stays at the home of a close relative. Close relative means parent, grandparent, brother, sister and child or grandchild aged 18 or over (whether or not they are blood relatives, half-blood relatives or related by marriage or civil partnership). Child includes any adopted children.

A37 If an individual stays with a close relative the accommodation will be an accommodation tie if they spend at least 16 nights there in any 1 tax year and it is available to them for a continuous period of at least 91 days.

### Example A18

Ravi can stay with his grandparents whenever he is in the UK. They will put him up for more than 91 days if he wishes. He usually comes from India every year to visit them and stays with them for the whole summer.

Last year Ravi spent only the first 2 weeks with his grandparents then went on a one-off visit to his uncle (who would not be regarded as a close relative for the purposes of the SRT) for 2 months before returning home. So, although accommodation at his grandparents, who are regarded as close relatives, was available for more than 91 days, Ravi stayed with his grandparents for only 14 days, and therefore had no accommodation tie.

This year Ravi spent the whole summer with his grandparents.

This year Ravi has an accommodation tie.

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A38 If an individual stays in UK accommodation held by a spouse, partner or minor children then they will be considered to have an accommodation tie if they spend at least 1 night there.

### **Example A19**

Peter and his civil partner Andrew share an apartment in London. Last year Andrew moved to the USA to take up a university place to study marine biology.

This year Andrew came back to the UK for a 3-week holiday which he and Peter spent in Scotland. Andrew spent the first night and last night of his holiday in their London apartment.

This year Andrew has an accommodation tie.

A39 It is possible to have more than 1 place in the UK that counts as available accommodation. However this would still represent only 1 accommodation tie no matter how many different places of accommodation are available.

### **Example A20**

Julie has lived in Canada with her husband for many years.

Julie and her husband own a holiday home in the UK which they do not let out and in addition Julie can stay with her parents whenever she is in the UK, for as long as she wishes.

This year Julie visits the UK and stays with her parents for 4 weeks and then spends a further 3 weeks in her holiday home before returning to Canada.

This year although Julie has 2 places that count as available accommodation she has only 1 accommodation tie.

### **When accommodation is not considered to be an accommodation tie**

A40 Accommodation owned by an individual but which they have wholly let out commercially would not be considered as available to live in unless they retained the right to use the property or part of the property.

A41 Accommodation that is available to an individual but in which they have not spent at least 1 night in the tax year will not be an accommodation tie.

A42 Short stays at hotels and guesthouses will not usually be considered to be an accommodation tie. However, if an individual books a room in the same hotel or guesthouse (and does not cancel those bookings) for at least 91 days continuously in a tax year, bearing in mind that [short gaps](#) may be discounted, it will be an accommodation tie (see [Example A17](#)).

### **Annex B: The statutory residence test concept of exceptional circumstances**

B1 This annex provides information about how HMRC interprets the term exceptional circumstances in the context of applying the counts of an individual's presence in the UK for the SRT. It must be read in conjunction with the statutory residence test legislation, which forms Schedule 45 to the Finance Act 2013 particularly paragraph 22 of the Schedule, to gain a comprehensive understanding.

B2 The aim of this annex is to help individuals understand, recognise and identify what constitutes exceptional circumstances for the purpose of the SRT.

B3 Whether circumstances can be regarded as exceptional for the purpose of the SRT will always depend on the particular facts, an individual's circumstances and the choices available to them.

B4 An individual may need to consider [exceptional circumstances](#) to establish if any time they spend in the UK can be ignored for the purpose of the various counts of their presence in the UK for the SRT. The lists below indicate where exceptional circumstances can and cannot be taken into account.

#### **B5 SRT day counting rules where exceptional circumstances can be taken into account when an individual is determining the number of days they spend in the UK**

- [First automatic UK test](#) – an individual spends 183 days or more in the UK
- [First automatic overseas test](#) - an individual spends fewer than 16 days in the UK
- [Second automatic overseas test](#) - an individual spends fewer than 46 days in the UK
- [Third automatic overseas test](#) - number of days an individual spends in the UK is fewer than 91, excluding qualifying days under the deeming rule
- [Fourth automatic overseas test for deceased persons](#) - an individual spent less than 46 days in the UK
- [Sufficient ties tables](#) - number of days an individual spends in the UK compared against the number of ties they have
- [90-day tie](#) - an individual spends more than 90 days in the UK in the previous tax year or the one before that
- split year [Cases 1](#) and [2](#) - permitted limit of number of days an individual spends in the UK, excluding qualifying days under the deeming rule
- split year [Cases 4](#) and [8](#) - an individual spends fewer than 16 days in the UK



## Annex B

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- split year [Cases 4](#) and [5](#) - proportionately reduced number of days an individual spends in the UK for sufficient ties

### **B6 SRT day counting tests where exceptional circumstances cannot be taken into account when an individual is determining whether they satisfy the test**

- [Second automatic UK test](#)
  - an individual is present in their home on at least (for UK homes) or fewer than (for overseas homes) 30 separate days
  - period of 91 consecutive days, at least 30 of which fall within the tax year
- [Third automatic UK test](#)
  - an individual works sufficient hours in the UK, as assessed over a period of 365 days
  - 75% of the total number of days
  - at least 1 day in the tax year is a day on which an individual does more than 3 hours of work in the UK
  - significant break – 31 days go by
- [Third automatic overseas test](#)
  - significant break – 31 days go by
  - number of days on which an individual does more than 3 hours of work in the UK is fewer than 31
- Full-time work - 15 day [gap between employments](#) (and 30 day maximum number of days that may be subtracted for gaps between employments)
- [Family tie](#) - an individual spends time with their child in person on 60 days or fewer, for all or part of a day
- Family tie - an individual's child spends fewer than 21 days in the UK outside term-time
- [Accommodation tie](#)
  - continuous period of 91 days
  - gap of 15 days or fewer
- [Work tie](#) - an individual works in the UK for at least 40 days
- [Country tie](#) - midnight test – greatest number of midnights
- [Deeming rule](#) – if an individual has more than 30 qualifying days, the excess are treated as if the individual were in the UK at the end of the day, subject to the conditions set out in [paragraph 3.5](#)

B7 The maximum number of days spent in the UK in any tax year that may be ignored due to exceptional circumstances is 60. This is a limit, not an allowance or entitlement, and it applies whether there is one event or several events in the same tax year. Days spent in the UK over the 60-day limit count for the purposes of the SRT.

### What are exceptional circumstances?

B8 Days spent in the UK may be ignored if the individual's presence in the UK is due to exceptional circumstances beyond their control. This will usually only apply to events that occur while an individual is in the UK and which prevent them from leaving the UK.

B9 Exceptional circumstances will normally apply where an individual has no choice concerning the time they spend in the UK or in coming back to the UK. The situation must be beyond the individual's control.

#### Example B1

Anna is returning to her home in Denmark having spent her 7 week summer holiday working in the UK. This was her first visit to the UK.

On her boat journey home there is an explosion in the engine room. Emergency rescue services attend the vessel and Anna is found unconscious and badly burned. The emergency services make the decision to airlift Anna to a specialist burns unit in the UK where she remains for 5 months. Anna returns to Denmark as soon as she is discharged from hospital.

Anna has been in the UK for 202 days.

This disaster would be considered to be an exceptional circumstance beyond Anna's control. However, the maximum number of days that can be ignored towards days spent in the UK is 60. So Anna has 142 days which count as days spent in the in the UK.

B10 The type of events which may give rise to exceptional circumstances will be, by their nature, out of the ordinary and it is difficult to be prescriptive about what characteristics such an event would exhibit. However local or national emergencies, such as civil unrest, natural disasters, the outbreak of war or a sudden serious or life threatening illness or injury to an individual are examples of circumstances that are likely to be exceptional.

B11 There may also be limited situations where an individual who needs to stay in the UK to deal with a sudden or life threatening illness or injury to a spouse, person with whom they are living as husband and wife, civil partner or dependent child can have those days spent in the UK ignored under the SRT subject to the 60-day limit.

B12 There may also be limited situations where an individual who comes back to the UK to deal with a sudden or life threatening illness or injury to a [partner](#) or dependent child can have those days spent in the UK ignored under the SRT subject to the 60-day limit.

### **Example B2 (a)**

Henrik is working in the construction industry and lives in Germany. He has business interests in the UK and has spent 68 days working here in the current tax year. He is a lone parent and his children usually live in the family home in Germany with him.

Henrik sends Victoria, his 13 year old daughter, for a 2 week holiday, at a summer holiday camp, in the UK. Unfortunately, whilst undertaking one of the activities she has an accident and is taken to hospital, unconscious and with a suspected major neck injury. Henrik immediately travels across to the UK, to be with his daughter and arrange for her to be moved back to Germany. This happens 3 days after the incident. His daughter remains in the hospital in Germany for a further 4 weeks, and has to wear a neck brace for an extended period of time.

The 3 days Henrik spends in the UK with his daughter arranging her transfer, after this potentially life threatening accident, would be considered as exceptional circumstances.

### **Example B2 (b)**

A similar judgement would be applied had Henrik and his daughter been in the UK when the accident had occurred. If Henrik stays with his daughter beyond their planned return date, until she can be transferred back to Germany, the additional days where his is present at midnight would count as exceptional circumstances.

Had he chosen not to arrange for his daughter to be transferred to a German hospital, and elected to stay in the UK until she was released from hospital here, the additional time would not be considered as exceptional circumstances.

B13 In order to be ignored as days spent in the UK, there must be exceptional circumstances beyond the control of the individual. In other words, the event or situation in question must be one over which the individual has no control or influence and which cannot reasonably have been foreseen.

B14 For example, if an individual is a passenger on a commercial aircraft that is forced to make an emergency landing in the UK and there is no available onward flight to their original destination for 2 days afterwards, the 2 days that would otherwise count as spent in the UK would be ignored due to exceptional circumstances.

(Example B3 on next page.)

## Annex B

### Example B3

Claude is retired and came to the UK for the first time on 1 June for a 5 month extended travelling holiday, intending to leave on 31 October.

On 29 September while travelling to Scotland he is involved in a car crash suffering multiple injuries. He is in hospital for a total of 14 weeks and arranges to travel back to his home in France on the day he is discharged.

Claude has been in the UK for 220 days

The time Claude spent in hospital is an exceptional circumstance. Claude spent 14 weeks in hospital but because his original intention was to stay in the UK until 31 October, only the days from 1 November up to date of discharge can be ignored due to exceptional circumstances.

The maximum number of days in the tax year that can be ignored is 60. Claude has 160 days counted as spent in the UK.

B15 For days spent in the UK due to exceptional circumstances to be ignored, an individual must intend to leave the UK as soon as those circumstances permit. If an individual does leave the UK once the exceptional circumstances have ended HMRC will usually accept this as evidence of such an intention.

### Example B4

The circumstances are as in [Example B3](#).

However, Claude's nephew who lives in Wales writes to him in hospital and suggests Claude should visit him when he leaves hospital. Claude writes back on 1 December agreeing.

From 1 December it is no longer Claude's intention to leave the UK as soon as the exceptional circumstance has come to an end and so only the period 29 September to 30 November can be discounted as exceptional circumstances for SRT day counting purposes.

### Exceptional circumstances and Foreign and Commonwealth Office (FCO) advice

B16 Exceptional circumstances will generally not apply in respect of events that bring you back to the UK. However, there may be circumstances such as civil unrest or natural disaster where associated FCO advice is to avoid all travel to the region.

B17 Individuals who return to and stay in the UK while FCO advice remains at this warning level would normally have days spent in the UK ignored under the SRT, subject to the 60-day limit.

## Annex B

### Example B5

Philip is a structural engineer and has worked full-time abroad for many years. He is currently working on a project in Africa. His wife and children live in the UK.

In May the government of the country in which he is working is overthrown in a military coup. This initially gave rise to peaceful protests but soon developed into increasing levels of civil unrest. In early July the FCO issued advice against all but essential travel to the country. Philip continued to work there.

By mid-October the country was on the verge of civil war and the FCO upgraded their advice, advising against all travel to the country. Philip returned to the UK on 21 October.

Due to international intervention, by the end of January the following year political stability had returned to the country. On 29 January the FCO downgraded their advice to avoid all but essential travel to the country. Philip took the first available flight back and resumed work on 31 January.

The days Philip spent in the UK were due to an exceptional circumstance beyond his control and can be ignored for the purpose of the day counting tests of the SRT. However, the maximum period that can be ignored due to exceptional circumstances is 60 days. Philip was in the UK for 103 days during this period which means Philip must count 43 days as days spent in the UK for the purposes of the SRT day counting tests.

### **Examples of circumstances not normally considered to be exceptional circumstances.**

B18 Days spent in the UK will not be considered exceptional where the circumstances are not beyond the individual's control, or where they could reasonably have been foreseen or predicted.

B19 Life events such as birth, marriage, divorce and death are not routinely regarded as exceptional circumstances. Choosing to come to the UK for medical treatment or to receive elective medical services such as dentistry, cosmetic surgery or therapies will not be regarded as exceptional circumstances.

B20 Travel problems, for example a delayed or missed flight due to traffic disruption, train delays or cancellations, or a car breakdown, will not be considered as exceptional circumstances.

### **Annex C: The statutory residence test concept of family tie**

C1 This annex provides further information about how HMRC interprets the term ‘family tie’ in the context of applying the SRT to an individual’s circumstances, following on from the overview in [part 2 of this Guidance Note](#). It must be read in conjunction with the statutory residence test legislation, which forms Schedule 45 to the Finance Act 2013, particularly paragraph 32 and 33 of the Schedule, to gain a comprehensive understanding.

#### **How do I know if I have to read this annex?**

C2 This guidance is intended primarily to help individuals apply the family tie of the sufficient ties test (SRT Schedule paragraphs 18 and 19) to establish their UK residence position.

#### **Why is a family tie important**

C3 If an individual’s UK residence cannot be determined by the [automatic UK tests](#) or the [automatic overseas tests](#) of the SRT you will need to refer to [the sufficient ties test](#). The sufficient ties test sets out a number of defined connection ties that need to be considered to determine an individual’s UK residence.

C4 Family tie is one of the UK ties (SRT Schedule paragraph 32). An individual will have a family tie for a tax year if at any time during the year they have a relevant relationship with another person who is resident in the UK for the same year.

C5 Satisfying the family tie test will not, on its own, make someone conclusively UK resident. It is a factor that, in combination with other ties and the amount of time an individual spends in the UK, will contribute towards determining if they are resident in the UK in any 1 tax year.

C6 An individual can only have a family tie if they have a relevant relationship with someone who is resident in the UK. In deciding whether or not that other person is resident in the UK, the family tie that they have with the individual by virtue of that relevant relationship can be ignored for the purpose of the SRT.

(Example C1 on next page.)

### Example C1

George and his wife Mary both spend 140 days in the UK (a fewer number of days than the 183 day threshold in the automatic UK test). Neither of them was resident in any of the 3 previous tax years. Under the sufficient ties test of the SRT they will each be resident if they have 2 or more UK ties.

Both George and Mary have an [accommodation tie](#). They also have a relevant relationship to each other because they are man and wife. Therefore, if they have a family tie they will both be regarded as resident in the UK. However, because the family tie only exists because of their relevant relationship, the tie can be ignored.

As each of them now only has 1 UK tie neither of them is UK resident.

### Relevant relationships

C7 If an individual has a [partner](#) who is resident in the UK for a tax year and they are not separated, that individual will have a family tie for that tax year. Separated means separated under an order of a court of competent jurisdiction, by deed of separation or in circumstances where the separation is likely to be permanent.

C8 If at any time during a tax year an individual is living with a partner and that other person is resident in the UK, then that individual will have a family tie for that tax year.

C9 If at any time during a tax year an individual has a child under the age of 18 who is resident in the UK, that individual will have a family tie for that tax year. However, if the individual spends time with a child in person in the UK on fewer than 61 days (in total) in the tax year they will not have a family tie. If the child turns 18 during the year, only the part of the year before the day on which the child turned 18 needs to be considered.

(Example C2 on next page.)

## Annex C

### Example C2

Between May and November Jurgen visited the UK for 125 days, 104 of which were days on which he worked for more than 3 hours in the UK. When in the UK he stayed in a number of different hotels, so has no accommodation tie. He was not resident in the UK for any of the last 3 years. Jurgen's 17-year-old son lives and works full-time in the UK and is UK resident.

Under the sufficient ties test of the SRT Jurgen will be resident if he has 2 or more UK ties. He has a [work tie](#). However the only time Jurgen and his son spent together in the UK during his visit was 3 weeks in the summer. Therefore Jurgen has no family tie and, having only 1 tie, is not resident in the UK for that tax year.

C10 A day counts for the purpose of the test if the individual spends time with a child in person for all or part of the day. Days spent wholly outside the UK with the child do not count towards a family tie.

### Example C3

Pierre has a company flat in the UK which is permanently available to him and which he always uses when he comes here. This year Pierre has been in the UK for 75 days, 41 of which were days on which he worked for more than 3 hours in the UK. He was resident in the UK the year before last.

Pierre's ex-wife lives in the UK with their 15-year-old daughter. Pierre has spent 70 days with his daughter this year.

Under the [sufficient ties test](#) of the SRT Pierre will be UK resident if he has 3 or more UK ties. He has an [accommodation tie](#) and a [work tie](#).

However, although Pierre has spent 70 days with his daughter this year, 21 of these days were spent at Pierre's home in Paris and 14 were spent in Spain. Only 35 of the days Pierre has spent with his daughter were spent in the UK. So, Pierre does not have a family tie and is not UK resident for this tax year.

C11 If a child spends time in the UK solely for the purpose of their education, they are unlikely to create a family tie.

C12 If a child is under the age of 18 and in full-time education in the UK, they will not be treated as resident in the UK for the purpose of the family ties test of the SRT if they spend fewer than 21 days in the UK outside term-time.

C13 For the purpose of the SRT half-term breaks are regarded as term-time.

C14 Full-time education in the UK means full-time education at a university, college, school or other educational establishment in the UK.



## Annex C

### **Example C4**

Clara is 14 years-old and her parents, who reside in Dubai because of her father's work, send her to boarding school in the UK. She spends 10 days of her summer break on a school trip to Scotland and 1 week (7 days) of her Christmas break staying with friends in London. Clara has therefore spent 17 days in the UK outside term-time but will not be regarded as resident in the UK for the purposes of the family tie even though Clara herself is resident for tax purposes in the UK.

C15 A child can be either an individual's own natural child or a child they have adopted. It does not include step-children, unless the individual has adopted them.