

New Statutory Residence Test

This took effect on 6th April 2013 and applies to individuals, but not to companies.

The Test divides into three parts as shown below and if an individual fulfils part A they need not consider B or C.

Similarly, if an individual does not satisfy part A but falls into B, there is no need to consider C.

“Arrivers” can spend more time in the UK than “Leavers” and the definitions are:

- Arrivers:** Not UK resident in all of the previous 3 tax years
Leavers: Resident in any one or more of the previous 3 tax years

Part A: Conclusive Non Residence

This applies to anyone who can satisfy **one** of the following conditions.

- Spends fewer than 46 days in the UK (Arrivers) or 16 days (Leavers)
- Carries out fulltime work abroad spending fewer than 91 days in the UK of which fewer than 31 are for work.

If Part A does not apply, an individual will be resident if they satisfy **any** of the conditions in Part B.

Part B: Conclusive Residence

- Present in the UK for 183 days or more in a tax year
- Has a home (including rented) in the UK and spends 91 consecutive days in UK 30 are in the tax year.
- Carries out full time work in the UK

If **neither** A nor B apply, C must be considered.

Part C: Connecting Factors

The lower the number of following factors, the more days present in the UK are allowed.

- UK resident spouse or common law equivalent, or minor children
- Accessible accommodation in UK and makes use of it.
- Substantive work in the UK (more than 40 days at least 3 hours per day)
- 90 days presence in UK in either of previous 2 tax years.
- More time spent in UK than other jurisdictions (Leavers only).

The number of days allowed for “arrivers” is more generous than for “leavers” reflecting the view that it should be more difficult to relinquish residence.

The following tables illustrate the days allowed in each instance.

Table A

UK ties needed if an individual was UK resident for one or more of the three tax years before the tax year under consideration

Days spent in the UK in the tax year under consideration	UK ties needed
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 an individual was not UK resident in any of the three tax years before the tax year under consideration

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

For further advice on the Statutory Residence Test please contact David Gibbs, International Tax Partner on 020 7240 9971 or email David.gibbs@alliotts.com