

UK RESIDENCE

APRIL 2025

From April 2025, an individual's **residence** status alone determines how they are charged to UK tax. A UK resident will usually be charged to UK tax on their **worldwide** income and gains, rather than just that arising in the UK. Similarly, a "Long Term (UK) Resident" will be charged to UK Inheritance Tax on their **worldwide** estate, rather than just assets sited in the UK.

UK Residence is usually a matter of **fact**, especially as we now have a Statutory Residence Test.

Previously, those who were **resident but not domiciled** in the UK had some choices in how to be taxed. However, the concept of domicile is less relevant from April 2025. This is a potentially complex area and those affected should seek advice in order to make best use of the transitional provisions available and new rules applying.

Non-UK residents may not be taxed on some of their UK assets, but they must be aware that **UK property** sales are subject to capital gains tax **regardless of residence status**. They must report the sale to HMRC regardless of whether tax is due, and settle any tax, within 60 days of sale.

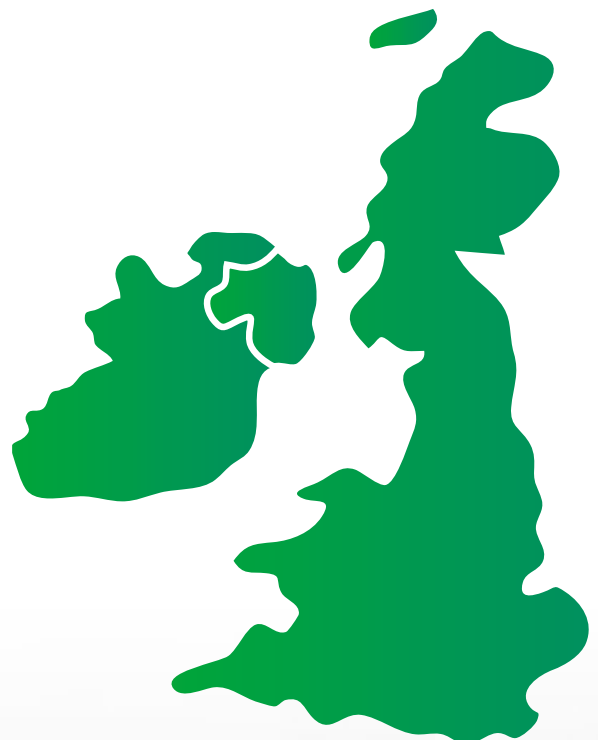
Here we look in more depth at the parameters and tax consequences for residence. This can be a complex area and individuals who think they may be affected should seek specialist advice.

RESIDENCE

Whether or not an individual is UK resident is generally a **matter of fact**, and is now subject to a **Statutory Residence Test**. The rules, whilst providing certainty in most cases, are far from simple, and a significant minority of cases may still not have the necessary clarity over the position without taking further professional advice.

The basic rules for determining residency in a tax year are considered below, however, please note that many of the terms used by the HMRC are subjective and further clarification may need to be sought by reference to the **HMRC Guidance Note**:
<https://www.gov.uk/government/publications/rdr3-statutory-residence-test-srt/guidance-note-for-statutory-residence-test-srt-rdr3>.

Additional tests are also detailed in the Guidance Note for individuals who die during the tax year. The HMRC residence indicator tool may also be of help:
<https://www.tax.service.gov.uk/guidance/check-your-UK-residence-status/choose-tax-year>.



RESIDENCE

BASIC RESIDENCE TEST RULES (BROAD GUIDANCE ONLY)

1. **Automatic Overseas Tests:** Do you meet one of the three automatic tests for non-UK residency?
 - a. UK resident for at least 1 of the preceding 3 tax years, and spent less than 16 days in the UK in the current tax year.
 - b. UK resident for none of the preceding 3 tax years, and spent less than 46 days in the UK in the current tax year.
 - c. You work 'full-time overseas' in the current tax year, without 'significant breaks', and spent less than 91 days in the UK in the current tax year, and the number of days in the UK on which you work more than 3 hours is less than 31 days. See the HMRC guidance for further details and jobs where this may not apply.

If you do not meet one of the automatic overseas tests, then you need to consider whether you meet one of the automatic UK tests:

2. **First Automatic UK Test:** If you spent 183+ days in the UK in the tax year, you are UK resident.
3. **Second Automatic UK Test:** If you have a home in the UK for 91+ consecutive days, of which at least 30 fall in the tax year; and you spend sufficient time in that home (at least 30 days in the tax year); and you have no overseas home or an overseas home in which you spend no more than the permitted amount of time (i.e. are present in that home for no more than 30 days in the tax year), then you are UK resident (please see further details in the HMRC Guidance Note).

If you have more than one UK home, the test applies for each home separately, but the test must only be met in relation to one of the UK homes.

4. **Third Automatic UK Test:** If you work 'full-time' in the UK for any period of 365 days, with no 'significant break'; and
 - 4.1. any part of that 365 days falls into the tax year (with at least one day falling in that period, falling into the tax year, being a day where you do more than 3 hours of work in the UK); and
 - 4.2. more than 75% of the total number of days in the 365-day period (when you do more than three hours of work) are days (when you do more than three hours of work) in the UK, then you are UK resident. This test may not apply to those with 'relevant jobs'.



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BASIC RESIDENCE TEST RULES (BROAD GUIDANCE ONLY)

If you do not meet one of the automatic overseas tests or one of the automatic UK tests, then you need to consider whether you meet one of the sufficient ties tests:

5. **Sufficient Ties Tests:** If you have not been UK resident in any of the 3 years prior to the current tax year, you will need to consider if you have a certain number of 'ties' to the UK. The table below sets out the number of ties that need to be met to be considered UK resident:

Days Spent in The UK in The Tax Year Under Consideration	UK Ties Needed	Categories of Tie to Consider
If you were UK resident for <u>one or more</u> of the three tax years before the tax year under consideration		
16-45	At least four	<ul style="list-style-type: none">• Family Tie• Accommodation Tie• Work Tie• 90 Day Tie• Country Tie
46-90	At least three	
91-120	At least two	
Over 120	At least one	
If you were UK resident in <u>none</u> of the three tax years before the tax year under consideration		
46-90	All four	<ul style="list-style-type: none">• Family Tie• Accommodation Tie• Work Tie• 90 Day Tie
91-120	At least three	
Over 120	At least two	

Please refer to the HMRC Guidance Note for full details of the Tie tests.

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- **Family Tie:** A family tie is, broadly, a spouse/civil partner/partner or minor child (who you spend time with in the UK for 61+ days in the tax year) who is UK resident for the tax year in question.
- **Accommodation Tie:** An accommodation tie is present if you have a place to live in the UK which is available to you for 91+ continuous days in the tax year, and you spend one or more nights there in the tax year (or 16+ nights if it is the home of a close relative).
- **Work Tie:** You have a work tie if you spend 40+ days working in the UK (where the work is 3 hours or more in a day). There are special rules for those with 'relevant jobs'.
- **90 Day Tie:** You have a 90 Day Tie if you have spent over 90 days in the UK in one or more of the previous two tax years.
- **Country Tie:** You have a Country Tie if the UK is the country in which you were present at midnight for the greatest number of days in the tax year.



SPLIT YEAR TREATMENT

Split Year Treatment may apply if the individual leaves the UK, or enters the UK, to live or work part way through the tax year. In this case, the individual would be treated as UK resident for part of the year, and non-UK resident for the other part of the year, whereas more usually the status of UK/non-UK residency applies for an entire tax year. The conditions for qualifying for split year treatment are too detailed to cover in this note, and can be found in the HMRC Guidance Note.

TEMPORARY NON-RESIDENCE

If you become **temporarily non-UK resident** (which in this case broadly means returning to UK residency after a period of five or less complete tax years), you may be liable to tax on income and gains received or remitted during the non-UK resident period.

HOLDINGS OF UK PROPERTY

Non-UK residents who dispose of directly or indirectly held **property** sited in the UK will also be subject to Capital Gains Tax on the disposal. The sale must be reported to HMRC regardless of whether a tax liability arises, and any tax settled, within 60 days of sale.

FOREIGN INCOME AND GAINS REGIME

The new Foreign Income and Gains Regime (FIG) dictates the point at which those newly becoming resident in the UK are liable to UK tax on their **worldwide** income and gains. Whilst individuals qualify for this regime, no UK tax is levied on foreign income and gains, or distributions from non-resident trusts, and these can be remitted to the UK without tax charge. Under the regime, no income tax personal allowance or CGT annual exemption can be claimed.

Once the FIG ceases to apply, individuals are taxed on their worldwide income and gains as per other UK residents.

The FIG is available for those who have been **non-UK resident for at least the last 10 tax years**. It is available for a **4-year period** starting from 4 April 2025, or from the first tax year in which the individual becomes UK resident if later. It does not apply automatically, and must be claimed via self-assessment.

Those who have been UK resident for less than 4 tax years by 6 April 2025 are able to use the FIG regime for the remainder of a 4-year period.

THE PREVIOUS REMITTANCE BASIS – TRANSITIONAL PROVISIONS

Before April 2025, individuals who were UK resident but non-UK domiciled were able to choose between the arising basis and the remittance basis of taxation. From April 2025, this option has ceased, and transitional provisions can be applied for under the **Temporary Repatriation Facility (TRF)**, which runs until the end of 2027/28. For example, UK residents who have previously claimed the remittance basis and have unremitted FIG (or benefits from offshore trusts) arising before 6 April 2025, can elect to remit these to the UK at a reduced rate of tax (they do not need to be physically moved to the UK however).

There is also a capital gains rebasing facility potentially available to those who previously claimed the remittance basis.

The area is complex, and electing for the TRF may not be beneficial for all; those affected should take advice.



INHERITANCE TAX (IHT)

A **non-UK resident** individual is **only subject to IHT on UK situated assets**, and assets held offshore are usually outside the UK IHT net. However, there are some categories of UK based assets which are excluded for IHT purposes for non-UK residents, including Authorised Unit Trusts and OEICs, UK gilts and foreign currency bank accounts.

Most **UK residents** are subject to UK IHT on their **worldwide assets**. For those who enter or leave the UK, liability to UK IHT on worldwide assets will depend on whether the individual is deemed to be **Long Term Resident (LTR)** in the UK.

From 6 April 2025, **those who have been UK resident for at least 10 out of the past 20 tax years will be classed as LTR**. Those leaving the UK will become non-LTR after 3 to 10 years (the tail provision): those who have been resident for 10 to 13 years will remain an LTR for 3 full tax years after leaving the UK.

Transitional rules for those who were not UK resident nor UK domicile/deemed domicile apply in 2025/26. Here, LTR status mirrors the previous deemed domicile test, with LTR applying to those who were UK resident for 15 out of the past 20 tax years and UK resident in the current tax year or one of the previous three tax years.

Please note that individuals from some countries may be covered by a long-standing **double tax treaty** (notably for IHT, Ireland, USA, South Africa, Netherlands, Sweden and Switzerland). Treaties with France, Italy, India and Pakistan also have rules to eliminate double taxation. It may be beneficial for these individuals to ensure their UK will deals only with their UK assets (which are still potentially subject to UK IHT), and should seek specialist legal advice.





Important Information: Our views are based upon our understanding of current legislation in England, unless stated otherwise. Levels and bases of, and reliefs from, taxation are subject to change and their value to you will depend upon your personal circumstances.

Risk Warning: The past is not necessarily a guide to future performance. The value of your investment and the income from it can fall as well as rise and is not guaranteed. You may not get back the full amount invested. This document is provided for information only and does not constitute advice. You should not act on any of the information without seeking professional advice.

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