

## Nunn Hayward LLP Factsheet:

### Statutory Residence Test (SRT)

#### Introduction

Since 6<sup>th</sup> April 2013 the tests that you need to ensure you meet with regards being non-resident for UK tax purposes became law, prior to this they had only been a guide.

The new rules do not have retrospective effect, but it could be the case that someone who has previously been considered to be non UK resident becomes UK resident from 6th April 2013. There are a number of stages to the test and a variety of rules to apply in order to determine your status.

There are four main components to the Statutory Residence Test, which in summary are;

1. Calculate the number of days you spend in the UK in the tax year, if this is more than 183 then you will be automatically UK resident.
2. If you spend less than 183 days in the UK, you are non-UK resident for a tax year if you meet any of the automatic overseas tests.
3. If you spend less than 183 days in the UK and you do meet any of the automatic UK residence tests you are UK resident.
4. If none of the above tests have given a satisfactory answer then you need to look at the sufficient ties test. This test essentially looks at whether you have ties which would deem you to be a resident in the UK.

The flowchart on the following page will help you to determine your residency status and go through each of the tests in more detail.



## Some key terms explained further:

### Days Spent

An individual spends a day in the UK for SRT purposes if he is in the UK at the end of the day. However, he is not treated as spending a day in the UK if the day is considered a transit day with no work or the individual is in the UK due to specified exceptional circumstances beyond his control for a maximum of 60 days. In certain circumstances an individual will be deemed to spend a day in the UK even though he is not in the UK at the end of the day.

### Working full-time overseas (WFTO)

The individual must work sufficient hours overseas (average of 35 hours per week disregarding certain defined days) in the tax year with no significant breaks from overseas work and spend fewer than 91 days in the UK and work (in this instance for no more than three hours a day) in the UK for fewer than 31 days.

### All Homes are in the UK

An individual will be regarded as resident if the individual has a home in the UK for more than 90 days in which the individual is present on at least 30 separate days in the relevant tax year. In addition for 91 consecutive days, at least 30 of which are in the tax year, the individual must have no home overseas in which the individual is present on 30 separate days in the tax year. If the individual has more than one home in the UK, the test must be met in relation to at least one of those homes when considered separately from the other home(s).

### Works Sufficient Hours in the UK (WSHUK)

The individual must work sufficient hours in the UK over a 365 day period (average of 35 hours per week disregarding certain defined days where all or part of the 365 day period is in the current tax year) with no significant breaks from UK work. More than 75% of the days in the period when the individual does more than three hours work per day must be worked in the UK and the individual must work for more than three hours in the UK on at least one day in the current tax year.

### Workdays

A work day in the UK for the purposes of the SRT is a day on which more than three hours work is performed. Work includes incidental and non-incidental duties and most travel. There is a complicated test to determine whether an individual works sufficient hours in the UK or overseas for the WFTO or the WSHUK tests.

Although the distinction between incidental and substantive duties is not relevant for the purposes of the SRT the distinction remains important for the purposes of calculating the tax liability of employees. When the employee is regarded as being non UK resident, incidental duties will continue to be deemed to be performed offshore and only substantive UK duties are taxable.

## Sufficient Ties Test

When an individual does not meet any of the automatic overseas tests or any of the automatic UK tests, the individual's residence will depend upon the number of UK ties (or connections) the individual has and the number of days spent in the UK.

## UK resident family

A family tie exists if a person's spouse, civil partner or minor child is resident in the UK in the relevant tax year. A person with whom the individual is living with as husband and wife or as if they were civil partners is also included. Where a minor child is UK resident because they are in full-time education in the UK, they will not be treated as UK resident for family tie purposes unless they spend more than 20 days in the UK outside of term time during the tax year.

## Split years

Although an individual can only be regarded as resident for a complete tax year, special rules apply when an individual commences or ceases residence which are outside the scope of this flowchart. The tax year may be split in to an overseas part and a UK part for certain purposes.

## Next Steps

If you should have any queries please do not hesitate to contact our Tax Department who will be able to provide further assistance.

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*\*The flowchart and the notes are intended to summarise how the Statutory Residence Test determines residence status in the UK, However the legislation comprises over 60 pages of rules and definitions. HMRC have also issued over 100 pages of guidance. Accordingly the information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.*