

# Statutory Residence Test

## Key Definitions

### 1 Day counts

1.1 Days that you are present in the UK at the end (midnight) of the day count as days spent in the UK, subject to The Deeming Rule.

1.2 The Deeming Rule applies to you if you:-

1.2.1 have at least 3 UK ties for the tax year, and

1.2.2 have been present in the UK for more than 30 days, without being present at the end of the day (qualifying days), in the tax year, and

1.2.3 have been UK resident in one or more of the preceding 3 tax years

if all above conditions are met, after the first 30 qualifying days, all subsequent qualifying days within the tax year count as days spent in the UK.

1.3 The midnight rule does not apply to the following two cases:-

#### Passage through the UK

1.3.1 if you only arrive in the UK as a passenger on the day,

1.3.2 you leave the UK the next day, and

1.3.3 between arrival and departure, you do not engage in activities that are to a substantial extent unrelated to your passage through the UK.

#### Exceptional circumstances beyond control

1.3.4 if you would not be present in the UK at the end of the day but for exceptional circumstances beyond your control that prevent you from leaving the UK, and

1.3.5 you intend to leave the UK as soon as those circumstances permit

1.3.6 the maximum number of days allowed is limited to 60 days.

### 2 Work full-time

2.1 You are considered to be working full-time in the UK, or overseas, for any 365-day period if you work for an average of at least 35 hours per week, whether employed or self-employed.

2.2 the length of the period over which you calculate your average weekly hours should not be adjusted for weekends, public holidays or days you are not required to be at work due to your working pattern.

2.3 When working out the average time worked, reduce the length of the period to account for:-

a) sick leave where you cannot work as a result of your sickness or injury, and

b) reasonable amount (see Note) of annual leave and parenting leave

**Note** - what is 'reasonable amount' depends on your situation, e.g. nature of work, standard number of annual leave days in the country, etc.

2.4 you may deduct maximum 15 days from the period over which you calculate the average, where you change employment or move from one contract to another.

### 3 Work (takes its everyday meaning)

3.1 If an employee - the activities you carry out in the performance of your duties.

3.2 If self-employed - the activities you carry out in the course of your trade (alone or in partnership).

3.3 A voluntary post with no contract of service does not count as work for the purposes of the test.

3.4 Time spent on working also includes:-

3.4.1 instances where your employer instructs you to stay away from work (e.g. serving a period of notice), while still keeps you on the payroll.

3.4.2 travelling time to the extent that you work during the journey, if the cost is met by employer or is capable of being deducted from your earnings; or, if self-employed, treated as deductible expense against your trading profits.

3.4.3 training time if it is provided or paid for by your employer and is undertaken to help you in performing duties of your employment; or, if self-employed, treated as deductible expense against your trading profits.

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

## 4 Home

- 4.1 A home must be a place that is capable of being used as such, even if it is temporarily unavailable, and
- 4.2 An individual must actually use it as a home, with a sufficient degree of permanence or stability.
- 4.3 A home can be (part of) a building, a vehicle, vessel or any structure that is used as a dwelling by an individual.
- 4.4 A place can still be home even if you do not stay there continuously, or move out of it temporarily but regularly return to stay there even for a short period.
- 4.5 A property which is used periodically as nothing more than a holiday home, temporary retreat or similar is not a home (but see point 8.6 of Accommodation tie).
- 4.6 A place may count as a home whether or not you hold any estate or interest in it (e.g. a rented property).
- 4.7 A property will not be a home merely because you still hold an estate or interest after you have moved out completely (e.g. if you are in the process of selling it or have let it, having set up a home elsewhere).

## 5 At least 30 days in the UK home

- 5.1 The rule only operates when the place in question is your home.
- 5.2 Disregard any place where you are present for less than 30 days (separate or consecutive).
- 5.3 Count a day if you have been present in the home in person, at any time during the day and for any length of time.

## 6 Significant break (from UK/overseas work)

A significant break from either UK or overseas work occurs if at least 31 days go by and none of those days is a day on which you:-

- 6.1 work for more than three hours, or
- 6.2 would have worked for more than 3 hours, but you do not do so due to your annual leave, sick leave or parenting leave.

## 7 Family tie

You have a family tie for the tax year in question if any of the following persons are UK resident for tax purposes for the year:-

- 7.1 your husband, wife or civil partner (unless you are separated - under a court order, by deed of separation or in circumstances where the separation is likely to be permanent)
- 7.2 your partner, if you live together as husband and wife or as civil partners
- 7.3 your child under 18 years old, unless:
  - 7.3.1 you see the child in person in the tax year in question for a total of 60 days or fewer.
  - 7.3.2 if the child turns 18 during the tax year, the day counts should only be in the part of the tax year before the child's 18th birthday.
- 7.4 any part of a day that you meet your child in person in the UK must be included as part of the 60 days.
- 7.5 Any child under 18 years old who stays in the UK during the term-time to attend full-time education and spends fewer than 21 days in the UK outside term-time (see Note), may be excluded if the child would not be a UK resident if the time spent in full-time education in the UK were disregarded.

**Note** - term-time includes half-term breaks and other breaks when teaching is not provided during a term.

## 8 Accommodation tie

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

- 8.1 It is available to you for a continuous period of 91 days or more during the tax year, and
- 8.2 you spend one or more nights there during the tax year, or
- 8.3 if it is at the home of a close relative (see Note), 16 or more nights there.
- 8.4 Gaps of 15 days or fewer will count towards the continuous period of availability.
- 8.5 An accommodation can be any place which is available to live in when you are in the UK.
- 8.6 An accommodation includes a holiday home, temporary retreat or similar.

**Note** - A close relative includes parent or grandparent, brother or sister, (adopted) child or grandchild aged 18 or over. They can be blood or half-blood relative or someone related through marriage or civil partnership.

## **9 Work tie**

You have a work tie for a tax year if you do more than 3 hours work a day in the UK for an aggregate of at least 40 days in the tax year in question.

## **10 90-day tie**

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 2 tax years immediately prior to the year in question.

## **11 Country tie**

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

If the number of days you were present at midnight is the same in two or more countries in a tax year, and one of those countries is the UK, you will have a country tie for the tax year if the greatest number of days you spend in any country in the tax year.