

## Split Year Treatment and the Statutory Residence Test

A statutory definition of tax residence was introduced in the UK with effect from 6 April 2013 and an overview of the Statutory Residence Test can be found here: <http://www.ensors.co.uk/statutory-residence-test-for-uk/>

This Information Sheet goes on to explain what the position is in the tax year of arrival in, or departure from, the UK but it should be noted that, because of the extreme complexity surrounding the various conditions, it has not been possible to include all the requirements in this general guidance. Advice specific to your circumstances should therefore always be sought.

### What is a split year?

Under the statutory residence test if you become UK resident part way through the tax year the initial premise is that you are resident for the whole of that tax year. Similarly should you become non-UK resident part way through a tax year, you will initially be treated as remaining UK resident for the full tax year.

However, if you meet certain conditions it may be possible for the tax year to be split into two parts, so that you have a UK part where you are charged to UK tax as a UK resident, and an overseas part where you are charged to UK tax as a non-UK resident.

### When will split year treatment apply?

There are eight scenarios in which split year treatment might apply for a particular tax year. Three of these relate to individuals who were UK resident in the tax year prior to any potentially split year (leavers) and five relate to individuals who were not UK resident in the previous tax year (arrivers). Once it is determined which split year 'Case' applies, the date that the tax year is split will also need to be determined – this will not necessarily be the same as the date of arrival in, or departure from, the UK.

### Leavers – Individuals who were UK resident in the previous tax year

For each of Cases 1 -3 you must meet the following conditions:

- be UK resident for the tax year in question
- be UK resident for the previous tax year
- be non-UK resident in the following tax year

In addition, the following condition(s) must also be met for the particular Cases:

#### Case 1 – starting full time work overseas

In order to qualify for this split year treatment you must meet the 'third automatic overseas test' throughout the following tax year and satisfy the 'overseas work criteria'. Broadly you must have left the UK to work full time overseas for more than 35 hours per week on average without any significant breaks, and with only a pro-rated limited number of days spent in the UK (whether on leave or working) from the date of departure and thereafter – for more information concerning this see:

<http://www.ensors.co.uk/statutory-residence-test-working-abroad/>

#### Case 2 – the partner of someone starting full time work overseas

If a partner who you were living with in the UK starts full time work overseas and meets the conditions of Case 1, you may qualify for split year treatment if you move overseas to continue living with them. During the overseas part of the tax year you must either have no home in the UK, or if you have homes in both the UK and overseas spend more time in your overseas home than your UK home, and you must spend no more than the 'permitted limit' of days in the UK. The permitted limit of days in the UK is 90 days for the full year and will be pro-rated depending on when in the tax year you leave the UK.

### Case 3 – ceasing to have a home in the UK

If you leave the UK to live abroad having had a UK home at the start of the tax year and then cease to have **any** home in the UK for rest of that tax year, you may qualify for split year treatment. From the point that you cease to have a UK home you must spend fewer than 16 days in the UK and become resident for tax purposes in another country within six months; or be present in another country at the end of each day for six months; or have your only home in that country within six months.

### **Arrivers – Individuals who were not UK resident in the previous tax year**

For each of Cases 4 – 8 you must meet the following conditions:

- be UK resident in the tax year in question
- be non-UK resident for the previous tax year

In addition, the following condition(s) must also be met for the particular Cases:

### Case 4 – starting to have a home in the UK only

You may qualify for split year treatment in the tax year in which you start to have your only home in the UK, provided you did not have sufficient UK ties to make you UK resident for the part of the tax year before the day you on which you meet the only home test.

### Case 5 – starting full time work in the UK

If you come to the UK part way through a tax year to commence full time work in the UK you may qualify for split year treatment, provided you meet the ‘third automatic UK test’ for the tax year in question (broadly working in the UK for at least a year for more than 35 hours per week on average without any significant breaks) and did not have sufficient UK ties to make you UK resident for the part of the tax year before you met this test.

### Case 6 – ceasing full time work overseas

If you return to the UK after a qualifying period of full time work overseas, split year treatment may apply, provided you were UK resident in one or more of the four tax years immediately preceding the previous non-resident year. You must also remain UK resident throughout the following tax year, and have satisfied the ‘overseas work criteria’ during the part of the tax year prior to cessation of overseas work, including spending a pro-rated limited number of days in the UK in this period.

### Case 7 – the partner of someone ceasing full time work overseas

If you come to the UK to live with your partner who has ceased working full time overseas you may qualify for split year treatment provided your partner’s circumstances fall within Case 6 (above) and you will remain UK resident for the following tax year. During the overseas part of the tax year you must either have had no home in the UK, or if you had homes in both the UK and overseas have spent more time in your overseas home than your UK home, and you must also have spent a pro-rated limited number of days in the UK in this period.

### Case 8 – starting to have a home in the UK

During a tax year in which you start to have a home in the UK you may qualify for split year treatment provided you remain UK resident during all of the following tax year, and had no UK home at the start of the tax year, and did not have sufficient UK ties to make you UK resident in the period from 6 April to the point you start to have a UK home.

In all ‘Arriver’ cases the day count limits will be reduced for the ‘sufficient UK ties’ calculation depending on the date of arrival in the UK and, if one or more Split Year Cases applies, there are strict rules to determine which case takes priority. If none of the Split Year cases are met, then you will be UK resident for the whole tax year, and it may also be necessary to consider whether you are dual resident for all or part of the year, and the Double Taxation Agreement with the other country concerned.

For further information please contact Anne Wright at [anne.wright@ensors.co.uk](mailto:anne.wright@ensors.co.uk) or Gail Mackie on [gail.mackie@ensors.co.uk](mailto:gail.mackie@ensors.co.uk)

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