

Guides

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# Exiting the UK: A Guide to Breaking Tax Residence

Navigating the complexities of leaving the UK and severing tax residence can be a daunting task for both UK resident domiciled and non-domiciled individuals and their families. This guide aims to provide a clear and concise roadmap to help you understand the essential considerations involved in breaking UK tax residence.

Whether you're seeking to manage your wealth more effectively or planning a new chapter abroad, this guide offers the foundational knowledge you need. However, for tailored advice suited to your unique circumstances, consulting with a UK tax adviser is essential.



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## GLOSSARY

- ▶ **SRT:** Statutory Residence Test, a legislative framework introduced in 2013 to determine UK tax residence.
  - ▶ **Automatic Overseas Tests:** Tests classifying an individual as non-UK resident if met.
  - ▶ **Automatic UK Tests:** Tests classifying an individual as UK resident if met.
  - ▶ **Sufficient Ties Test:** Examines connections or 'ties' to the UK to determine residency.
  - ▶ **Split Year Treatment:** Divides the tax year into UK and overseas parts under specific conditions.
  - ▶ **Temporary Non-Residence Rules:** Tax rules preventing avoidance during periods of temporary non-residence.
  - ▶ **IT:** Income Tax.
  - ▶ **CGT:** Capital Gains Tax, is a tax applied to the profit made from the sale or transfer of assets, including gifts or sales.
  - ▶ **IHT:** Inheritance Tax, a tax on the estate of the deceased.
  - ▶ **Double Tax Treaty:** Agreements preventing double taxation between two countries
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## Understanding the Statutory Residence Test (SRT)

The Statutory Residence Test (SRT), introduced in 2013, is the definitive framework for determining an individual's tax status in the UK. This comprehensive test is crucial for both UK resident domiciled and non-domiciled individuals who are considering leaving the UK and breaking their tax residence.

The SRT consists of three separate elements:

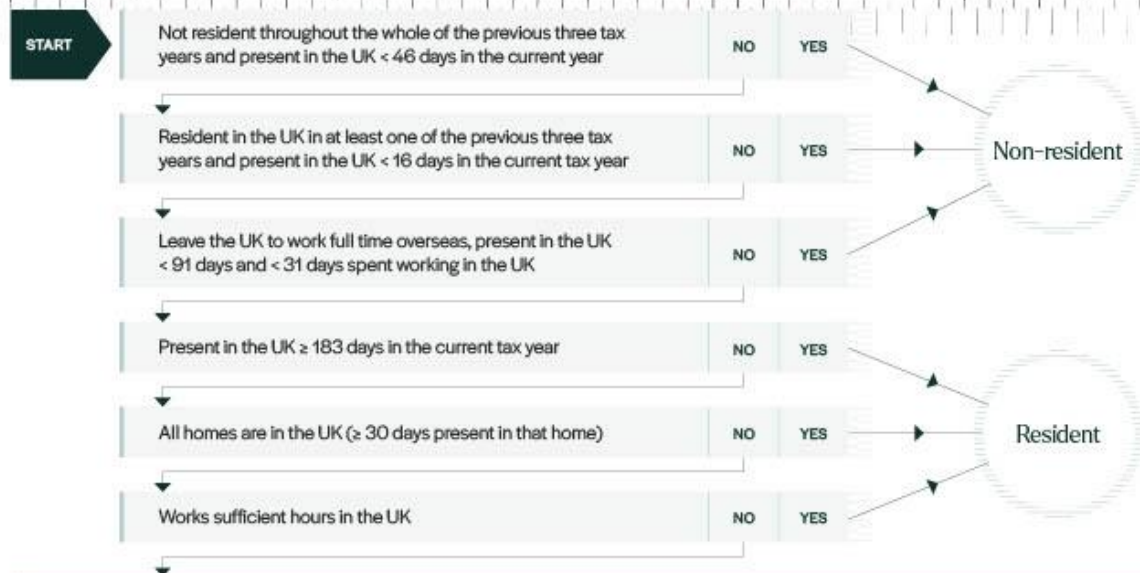
1. the automatic overseas tests,
2. the automatic UK tests,
3. and the sufficient ties test.

If an individual meets any of the automatic overseas tests, they are automatically considered non-UK resident. Conversely, meeting any of the automatic UK tests results in automatic UK residency.

If neither of these automatic tests apply, the sufficient ties test examines various connections or 'ties' an individual has with the UK, such as available accommodation, family ties, or UK workdays. The greater the number of these ties, the fewer days an individual can spend in the UK before being UK tax resident.



## Statutory Residence Test Flowchart



Not resident in the UK throughout all of the previous three tax years?	
YES	NO
The number of ties below, together with whether resident at any time in the three previous years and the number of days spent in the UK, determine the individual's residence status for the tax year as shown in the table below.	
Inbound	Outbound
UK resident family	UK resident family
Substantive UK employment ≥ 40 days in the tax year	Substantive UK employment ≥ 40 days in the tax year
Accessible UK accommodation stayed in ≥ 1 night	Accessible UK accommodation stayed in ≥ 1 night
Present ≥ 91 days in either of the previous two tax years	Present ≥ 91 days in either of the previous two tax years
Present in UK ≥ any other single country	Present in UK ≥ any other single country
Total ties	Total ties

Number of days in the UK in a tax year	When non-resident throughout the three prior tax years				When resident at any time in the three prior tax years				
	1 or no UK ties	2 UK ties	3 UK ties	4+ UK ties	No UK ties	1 UK tie	2 UK ties	3 UK ties	4+ UK ties
Fewer than 16 days	NR	NR	NR	NR	NR	NR	NR	NR	NR
16 to 45 days	NR	NR	NR	NR	NR	NR	NR	NR	R
46 to 90 days	NR	NR	NR	R	NR	NR	NR	R	R
91 to 120 days	NR	NR	R	R	NR	NR	R	R	R
121 to 182 days	NR	R	R	R	NR	R	R	R	R
183 days plus	R	R	R	R	R	R	R	R	R

The above information is a basic summary of the Statutory Residence Test and should not be relied upon as tax advice; it is information for general guidance.



## Key Features of the SRT

### Automatic Overseas Tests

- ▶ Less than 16 days in the UK (if UK resident in one or more of the previous three tax years).
- ▶ Less than 46 days in the UK (if not UK resident in any of the previous three tax years).
- ▶ Works full-time overseas with minimal UK presence (less than 91 days in the UK and less than 31 days working in the UK).

### Automatic UK Tests

- ▶ Spends 183 days or more in the UK in a tax year.
- ▶ Has a home in the UK and spends at least 30 days there in the tax year, with no substantial overseas home.
- ▶ Works full-time in the UK for 365 days, with more than 75% of working days spent in the UK.

### Sufficient Ties Test

- ▶ Counts various ties with the UK (e.g., family ties, accommodation ties, work ties, 90-day ties, country ties).
- ▶ The number of ties required depends on the individual's UK residency status in previous tax years and the number of days spent in the UK in the current tax year.

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## Breaking UK Tax Residence

In short, to break UK tax residence, you must carefully manage days spent in the UK and reduce ties to the UK. This involves:

- ▶ Ensuring you do not meet any of the automatic UK residence tests.
- ▶ Managing the number of UK ties to ensure the sufficient ties test does not result in you remaining UK tax resident.



## UK Tax Exposure for Individuals Breaking Tax Residence

### In the Tax Year of Departure

When an individual successfully breaks UK tax residence, their tax exposure in the year of departure can be mitigated through split year treatment. This treatment allows the tax year to be divided into a UK part and an overseas part, potentially excluding certain overseas income or gains from UK tax. To qualify, the individual must meet the conditions set out in one of the 'Cases' 1-3 of the legislation:

1. Starting full-time work overseas.
2. Accompanying a spouse who starts full-time work overseas.
3. Leaving the UK to live abroad with no home remaining in the UK.

### Future Years of Non-Residence

- ▶ **IT:** UK Source Income - Non-resident individuals are only subject to UK IT on UK source income. Certain types of UK income, such as UK source dividends, are considered 'disregarded income' and are not subject to UK tax unless the individual elects otherwise. However, this does not include UK source interest or UK rental income, which remains taxable.
- ▶ **CGT:** Historically, non-residents were exempt from CGT on UK assets. However, since 2015, non-residents are liable for CGT on gains from UK residential property sales. This was extended in 2019 to include gains from all types of direct and indirect disposals of UK land, both commercial and residential.

### Temporary Non-Residence

It's important to be aware of the temporary non-residence rules, designed to prevent tax avoidance. If an individual who has been resident in the UK for at least four out of the seven tax years prior to departure reacquires UK tax residence status within the temporary non-resident period, deliberately or otherwise, certain income and gains realised during the period of non-residence may still be taxed in the UK.

To avoid these rules, the individual must be non-resident for at least six complete tax years or, if they qualified for split year treatment in the year of departure, they must be non-resident until after the fifth anniversary of the date they ceased to be UK tax resident.





## Tax Implications of Retaining UK Ties After Becoming Non-Resident

Successfully navigating the SRT and achieving non-UK resident status does not necessarily eliminate all UK tax obligations. Continuing to own property in the UK, for instance, can lead to further tax complications.

### Retaining a UK Property

It is common for individuals to cease UK tax residence while maintaining ownership of a UK property, whether by renting it out or limiting their presence to stay within SRT thresholds. However, this scenario still presents various tax considerations:



► **IT:** Owning a UK home does not inherently create a tax issue. However, rental income from the property is subject to UK income tax at rates of up to 45%. Basic rate tax (20%) must be withheld on rental payments unless the landlord is registered under the 'non-resident landlord scheme'.

► **CGT:** UK land interests are subject to CGT even after residency ends:

- UK residents are liable for CGT on the entire gain from a property disposal.

- For UK residential property, non-UK residents are liable for CGT on gains since April 2015 or from acquisition, whichever is later.
- For non-residential property interests, non-UK residents are liable to CGT on gains since April 2019, or from acquisition, whichever is later.

► **Principal Private Residence (PPR) Relief:** Non-UK residents can qualify for PPR relief, potentially exempting up to 100% of the gain, if:

- The property was occupied as their main residence throughout ownership.
- For periods from 6 April 2015, the ownership period does not fall within a 'non-qualifying tax year'.

► **Non-Qualifying Years:** A tax year is non-qualifying unless:

- The individual (or their spouse) was UK resident for that tax year, or
- Non-resident individuals (or their spouse) spent at least 90 days in the property during that tax year.



# Impact of the Spring 2024 Budget and Government Changes on SRT and IHT

The 2024 Spring Budget and the change in Government in July have proposed significant reforms impacting IHT for those leaving the UK.

While we do not have full certainty on the detailed implementation of these reforms currently, the direction is clear: the UK is shifting towards a residency-based tax system.

This means that residency status, as determined by the SRT, will increasingly influence both income and estate tax obligations.

The SRT will continue to be the primary method for determining UK tax residence. The Spring 2024 Budget has not altered the fundamental structure of the SRT. For IHT purposes, a significant shift towards a residency-based IHT regime is on the horizon.

From April 2025, the UK government plans to reform IHT to be based on residency rather than domicile, marking a substantial change in how estates are taxed:

- ▶ **Residence-Based IHT:** The proposed changes will make IHT applicable to the worldwide assets of individuals who have been UK residents for 10 years, with an extended 10-year tail of liability even after leaving the UK. This move aims to simplify the tax system but also extends IHT exposure for long-term UK residents.
- ▶ **Transitional Provisions:** For those leaving the UK before 6 April 2025, it remains unclear how these changes will apply. It seems unlikely that the new rules will be applied retrospectively, but this has not been confirmed. Individuals planning to leave should closely monitor developments and seek professional advice to understand their potential IHT obligations.

GIVEN THESE IMPENDING CHANGES, IT IS CRUCIAL FOR INDIVIDUALS PLANNING TO LEAVE THE UK TO SEEK DETAILED, PERSONALISED TAX ADVICE. THIS WILL ENSURE THEY UNDERSTAND THEIR CURRENT AND FUTURE TAX LIABILITIES AND CAN PLAN ACCORDINGLY TO MITIGATE ANY POTENTIAL IMPACTS OF THESE SIGNIFICANT TAX REFORMS.

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## Key Considerations When Leaving the UK

When planning to leave the UK and break tax residence, it is essential to address several key questions and considerations. Each individual's circumstances are unique, and careful planning is crucial to ensure a smooth transition and compliance with tax obligations.

### Retaining UK Property

- ▶ **Decision to Retain Property:** Will you keep your UK property, and if so, will you rent it out or leave it vacant? Renting out property may have tax implications, such as IT on rental profits, and potential CGT on future disposals.
- ▶ **Management of Rental Income:** If renting, consider registering under the 'non-resident landlord scheme' to manage withholding tax obligations.



## Family Relocation

- ▶ **Family Relocation Plans:** Will your family move with you, or will they remain in the UK? Family ties are a significant factor in the SRT and can affect your tax residence status.
- ▶ **Children's Education:** Where will your children attend school? Their education location can influence your decision on residency and potential tax implications.

## Management of Existing Structures

- ▶ **UK Trusts and Investment Holding Companies:** What is the status of any UK trusts, investment holding companies, or other structures you are involved with? These may have ongoing UK tax obligations or require restructuring.
- ▶ **Ongoing Management:** Ensure you have plans for managing these structures from abroad and understand how they will be affected by your non-resident status.

## Choosing a New Jurisdiction

- ▶ **Appropriate Jurisdiction:** Where do you plan to move? The choice of jurisdiction can be influenced by tax considerations, work opportunities, or other personal factors.
- ▶ **Double Tax Treaties:** Is there a double tax treaty between the UK and your new country of residence? Understanding the implications of such treaties can help avoid double taxation and provide clarity on your tax obligations in both jurisdictions.

## Future Time Spent in the UK

- ▶ **Visits to the UK:** How much time do you plan to spend in the UK after your move? Frequent visits will impact your tax residence status under the SRT.
  - ▶ **Intentions to Return:** Do you intend to return to the UK in the future, and if so, when? Planning your return carefully can help manage future tax liabilities and residency considerations.
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# Summary

The SRT is the key framework for determining UK tax residence, essential for both resident domiciled and non-domiciled individuals planning to leave the UK. It includes automatic overseas tests, automatic UK tests, and the sufficient ties test to assess residency status. Breaking UK tax residence involves managing days spent in the UK and reducing UK ties.

The 2024 Spring Budget and recent Government changes have significant implications for those leaving the UK. The abolition of the non-domiciled regime from April 2025 marks a shift to a residency-based tax system, affecting income and estate tax obligations. CGT rates on residential property have been reduced, and temporary non-residence rules remain stringent to prevent tax avoidance.





Key considerations when leaving the UK include deciding whether to retain UK property, family relocation plans, managing existing UK structures, choosing a new jurisdiction, understanding double tax treaties, and planning future visits to the UK.

Keeping detailed records, evidence, and accurately counting days spent in the UK are critical for maintaining compliance and supporting your tax residency status. Tools like [Daysium](#) can assist in tracking your days effectively, ensuring you stay within the required limits.

## Navigate the Complexities of UK Tax Residency with Trident Tax

At Trident Tax, we understand the complexities involved in leaving or returning to the UK and how critical it is to navigate these changes with accurate and informed advice. Our expertise lies in providing comprehensive analyses and explanations, allowing you to make well-informed decisions regarding your tax residency status.

Whether you are managing your days spent in the UK, planning family relocations, or handling existing UK property and investments, our team can guide you through the intricate rules and potential tax implications. We emphasise the importance of keeping detailed records, maintaining evidence, and accurately counting your days in the UK to ensure compliance and avoid unexpected liabilities.

Given the recent changes introduced in the Spring 2024 Budget and the shift towards a residency-based tax system, it is more important than ever to seek professional advice. We can provide the essential insights and clarity you need to make the best decisions for your personal and family's tax affairs.

