

UK TAX RESIDENCE BY STATUTE - PART II

In a Written Ministerial Statement of 6th December 2011 the Government will now legislate the statutory residence test (SRT) in Finance Bill 2013 to take effect from April 2013 rather than April 2012. It will introduce any reforms to ordinary residence at the same time. This article now deals with the following aspects of the SRT as proposed in the 2011 Consultation Document (CD); note that these are subject to any changes to be made in the forthcoming 2013 legislation.

Definitions

The CD defines the following words and terms for purposes of the SRT. The full text with CD paragraph number displays by clicking on the selected definitions below:

- [UK](#)
- [Day of presence in the UK](#)
- [Full-time work abroad](#)
- [Working day](#)
- [Only home](#)
- [Full-time work in the UK](#)
- [Family](#)
- [Substantive UK employment](#)
- [Accommodation](#)

Tax treaties

Where the UK has a double taxation arrangement with an overseas jurisdiction with which the individual has a connection then his/her residence may be determined by reference to that arrangement and not under UK domestic law. Accordingly, the SRT may be overridden in favour of the appropriate double taxation arrangement with the foreign country.

Split years

Where an individual comes to, or leaves, the UK part way through a tax year the present Extra Statutory Concession (ESC) A11) allows the tax year to be split into periods of residence and non-residence in certain circumstances. Any UK income tax liability is then computed by reference to that period of residence only. It is proposed to replace ESC A11 by statutory provisions. But they will be based on the new statutory residence rules and not on the existing Revenue practice and case law rules.

Anti-Avoidance

There are to be provisions to counteract the risk of individuals, who expect substantial amounts of income to arise during a period, creating artificial non-residence under the SRT rules during that period and thereby avoiding UK tax. The provisions would apply to certain types of income only.

Transitional rules

The current rules will continue to apply for the assessment of tax liability in tax years prior to the date of introduction of the SRT. The CD does not propose to allow individuals to apply the SRT retrospectively to that date (e.g. where there is need to know whether they had been resident in any of those prior years).