



## Statutory Residence Test

In the March 2011 budget, the UK Government announced its intention to formulate a legal definition of residence. The aim was to create a framework which could be easily used to help people decide with certainty whether they are resident in the UK or not.

Last Friday the Government issued a Consultation Paper outlining their thoughts. The consultation period runs for 12 weeks and The Fry Group will be participating. After the consultation ends, legislation will be enacted to bring new rules into force on 6th April 2012.

**This eBulletin will be of interest to any British expatriate anywhere in the world. Please make it a priority to pass this note on to friends and colleagues, and to recommend that they subscribe to our eBulletins. We will report on developments as they happen.**

The consultation document shows that the government has a good appreciation of the difficulties people have faced when trying to establish whether they are resident in the UK or not.

The main highlights of the proposals are that:

- Residence status will be decided on an annual basis, with each year being viewed in isolation from the previous year
- It will be harder to break residence for UK tax purposes than it will be to become resident
- The 91 day average test will be scrapped, the 183 day rule will remain
- Up to three separate tests will be used to determine whether a person is resident or not, and the maximum number of days a person may spend in the UK each year. Each test has separate conditions.

### Working full time overseas?

At first glance, the rules seem more or less unchanged for those leaving the UK for full-time overseas employment, apart from a complication if more than 20 days work is carried out in the UK during the tax year in question. This will be a tremendous relief to many thousands of expatriates. However, those who claim non-resident status whilst undertaking 'substantive' employment in the UK and who have other connecting factors are likely to be the most at risk. Here we think primarily of those who have regular duties in the UK, such as airline pilots and those with responsibilities entailing frequent business travel to the UK.

### Leaving the UK for other reasons?

For those who leave the UK for other reasons the rules are quite restrictive and an exit from the UK would need to be planned very carefully. For example, in certain circumstances leaving the UK for anything less than full-time overseas employment and spending more than 10 days in the UK in the year of departure will mean an individual is still resident in the UK for tax purposes for that year.

### Retired overseas?

For those who are already safely non-resident and are not working full-time, advice will be needed as to the strength of connections to the UK and the maximum amount of time which can be spent in the UK each year. An annual review will almost certainly be needed. For the British expatriate who lives abroad and has only modest connections to the UK, the proposals look to be good news. For those not working full time abroad, whose families remain in the UK, whose main home may be in the UK and who are keen to spend as much time in the UK as possible, the proposals are very much more concerning.

Ultimately it is a question of how carefully each person plans their overseas life. The Government appears focused on using the new guidelines to capture those who are trying to claim non-resident status whilst everything in the way they live their life points in the opposite direction. This principle has also been the focus of most recent case law decisions on residence - so in a sense the proposals offer no significant surprises.

Finally, please remember that this eBulletin presents a simple summary of the Government's proposals. The final rules are likely to be somewhat different. Therefore, it is important to keep in touch with us and to seek personalised advice as to how they might impact you.

**The Fry Group is a specialist in residence and domicile, and has been helping British expatriates with their UK tax and financial planning for over 100 years.**

**If you would like to be kept informed of how these changes could impact you or if you would like to subscribe to future editions of this eBulletin please [click here](#) to get in touch with your usual Fry contact or call 01903 231545.**



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