

ARROW

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Basics of UK Residence and Domicile

by Praveen P E, Buzzacott Expat

For individuals who are arriving in or leaving the UK for the purposes of employment, the concepts of 'residence' and 'domicile' are likely to be very important to them in understanding their UK tax situation.

A UK tax year runs from 6 April of a year to 5 April of the following year.

Residence and the Statutory Residence Test:

As in every country the taxability of an individual's income depends on their residency and domicile, likewise in the UK too we have a tax legislation guiding the rules that determine an individual's residency for a particular tax year. The legislation is said to be the Residence and the Statutory Residence Test.

A Statutory Residence Test (SRT) was introduced in the UK with effect from 6 April 2013, i.e. the 2013/14 tax year, and applies for the purposes of income tax, capital gains tax, and inheritance tax.

There are three parts to the SRT

1.

Part A - Automatic overseas tests (test of conclusive non-residence)

If the individual satisfies the conditions of any of the three automatic overseas tests they are non-UK resident for that tax year and there is no need to consider further parts of the residence test (i.e. Parts B or C).

2.

Part B - Automatic UK tests (test of conclusive residence)

If an individual does not satisfy any of the tests in Part A, it is then necessary to consider the three automatic UK residence tests under Part B. If the individual satisfies any of these tests they are UK resident for that tax year and there is no need to consider further parts of the residence test.

3.

Part C - Sufficient ties test

This test applies where an individual does not meet any of the tests in either Part A or Part B above. This test combines the number of days spent in the UK during the tax year with the number of ties the individual has with the UK in establishing whether or not an individual is UK resident.

The above three parts are further elaborated below:

Part A : Automatic overseas tests

An individual is regarded as a non-UK resident for the relevant tax year if they meet one of the following three automatic overseas tests:

1. The individual was not resident in the UK in any of the three tax years prior to the relevant tax year and is present in the UK for fewer than 46 days in the relevant tax year.
2. The individual was resident in the UK in one or more of the three tax years prior to the relevant tax year and is present in the UK for fewer than 16 days in the relevant tax year; or
3. The individual meets the 'full-time work overseas' test for the relevant tax year which means that, during the relevant tax year, the individual:
 - Spends 'sufficient hours' (35 hours per week) working overseas.
 - Does not have a 'significant break' from overseas work, i.e. there is no period of 31 or more consecutive days where the individual does not work at least three hours overseas (or would have done so but for annual/sick/ parenting leave);
 - Is present in the UK for fewer than 91 days in the tax year; and,
 - Spends fewer than 31 days of working in the United Kingdom.

Part B: Automatic UK tests

An individual who does not meet any of the above tests in Part A will be regarded as UK resident for a tax the relevant tax year if they meet one of the following UK tests:

1. The individual is in the UK for at least 183 days in the relevant UK tax year - a day in the UK for this test is a day where the individual is present in the UK at midnight;
2. The individual meets the 'UK home test', i.e. the individual:
 - Has a UK home for a period of at least 91 consecutive days, of which at least 30 days are in the relevant tax year;
 - The individual is present in that home (at any time of the day) on at least 30 days during the relevant tax year; and,
 - Where an individual also has a home overseas during the 91 day period, they spend less than 30 days in that overseas property during the relevant tax year.

For the avoidance of doubt, if there is a 91 day period where the conditions a) and b) are met and there is no overseas home during that period, then it does not matter how much time is spent in an overseas home owned at other times in the relevant tax year - the individual will meet the test.

3. The individual meets the 'full-time work in the UK' test during the relevant tax year. Briefly stated, this requirement is that, during any 365 day period starting or ending in the relevant tax year, the individual:

- Spends 'sufficient hours' working in the UK.
- Does not have a 'significant break' from UK work, i.e. there is no period of 31 or more consecutive days where the individual does not work at least three hours in the UK (or would have done but for being on annual/sick/ parenting leave); and,
- Over 75% of the days worked are days worked in the UK (and at least one day falls in the relevant tax year).

Part C: Sufficient ties test

Only if an individual **does not meet any of the tests in Part A or B** for the relevant tax year is it necessary to consider the sufficient ties test.

This test uses a combination of the number of 'UK ties' an individual has and the number of days the individual is present in the UK during the relevant tax year to determine residence. The more ties, the fewer days that can be spent before becoming UK resident.

It should be noted that the test is designed to distinguish between 'arrivers' and 'leavers'.

In practical terms this means that an individual with, say, 2 ties who is an 'arriver' will only become UK resident if present in the UK for 121 days or more. An equivalent 'leaver' on the other hand will be UK resident if they spend 91 days or more.

A 'leaver' is anyone who has been resident in any of the three tax years before the tax year in question. An 'arriver' is everyone else.

Not only are the number of days that can be spent in the UK before being UK resident less, 'leavers' must consider five ties while 'arrivers' only consider four.

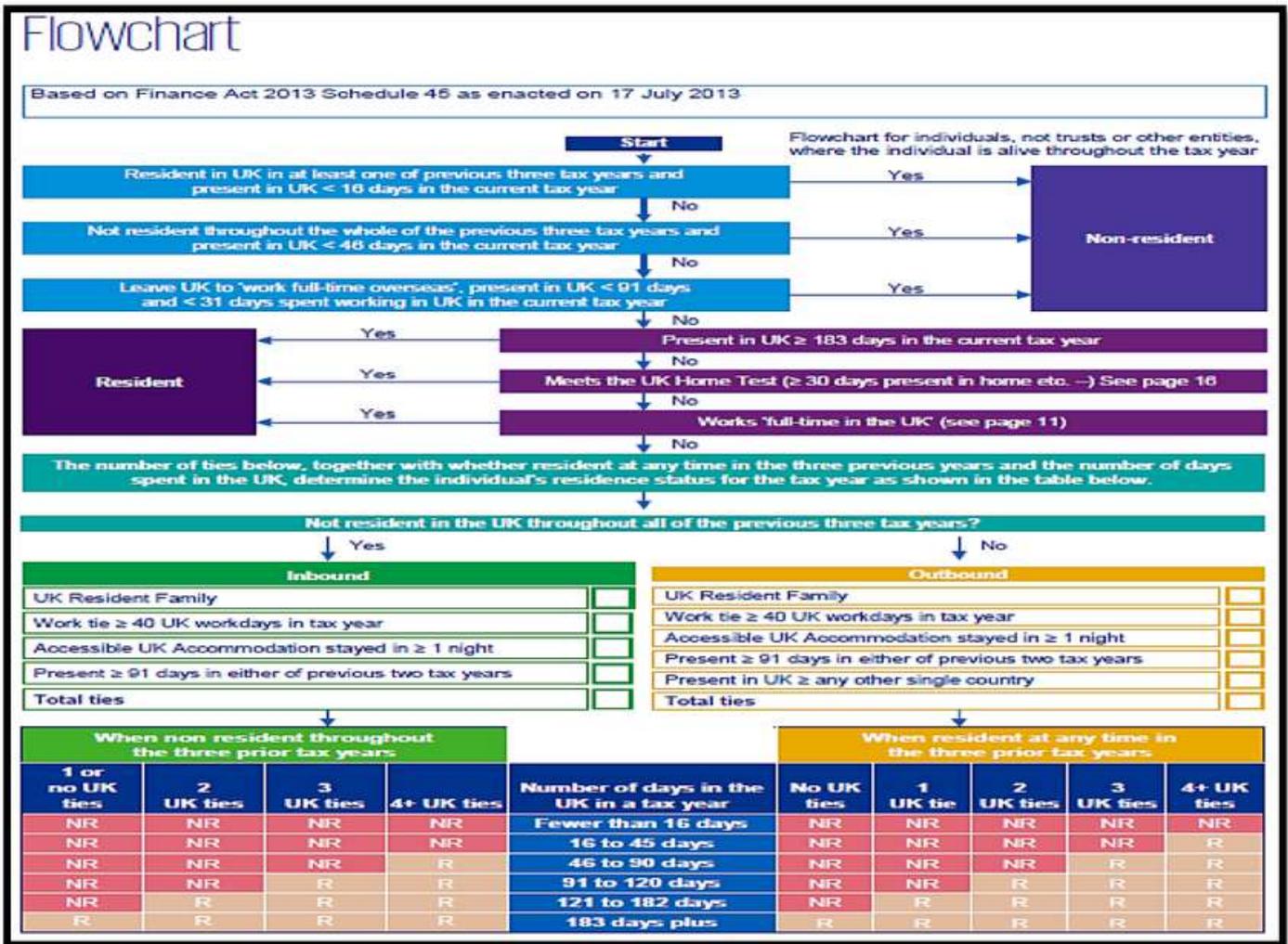
The UK ties are:

- A UK resident family (family tie);
- A substantive UK employment (including self-employment) (work tie);
- Available accommodation in the UK (accommodation tie);
- Spent 90 days or more in the UK in either of the previous two tax years (90-day tie) and,
- Only for 'leavers': spends more days in the UK in the relevant tax year than in any other single country (country tie).

These above-noted five 'UK ties' are combined with day counting as shown in the table:

Days Spent in UK	Arrivers	Leavers
Less than 16 days	Always <u>non UK</u> resident	Always <u>non UK</u> resident
16 to 45 days	Always <u>non UK</u> resident	4 ties make you resident
46 to 90 days	4 ties make you resident	3 ties make you resident
91 to 120 days	3 ties make you resident	2 ties make you resident
121 to 182 days	2 ties make you resident	1 tie make you resident
More than 182 days	Always resident	Always resident

Statutory Residence Test – On Flow Chart



Domicile

Domicile is a concept distinct from nationality, residence, and ordinary residence.

Domicile is not defined by statute; it is a concept of common law. Every individual has one domicile and one alone. Unlike residence, it is not possible to be domiciled in two countries or to be domiciled nowhere.

Domicile is a key concept in UK taxation as those who are UK resident but domiciled outside the UK can generally elect for an alternative basis of taxation commonly known as the remittance basis.

	UK Income	Foreign Income
Residence & Domicile	Arising Basis	Arising Basis
Residence & Non Domicile	Arising Basis	Arising Basis / Remittance Basis
Non Resident	Arising Basis	Not taxable

Australian Superannuation Funds - Latest Updates

by Lakshmanan S , ShineWing Australia -Accounts

From 1 July 2021, the superannuation concessional and non-concessional contribution caps will be indexed. The new caps will be:

Year	Concessional Cap	Non-Concessional cap
2021-22	\$27,500	\$110,000 or \$330,000 over 3 years

The total superannuation balance limit that determines if an individual has a non-concessional contributions cap of nil will also increase from \$1.6 to \$1.7 million, effective from 1 July 2021.

Individuals who are under 65 years old, may be able to make non-concessional contributions of up to three times the annual non-concessional contributions cap (\$110,000 from 1 July 2021) in a single year. It is important to note that if an individual enters into a bring forward arrangement before 1 July 2021, they will not have access to any additional cap space as a result of the increase to the non-concessional cap.

<https://www.ato.gov.au/Super/Sup/Super-contribution-caps-will-increase-from-1-July-2021/>

GST - Refund of Input Tax Credit on Zero-rated supplies of Services

by M. Girija, Corporate Accounts



The concept of "Zero Rated Supply" for the first time has been incorporated under GST law. The innovative idea of zero rated supply is used by the GST law maker to distinguish export of goods and services from other goods and services. By Zero rating, it is meant that the entire supply chain of a particular zero rated supply is tax free, i.e., there is no burden of tax

either on the input side or output side. This is totally different from exempted supplies, whereas only output is exempted from tax but tax is suffered on the input side. The aim of the Government by implementing zero rated tax is to make domestic goods and services cheaper/competitive in the international market, thereby enhance exports and inflow of foreign exchange earnings.

Exporter's Refund: The suppliers making Zero-rated supplies are entitled to claim refunds. The refunds are for the input tax paid on the goods and services which are used for such Zero-rated supplies (including non-taxable and exempt supplies). There are two options available with a dealer to claim refunds:

1. The dealer can export under Bond or LUT (Letter of Undertaking) and claim a refund of the accumulated Input credit of tax; or
2. II. The dealer can pay IGST while making the supplies and claim refund of the same.

The first category pertains to refund of unutilised ITC for which the registered person has to supply under Bond/LUT (as prescribed in Rule 96A of CGST Rules, 2017) and in the second category supply has been made after payment of Tax (IGST). In both the cases, refund can be applied under Section 54 of the CGST Act, 2017 read with Rule 89 or Rule 96, as the case may be, of the CGST Rules, 2017.

This article analysis the provision of first category Refund of unutilised ITC on zero rated supplies of services under GST Law.

Refund Formula under Rule 89(4) of CGST Rules 2017:

Refund of Input Tax credit will be refunded as per Formula under Rule 89(4) of CGST Rules 2017 by prescribed Application. (GST-RFD 01) In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula –

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero rated supply of services) x Net ITC ÷ Adjusted Total Turnover

(A) **"Refund amount"** means the maximum refund that is admissible;

(B) **"Net ITC"** means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;

(C) **"Turnover of zero-rated supply of goods"** means the value of zero-rated supply of goods made during the relevant period

without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;

(D) **“Turnover of zero-rated supply of services”** means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

(E) **Adjusted Total Turnover**||

means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-

(i) the value of exempt supplies other than zero-rated supplies; and
(ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.

(F) **“Relevant period”** means the period for which the claim has been filed.

Conditions for claiming the Refund:

The conditions for claiming refund on Zero rates supplies of Services

1. Application must be made within 2 years from the relevant date
2. Applicant must ensure that proper return has been filed for the relevant tax period for which refund application is made. Normal taxpayers having a turnover of more than Rs.1.5 crores can file for GST refund every month after filing the relevant GSTR 1 and GSTR 3B return. In case of taxpayers opting to file quarterly GST returns, GST refund application can be filed every quarter after filing of GSTR 1 and GSTR 3B return. ITC on Capital goods are not available for claiming refund
3. Compulsory matching of GST invoices with the GSTR 2A & 2B returns.
4. Certificate issued by a chartered accountant or a cost accountant to the effect that the incidence of tax claimed as refund has not been passed on to any other person,

where the amount of refund claimed exceeds two lakh rupees.

5. No refund shall be paid to an applicant if the amount is less than rupees One thousand

6. As per Rule 93 of CGST Rules 2017, where any deficiencies have been communicated or any claim has been rejected, either fully or partly, the amount so debited shall be re-credited to the electronic credit ledger

Procedure for refund

1. File for GST RFD 01 in GST portal along with the required documents evidencing export. The tax invoices with respect to input and input services, the relevant BRC/FIRC evidencing receipt of payment in foreign currency, a statement containing the number and date of export bills and statement containing the ITC invoice.

2. The assessee shall receive an acknowledgement in GST RFD 02 if there are no problems with the application in GST RFD 01. In case of any issues, it will be communicated in GST RFD 03.

3. The Proper Officer may pass an order in GST RFD 04 sanctioning the amount due within 7 days

from the date of the acknowledgement if the Proper Officer is prima facie satisfied.

4. The Proper Officer shall pass an order for refund in GST RFD 06 and issue a payment advise in form GST RFD 05 post which the amount automatically gets credited to the bank account of the registered person.

5. The order has to be passed within 60 days from the date of receiving a complete application.

6. In case of export supplies, the Act also provides for a provisional refund of 90% of the refund claim within 7 days of the date of the acknowledgement provided the supplier was not prosecuted in the 5 years immediately preceding the refund period.

Conclusion

The GST Law provides for multiple options to the suppliers of zero rated supplies to claim refund of taxes paid on the input side. Claims are to be filed with minimum documentation and the refund amount will be credited directly to the claimant's bank account. The process is online and hassle free and with minimum interface with tax authorities. Though the GST law makers endeavour at streamlining and standardising the procedures pertaining to GST refund, however, still the taxpayers refunds are delayed. Key reasons for such delay is due to technical mistakes made by the taxpayers in filing of returns, lack of clarity on procedure to file the refund form, numerous clarifications, notifications, press release, forms, documents, etc. being issued in this respect compounding confusions among taxpayers. It is always preferable that the taxpayers must be compliant with the provisions and latest clarification/ notifications for timely filing of refund application in order to get faster sanction of GST refunds.

Training & Development

by Medona Catherine, T & D



Training and development refers to educational activities within a company created to enhance the knowledge and skills of employees while providing information and instruction on how to better perform specific tasks.

Training is a short-term reactive process meant for operatives and process while **development** is designed continuous proactive process meant for executives. In training the employees' aim is to develop additional skills and in development, it is to develop a total personality.

In **training**, the initiative is taken by the management with the objective of meeting the present need of an employee. In **development**, initiative is taken by the individual with the objective to meet the future need of an employee.

The benefits of training and development are multifold and include but are not limited to:-

- Increase in job satisfaction and morale among employees.
- Reduction in employee turnover.
- Increase in employee motivation.
- Increased efficiencies in processes, resulting in financial gain.
- Increased capacity to adopt new technologies and methods.
- Increased innovation in strategies and products.

People are the greatest assets of any organization. The following case study reiterates their importance and the importance of training and development.

TATA GROUP | A CASE STUDY

The TATA Group of Companies which includes one of India's largest automobile company TATA Motors, and other companies like TATA Steel, TATA Power, TATA Consultancy Services, TATA Tea, Taj Hotels and many more is successful in large part due to their valuable training and development activities focused on the employee's current and future development.

Grooming the managers of today into the leaders of tomorrow is the broad objective of the Tata group's leadership development programs and training processes. The group's high- value, superior-quality training interventions are targeted at maximizing the potential of its pool of managers.

The Tata group's commitment to enhance the knowledge and leadership quotient of its people has resulted in the establishment of various development and training Programs such as TAS and TMTC.

TATA Administrative Services (TAS) is a managerial development program set up by JRD Tata in the 1950s. The idea was to select and groom young managers, provide them opportunities for professional growth and make them part of a talent pool that can be tapped by companies across the TATA organization.

Tata Management Training Centre (TMTC) was set up by JRD Tata in 1959. It aims to provide training to high performers within the group and act as a catalyst of change for TATA executives.

Even during the Covid 19 pandemic training activities continued which included self-paced e- learning programmes, live video broadcasts, live e- classroom, a unique self- paced program named 'TATA – Harvard Manage Mentor self-paced e-learning program etc.

"Quality is first engineered only then it is inspected" - JRD Tata



Daniel Victor, Managing Director

Sharpen the Saw

Any effort to 'sharpen the saw' as recommended by Stephen Covey in his book, 'The Seven Habits of Highly Effective People' requires a wide array of means or instrumentalities to sharpen. VITAE, in order to be effective in its service, needs to continue to encourage and challenge its constituents to draw themselves out to put themselves to the discipline of researching material in order to be able to sharply write content on the different subjects of interest to the profession. We have this time a range of writers Girija from the Accounts Department, Catherine from the Training and Development Department, Praveen of Buzzacott Expat team, Lakshmanan of ShineWing team and Prasanth from the Nexia Sydney team, each of them being first time writers in ARROW. One should bear in mind, sharpening is not a one shot outcome. It is a pretty repetitive effort. It is hoped that the opportunity to research, learn and write is frequently availed by the contributors to VITAE's technical and cultural periodical ARROW.

The over a year long Covid 19 pandemic hasn't dampened efforts in VITAE for staff to obtain sharpness as an Arrow by development efforts. Special among the efforts during this period have been book study on Personal Growth from John C. Maxwell's book "The 15 invaluable laws of personal growth" in 16 weekly sessions over a 5 month period in teams of 10 to 15. Over 200 of VITAE staff have participated very beneficially in these studies. Leaders of certain teams are already initiated into a 10 session study from the book "How the best leaders lead" by Brian Tracy in which leadership sharpness learned from the military is sought to be gleaned for effectiveness in leadership at the work place. As if that initiative isn't enough but to make sharpening even more widespread, the members of the HR team studied through the book "HR here and now" gaining through that process a comprehensive understanding of the HR function and how those are transforming in this present time.

Let's aim high and shoot our ARROWS to travel the road untread into heights of excellence continuing work, studies, research, writing, teaching and the works all of which will set us as cutting edge in our respective spheres. As world class and not ordinary!



The South-West Monsoon: *The real finance minister of India*

by Prashanth K J, Nexia Sydney

Let me take you back to a time where many sailors wanted to explore the Asian subcontinent but couldn't move further than the point which was named as Cape of Storms (later Cape of Good Hope) by Portuguese explorer Bartolomeu Dias.

Vasco da Gama sailed from Lisbon with a mission to open a sea route between Europe and East Asia reaching India in May 1498. How did he reach there? Is it because he had a better ship? The answer is No. Is it because he was the best sailor amongst the Portuguese? Again, no. Is it because he accidentally met a Gujarati pilot at Mombasa (present day Kenya) who knew the route to India? No. It was only possible with the help of the southwest monsoon winds and he was lucky enough to get favourable climatic conditions.

Every year from June to September India records 75% of rainfall because of these winds and helps the state of the economy. A weak or strong monsoon can give serious repercussions to the Indian economy as more than 60% of the population is employed in the agriculture sector and also constitutes nearly 20% of national GDP. More than 50% of total output of agriculture comes from the summer crops and a delayed monsoon can hit supply chain management and we can see a rise in food inflation. This forces the government to import agri products as well as take harder steps like the waiver of farm loans. 2018 was the year of unprecedented rainfall in Kerala where one-sixth of the population was affected directly by the floods and a small village was completely washed off due to a landslide. The monsoon recorded that year was 116% more than average. The five shutters of the Malampuzha dam had to be opened for the first time since 1992. The scene of the dam with its open shutters was never as scenic as seen before. I could hear the sound of water flowing from the shutters before reaching the spot and literally my heart was pounding when I saw it.

Every year since then Keralites have prayed for normal rainfall during this season but many have not realised that this was a man-made disaster due to encroachments, sand mining, quarrying and blocking natural drainage over a period of time and this outcome was clearly forecasted in the Madhav Gadgil committee Report 2011. This was evident in subsequent years when we saw the same situation even with average rainfall.

The southwest monsoons, just like movies, have given us a long list of experiences in various genres such as romance, drama, horror and war which has made us adapt to all the various challenges it throws year after year. Let's enjoy this monsoon and more importantly also be conscious of the effects we, as humans, have on nature. It's time to engage in biocentrism & ecocentrism.

<http://www.imdchennai.gov.in/> • https://en.wikipedia.org/wiki/Cape_of_Good_Hope • <https://exploration.marinersmuseum.org/subject/vasco-da-gama/> • https://en.wikipedia.org/wiki/2018_Kerala_floods • <https://www.clearias.com/gadgil-report-kasturirangan-report-western-ghats/>