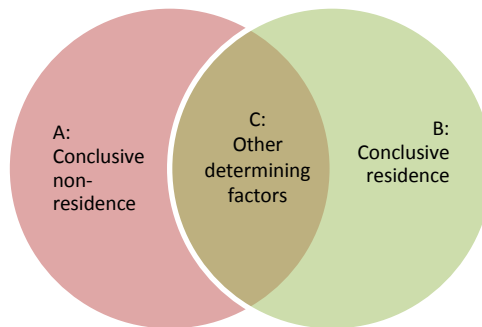


The UK tax system uses the concepts of residence, domicile and ordinary residence to determine tax liabilities. However, there is no statutory residence test. The concept of residency has been established through a series of HM Revenue & Customs guidance and tax cases.

Following a string of high-profile tax cases most notably that of Mr Gaines-Cooper and increasing pressure upon the government to ensure maximum tax recovery from those living or working in the UK they are undertaking a consultation with a view to introducing a definition for statutory residence in the Finance Act 2012.

## The proposals

The proposal is to split definitions into three areas. Those clearly resident, those clearly not and how to determine those in between.



### Conclusive non-residence

- Full time working abroad (+35hrs)
- Less than 20 days working in UK
- In UK for less than 90 days

### Other determining factors

- Family ties in UK
- Available accommodation in UK
- Substantive employment in UK (+40 days p.a)

### Conclusive residence

- Only home is in UK
- Full time work in UK (+35hrs)
- Not more than 25% duties overseas

## Our view

We welcome the tidying of matters around the edges of residence, however the other determining factors still create areas of uncertainty for individuals who still retain some links to the UK after leaving other than for full time work.

There will be a number of individuals who under the previous HMRC6 guidance were treated as not UK resident who will under this new statutory basis fall within the “other determining factors” section who might want to revisit their arrangements to ensure that they might not be caught by such actions.

We shall monitor the position regarding the draft legislation with great interest and hope there is more clarification on the other determining factors section that might provide comfort to a greater proportion of those affected

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