

When Is a Day Not a Day? UK Tax Residence and the Statutory Residence Test

The UK determines tax residence based on the Statutory Residence Test (SRT).

By **Paul Webb**, 13th May 2026

The UK determines tax residence based on the Statutory Residence Test (SRT). While the rules can be complex, incorporating five Automatic Overseas Tests, four Automatic UK Tests, eight potential split year cases, and the sufficient ties test (with five possible ties), in many cases the outcome ultimately turns on a simple metric: the number of days spent in the UK.

In practice, this often centres around key thresholds such as 90 days.

A “day” in the UK is generally defined as a day on which the taxpayer is present in the UK at midnight. There are, however, exceptions to this rule where an individual may be present in the UK at midnight, but the day does not count.

These two exceptions were recently considered by the First-tier Tribunal in *Parker v HMRC* [2026] TC 09868, which examined the application of the law relating to, transit days and exceptional circumstances.

Transit Days

It would be unreasonable for individuals merely passing through the UK to be treated as having spent a day here. For example, a person arriving at 23:00 and departing at 01:00 should not be regarded as spending a day in the UK.

This is the purpose of the statutory definition of a “transit day”. However, to qualify, the individual must be in the UK solely for the purpose of transit. If, during a significant layover, the individual leaves the airport for reasons unconnected to onward travel, the day will not qualify as a transit day.

In August 2022, the taxpayer, Michael Parker, arrived in the UK, stayed overnight in a hotel near Heathrow, and departed the following day for a family holiday. The complication arose because the taxpayer was joined at the hotel by his UK-resident spouse, who had travelled from the family home in London.

HMRC argued that this meant the day was not solely for transit purposes. The Tribunal disagreed and found in favour of the taxpayer, concluding that the presence of the spouse did not prevent the day from qualifying as a transit day.

Exceptional Circumstances

Up to 60 days spent in the UK can be disregarded where the individual is unable to leave due to exceptional circumstances beyond their control.

HMRC guidance gives examples such as:

- Civil unrest or natural disasters (particularly where the Foreign, Commonwealth & Development Office advises against travel), and
- Serious illness or injury requiring hospitalisation in the UK.

In Parker's case, he had intended to leave the UK for Ireland but was unable to do so because the flight was cancelled due to Storm Jorge. He waited for the airline to reschedule the flight and departed on the next available service.

HMRC contended that the taxpayer should have taken more proactive steps to leave the UK, such as retrieving luggage and booking an alternative flight. The Tribunal rejected this argument, holding that it was reasonable for him to remain in airline-provided accommodation and depart on the rearranged flight. The day therefore qualified as exceptional circumstances.

No discussion of exceptional circumstances would be complete without reference to the earlier case of *A Taxpayer v HMRC*, where the taxpayer remained in the UK to care for a family member suffering from severe alcohol and substance addiction, together with concerns about suicidal tendencies. The Tribunal accepted that, although there was no legal obligation to remain, the taxpayer was subject to a compelling moral duty, or obligation of conscience, to do so. On that basis, the circumstances were held to be exceptional.

As these cases illustrate, what may appear to be a relatively straightforward rule can become complex in practice. For those counting their UK day count in order to remain non-UK Tax resident, caution is essential. The burden of proof remains with the taxpayer, underlying the importance of keeping clear records and supporting evidence that can be produced, if required. It also demonstrates that the SRT can be applied in a practical and taxpayer-friendly way, with proper regard to real-world travel constraints rather than the more rigid approach favoured by HMRC, particularly in cases involving airport transit and weather-related disruption.

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