

## Scottish Taxpayers

### If you think that you have been identified incorrectly, what do you do about it?

Contact your tax adviser and let them know the reasons why you consider you have been identified incorrectly. It will be possible to make factual representations to HMRC to establish the correct position.

Whether or not an individual is a Scottish taxpayer will not be simple in all cases. HMRC has produced draft technical guidance giving initial detail on the manner in which they will interpret some of the terms used in the sections of the Scotland Act 2012, which set out the definition of a Scottish taxpayer.

1. Firstly, in order for an individual to be a Scottish taxpayer, they must be UK resident for tax purposes – an individual who is not UK tax resident cannot be a Scottish taxpayer.
2. The remaining parts of the definition are based on the location of an individual's sole or main place of residence. If they have one place of residence and this is in Scotland, they are a Scottish taxpayer.
3. Individuals who have more than one place of residence in the UK need to determine which of these has been their main place of residence for the longest period in a tax year - if this is in Scotland, they're a Scottish taxpayer. For example, if an individual with a single place of residence moves house into or out of Scotland part way through a tax year, whether they'll be a Scottish taxpayer in that year will depend upon which house is their main place of residence for the longer amount of time.
4. Individuals who cannot identify a main place of residence will need to count the days they spend in Scotland and elsewhere in the UK - if they spend more days in Scotland, they'll be a Scottish taxpayer.

An individual who meets the definition of a Scottish taxpayer will be a Scottish taxpayer for a whole tax year. It is not possible to be a Scottish taxpayer for only part of a tax year.

There are separate rules which apply to Members of the Scottish Parliament (MSPs), MPs representing a constituency in Scotland and Members of the European Parliament (MEPs) representing Scotland. Such individuals will automatically be treated as Scottish taxpayers, irrespective of where their sole or main residence is located or of where they spend the most days in the UK.

HMRC is also currently working closely with the Ministry of Defence on the preparation of separate guidance to ensure that all service personnel will have clarity on how the SRIT will apply to their individual circumstances prior to its introduction. This guidance will be available later this year.

For more information or advice please contact our tax team



**Jim McMahon**  
**Tax Manager**

0131 200 1288 or email  
jim.mcmahon@balfour-  
manson.co.uk



**Margaret Ross**  
**Solicitor & Tax Adviser**

0131 200 1295 or email  
margaret.ross@balfour-  
manson.co.uk

The definition of a Scottish taxpayer is focused on where an individual resides in the course of a tax year, not where they work. An individual will be a Scottish taxpayer if they are resident in the UK for tax purposes and, in the course of a tax year, they satisfy any of 3 tests:

1. They are a Scottish Parliamentarian
2. they have a “close connection” to Scotland, through either:
  - 2.1 having only a single “place of residence”, which is in Scotland
  - 2.2 where they have more than one “place of residence”, having their “main place of residence” in Scotland for at least as much of the tax year as it has been in another part of the UK
3. where no “close connection” to Scotland (or any other part of the UK) exists - through day counting- if the individual spends at least as many days in Scotland as elsewhere in the UK

Further guidance on some of the terms used in the sections of the Scotland Act 2012, which set out the definition of a Scottish taxpayer are explained below.

- it’s possible for an individual to have more than one “place of residence”, for example a flat in town and a house in the country
- an individual must have actually lived in a place for it to constitute a “place of residence”. For example, owning a property, without ever visiting or staying at it, will not make it an individual’s “place of residence”
- living in a place only occasionally or for a short period of time doesn’t preclude it constituting a “place of residence”; however a degree of permanence or continuity is required to turn occupation into residence. For example occasionally staying as a guest at the house of a friend will not make it a “place of residence”
- ownership by the individual is not required for a dwelling to be a “place of residence”, rented or work provided accommodation can be where an individual habitually lives – their home
- a “place of residence need not be a building – boats, caravans, lorries, any form of transport or mobile home can constitute a “place of residence”, if that is the individual’s home

Ultimately, however, whether a place constitutes a “place of residence”, for the purposes of Scottish taxpayer status, will be dependent on the facts of an individual circumstance.

A “main place of residence” is not necessarily the residence where the individual spends the majority of their time, although it commonly will be. A “main place of residence” is the “place of residence” with which the individual can be said to have the greatest degree of connection. Whether a place constitutes a “main place of residence” is a matter of fact and all of the facts and circumstances of the particular case must be considered to arrive at a conclusion.

The following list, although not exhaustive, may be useful in establishing whether a place constitutes a “main place of residence”:

- if the individual is married or in a civil partnership, where does the family spend its time
- if the individual has children, where do they go to school
- at which residence is the individual registered to vote
- how is each residence furnished
- where are the majority of the individual’s possessions kept
- which address is used for correspondence for banks and building societies, credit cards, HMRC and utility bills
- where is the individual registered with a doctor / dentist
- at which address is the individual’s car registered and insured
- which address is the main residence for council tax

## Close connection – examples from HMRC Guidance

1. Throughout the whole of the tax year Sharon lives in a flat in Dumfries but is employed by a company based in Carlisle, where her office is situated.

“The location of your employer or where you work is not relevant to deciding whether you’re a Scottish taxpayer. Although Sharon works in England, her place of residence is in Scotland, so Sharon is a Scottish taxpayer.”

2. Ravi is retired and lives in Liverpool. As well as his state pension Ravi also has a monthly income from a private pension with an Edinburgh based pension firm.

“The location of the pension provider from whom a pension is received is not relevant to deciding whether you’re a Scottish taxpayer. Ravi’s place of residence is in England so he’s not a Scottish taxpayer.”

3. Throughout the whole of a tax year, Mohammed lives with his wife in Huddersfield and works as a long distance lorry driver. His work regularly takes him away from home for days at a time, travelling across the UK, driving overnight, often in Scotland.

“Notwithstanding the fact that he spends considerable time in many different parts of the UK, especially in Scotland, Mohammed has only one place of residence in the UK. Since that place of residence is in England he’s not a Scottish taxpayer.”

4. Bob has worked and owned a flat in Bristol for many years. He spends the working week in the Bristol flat but he spends each weekend at a house he owns outside of Oban, where he likes to go walking and fishing. Both properties are furnished with Bob’s possessions but his doctors, electoral and car registration are all in Bristol.

“Bob has two places of residence but his main place of residence is in Bristol, as this is the residence with which he has the closest connection and in which he spends the most time. Bob is therefore not a Scottish taxpayer.”

5. Sally is single with no children and has lived and worked in London for a number of years. In May she’s offered a new job with a firm based in Dundee and decides to accept the offer. She sells her London home and starts the new job in July, moving to a rented house close to her new office.

“Sally has two main places of residence in the tax year but her main place of residence was in Scotland for more of that year than it was in England. A “close connection” with Scotland exists, so Sally is a Scottish taxpayer for the whole of that tax year.”

6. Throughout the tax year, Jack is employed by an oil company working four weeks on/four weeks off, on a rig in Scottish waters. When not working Jack lives at the house he owns with his long-term partner and children in Leicester. All of his possessions are in Leicester, his car is registered and he is registered to vote in Leicester.

“Jack’s main place of residence is in Leicester. His family and his possessions are there and he spends all his non- working time there - he is therefore not a Scottish taxpayer.”

7. Ruth is employed by an oil company working four weeks on/four weeks off, on a rig in Scottish waters. Ruth is single and has no children. When not on the rig she stays in work-related accommodation near Aberdeen but

spends most of her non-working time visiting friends or on holiday. She keeps some of her possessions in storage near Aberdeen but the majority are at her mum's home in Belfast which she also uses as her address for bank and other correspondence, although she seldom visits.

“Ruth has no place of residence. Mum's house is not a “place of residence” as Ruth does not reside there. Neither the rig nor the on-shore work accommodation are places of residence as there is little permanence or continuity in their occupation – none of her possessions are sited in them – there is no close connection. Ruth's Scottish taxpayer status will be decided by day counting.”

8. Tom has lived and worked in Birmingham for a number of years. In March he is offered a fixed one year secondment by his employers, starting in April, at their branch in Glasgow. Tom rents out his Birmingham home and moves into a house provided by his employer just outside of Glasgow. He changes his home address for bank, credit card and energy suppliers to the new house and registers with a doctors' surgery and to vote in Glasgow.

“Despite still owning a house in Birmingham and intending to return there once his one year secondment has ended, Tom does not live there during the year. Tom's sole main place of residence is in Glasgow, so he has a close connection with Scotland and is thus a Scottish taxpayer.”

9. Jane has a family home in Kilmarnock with her husband and children but works in Cardiff. To avoid the commute she rents a flat in Cardiff which she furnishes herself and where she keeps some of her possessions and stays during the week, returning to the family home in Kilmarnock each weekend. Jane's Kilmarnock address is where she is registered with a doctor and to vote and is used for all personal matters and correspondence.

“Despite having a place of residence in Cardiff throughout the tax year, Jane's main place of residence is her family home in Kilmarnock. Jane therefore has a “close connection” to Scotland and is thus a Scottish taxpayer.”

10. Solomon is a student at university in Glasgow, living in house with friends from his course. He works part-time to help cover his rent and tuition fees and his name is on the phone and utility bills for the house. His parents live in Norwich and he returns to the family home outside of every term time. He never got round to changing the correspondence address on his bank and credit card accounts from the family home in Norwich, most of his possessions are there and his electoral and doctors registration are also in Norwich.

“Solomon's main place of residence, the place with which he has closest connection, is his parent's house, his family home in Norwich. Solomon is not a Scottish taxpayer.”

11. Rebecca is a student at university in Stirling and lives in a shared house with friends from the course. She works part-time to help cover rent and tuition fees and her name is on the phone and utility bills for the house. Her parents live in Cardiff. The correspondence address on her bank and credit card accounts is still at her parents' house and many of her possessions are there, however, Rebecca spends her university holidays in the house in Stirling, working full-time, only occasionally staying at her parent's house.

“Rebecca has only one place of residence – Stirling. While she uses her parent's home for correspondence and many of her possessions are there she spends very little time there so it can't constitute her place of residence.”

12. Meera and her husband own and run a successful multi-national business. They have no children or close family. Both travel extensively on business, occasionally staying in hotels but usually basing themselves at houses they own in a variety of UK and overseas locations. Despite this travel both are resident in the UK for tax purposes. They are registered to vote at their London residence but have numerous bank accounts and cars registered at different addresses.

“Meera and her husband have numerous “places of residence” but it is not possible to identify one of these as their “main place of residence” – Scottish taxpayer status should be decided for each by a day count for days spent in Scotland and elsewhere in the UK.”

13. Javier is a US Citizen, employed by a US Company. He is sent on a 2 year assignment to work for a company in Scotland. Javier will be a UK resident under the Statutory Residence Test (SRT) from the date of his arrival in the UK. Javier rents a house in Scotland for 2 years for himself. His family remain in the US throughout the assignment and Javier returns home to the US for holidays.

“Since Javier is UK resident for tax purposes and his place of residence in the UK is in Scotland, he has a close connection with Scotland and is therefore a Scottish Taxpayer.”

## Place of residence and main place of residence

When considering whether you had a place of residence or main place of residence in the UK, HMRC would look for evidence to establish your presence at a particular home and whether or not a home existed. The following information would help establish the facts:

- general overheads - utility bills that may demonstrate you've been present in that home, for example, telephone bills or energy bills, which demonstrate usage consistent with living in the property
- tv/satellite/cable subscriptions
- local parking permits
- membership of clubs, for example sports, health or social clubs
- mobile phone usage and bills pointing to your presence in a country
- lifestyle purchases pointing to you spending time in your home – for example, purchases of food, flowers and meals out
- presence of your spouse, partner or children
- increases in maintenance costs or the frequency of maintenance, for example having your house cleaned more frequently
- insurance documents relating to that home
- SORN notification that a vehicle in the UK is 'off road'
- re-directed mail requests or the address to which you have personal post sent
- the address to which your driving licence is registered
- bank accounts and credit cards linked to your address and statements which show payments made to utility companies
- evidence of local municipal taxes being paid
- registration, at your address, with local medical practitioners
- credit card and bank statements which indicate the pattern and place of your day by day expenditure