

Am I French resident for tax purposes?

"Am I French resident?" is a question frequently asked by clients. Each client's situation is different and requires individual analysis.

There are four conditions which will allow the French authorities to treat you as French resident for tax purposes:

1. Your family base is in France;
2. Your principal place of stay is in France;
3. You carry out a salaried employment or business activity in France;
4. Your centre of economic interests is in France.

You need fulfil only **one** of these four criteria to be considered a French resident for any particular year (the calendar year).

Whilst in many ways similar to the UK rules, the French criteria take account of a wider range of factors and require a degree of judgement to be exercised. We therefore tend to look to precedents set by case law for guidance. Let us consider each of the conditions in more detail.

1. Your family base is in France

Your family base is the place where you and your family live permanently, leaving aside time spent abroad for work and travel. If you work outside France temporarily, even for the majority of the year, but systematically go back to France where your family base is, France will treat you as a French resident. Your family consists of your spouse or civil partner as well as your children while they are still legally attached to you and reside at the same address.

The fact of owning a residence outside France (or living in rented accommodation or a hotel in France, for that matter) does not affect the underlying principle.

For single persons, it is the centre of their personal life that is considered rather than their family base. Factors such as the following have been taken into account in past cases: personal relationships e.g. your closest family residing in France; having accommodation and private cars available to you in France; receiving your post at a French address; possessing and making payments out of a French bank account; being on the French electoral register; and owning domestic water and electricity contracts in France. None of these criteria, taken on its own, is conclusive but several in aggregate will add weight to the case for your being a French resident.

A person whose personal life is centred on France and who is targeted by this rule might even work abroad for the majority of the year, but will come back between assignments to their "base" in France – the place they consider home and to which they return at the end of the day

2. Your principal place of stay is in France

If you spend over six months of the year in France, regardless of where your immediate family might be based and irrespective of what your accommodation arrangements might be – you will also be deemed resident of France.

As a rule of thumb an individual who habitually spends more than four months of the year in France, whether continuously or spread over several visits, will meet the criteria for having his or her principal place of stay in this country. Notwithstanding that you spend fewer than 183 days in France in any one calendar year, if the record shows that you spend more time in France than in any other country, France will be regarded as your principal place of stay.

3. You carry out a salaried employment or business activity in France

You are considered fiscally resident in France if you carry out a salaried employment or business activity in France, so long as the job is not merely secondary to your main work overseas. This applies regardless of whether or not you are remunerated for the work concerned.

In the case that you carry out the same or several activities in various countries, you will be considered resident in France if you spend more time carrying on your activities in France than elsewhere.

4. Your centre of economic interests is in France

Your centre of economic interests means the place where the majority of your income arises or from which you direct your business affairs.

This could be the country where you hold your principal income-yielding investments, or where your business interests are registered and administered or indeed the place where you have your main salaried employment. In the case that you have several sources of income, it is the gross revenue from each country that will be taken into account.

Is it possible to be regarded as resident in two different countries simultaneously?

Yes. Each country has its own set of criteria for tax residence. The rules are set independently and do not mutually exclude one another. It is perfectly possible to be, for example, UK resident by virtue of spending over 182 days per year there, meanwhile being simultaneously French resident due to having your centre of economic interests in France, notwithstanding that you spend the majority of the year in the UK.

So what happens if I am deemed simultaneously resident in France and in another country: will I be taxed twice?

France has signed a large network of double tax treaties with other countries; the purpose of these is to allocate taxing rights to each of the countries concerned and thereby eliminate any possibility of double taxation.

Most tax treaties are based on the OECD model which contains "tie-breaker" clauses determining which country will have taxation rights over each type of the dual resident's income. The tests are applied successively in the following order until one of them is found to be conclusive:

1. In which state is your permanent home?
2. In which state is your centre of vital interests?
3. In which state is your principal place of stay?
4. Of which state are you a national?

Under older tax treaties, different criteria govern which country has taxation rights and relief is provided in the form of a tax credit.

Conclusion

This article can only scratch the surface of the complex rules surrounding residence in France. Being deemed to be a French tax resident typically raises a plethora of further questions: What are my tax return obligations? Are there any other knock-on effects of becoming French resident? Does my non-resident spouse also have to declare his or her income on a joint return?

James Howes & Co has a wealth of experience working with international clients who live, work, own assets in or have other links with France. We can help you to determine if and when you will (or have already) become resident of France, offer tailored advice on your situation and assess how best to minimise your exposure to tax. For all enquiries please write to contact@jameshowes.fr