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## **NON-RESIDENCE**

The simplistic view of non-residence is that an individual, who spends no more than 90 days in the UK in a tax year, qualifies as non-resident. Long term non-residents, ie those who maintain this status for 4 years or more are extended additional latitude. They may spend up to 182 days in the UK, in any one tax year, provided their average days in a 4 year period do not exceed 90 days. The 4 years are calculated on a rolling average so that at the end of year 5, year 1 drops out of the calculation...and so on.

Currently, in calculating days in the UK, days of arrival and departure do not count. Thus hedge fund managers can arrive in the UK on a Monday morning, work until Thursday when they leave, and only clock 2 days UK days (Tuesday and Wednesday).

This favourable status is to change on 6<sup>th</sup> April 2008 when days of arrival and departure will be counted as UK days.

Furthermore, HMRC have won recent cases when they have extended the definition of residence to include the subjective concept of 'belonging'. An individual who has a wife, home and children in the UK shouldn't qualify as non-resident in the HMRC's eyes. A British Airway pilot, who thought he lived in Cyprus, was recently caught by this extended test. The only way to be confident of passing this test is to sell up in the UK (or let your home) and to establish a new residence in another country.