

1 Payments on account

- (1) ITA 2007 is amended as follows.
- (2) In section 809K (sections 809L to 809Z6: introduction), in subsection (2)(e), for “809V” substitute “809UA”.
- (3) Before section 809V (but after the italic cross heading) insert –

“809UA Money used for payments on account

- (1) Subsection (2) applies to income or chargeable gains of an individual if –
 - (a) the income or gains would (but for subsection (2)) be regarded as remitted to the United Kingdom by virtue of the bringing of money to the United Kingdom,
 - (b) the money is brought to the United Kingdom by way of direct payments to the Commissioners on account of income tax,
 - (c) the tax year (“tax year 2”) in respect of which the payments on account are made is a tax year for which section 809H (remittance basis charge for long-term UK resident) does not apply as respects the individual, and
 - (d) that section applied as respects the individual for the previous tax year (“tax year 1”).
 - (2) The relevant amount of income or chargeable gains is to be treated as not remitted to the United Kingdom if money equal to the relevant amount is taken offshore by the individual within the period of 45 days beginning with the earlier of the following days –
 - (a) the day on which a repayment is made by the Commissioners in respect of the payments on account, and
 - (b) the 31 January following the end of tax year 2.
 - (3) Money that is taken offshore in accordance with subsection (2) is to be treated as having the same composition of kinds of income and capital as the money used to make the payments on account.
 - (4) In this section “the relevant amount” means the lower of the following –
 - (a) the amount brought to the United Kingdom as mentioned in subsection (1)(b), and
 - (b) the applicable amount (as defined in section 809H) for tax year 1.”
- (4) The amendments made by this section have effect in relation to money brought to the United Kingdom on or after 6 April 2013.

EXPLANATORY NOTE

REMITTANCE BASIS: PAYMENTS ON ACCOUNT

SUMMARY

1. This clause introduces amendments to the remittance basis of taxation in Chapter A1 of Part 14 of the Income Tax Act (ITA) 2007 which ensure that certain payments are not treated as a taxable remittance to the UK.

DETAILS OF THE CLAUSE

2. Subsection (1) introduces the new rules which exempt certain payments to the UK as from being treated as a taxable remittance.
3. Subsection (2) makes a consequential amendment to section 809K of ITA.
4. Subsection (3) introduces new section 809UA of ITA which deals with the interaction between the remittance basis and the payments on account process provided by section 59A of the Taxes Management Act 1970.
5. New subsection 809UA(1) sets out the conditions which must be met in order for new subsection 809UA(2) to apply. These are that foreign income and gains are brought to the UK to make payments on account to HMRC in relation to a tax year in which an individual is not liable to pay the annual remittance basis charge ('year 2') and where the individual was liable to pay that charge in the preceding year ('year 1'). In such cases, the payments on account will include an amount relating to the remittance basis charge which was payable in year 1 even though it is not payable for year 2.
6. New subsection 809UA(2) provides that the foreign income and gains are not treated as remitted to the UK, provided the individual takes offshore an amount equal to the relevant amount within 45 days of the earlier of the day on which HMRC repay a part of the payments on account and the 31 January following the end of year 2.

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7. New subsection 809UA(3) provides that the money which is taken offshore as required by subsection 809UA(2) will be treated as containing the same amounts of foreign income, gains and capital as were used to make the payments on account.
8. New subsection 809UA(4) defines the term 'relevant amount' for the purposes of subsection 809UA(2) as the lower of the amount of foreign income and gains used to make payments on account and the annual remittance basis charge which the individual was liable to pay in year 1. The annual charge is provided for by section 809H of ITA and is either £30,000 or £50,000, depending whether the individual meets the 7-year residence test or the 12-year residence test (as set out in section 809C of ITA).

BACKGROUND

9. Section 47 of and Schedule 12 to Finance Act 2012 introduced a number of changes to the remittance basis of taxation. These changes followed Government consultation which was carried out in 2011.
10. In their formal response to that consultation in December 2011, the Government said that consideration would be given to a number of further issues with a view to possible legislation in Finance Bill 2013. That legislation was published in draft on 11 December 2012. At the same time, an announcement was made that further legislation would be published in January 2013 which would set out new rules for inadvertent remittances which can arise in certain circumstances.
11. If you have any questions about this change, or comments on the legislation, please contact Craig Mason on 020 7147 2599 (email: craig.mason@hmrc.gsi.gov.uk).