

Non-domicile taxation

Who is likely to be affected?

UK resident non-domiciled individuals who are taxed on the remittance basis.

General description of the measure

This measure will make a series of minor changes to the remittance basis rules designed to reduce administrative complexity and remove anomalies.

Policy objective

The changes introduced by this measure aim to simplify some parts of the remittance basis rules, which can in some circumstances be complicated to operate; this will benefit individuals and their advisors.

Background to the measure

Reforms to the remittance basis of taxation, which is available to non-domiciled individuals who are resident in the UK, were announced by the Government in Budget 2010 and 2011.

Draft legislation implementing these reforms was published for consultation in December 2011. In Finance Act 2012, the Government introduced these reforms to the remittance basis. At that time, the Government said it would consider the case for further changes to the remittance basis which would be introduced in the 2013 Finance Bill.

Draft legislation setting out the rules for inadvertent remittances will be published in January 2013

Detailed proposal

Operative date

This legislation will have effect on and after 6 April 2013.

Current law

The remittance basis rules are set out in Chapter A1 of Part 14 of the Income Tax Act 2007. These provide that an individual who is resident but not domiciled in the UK can choose to be taxed under a special regime whereby they are liable to UK tax on their income and gains arising in the UK, but only taxed on their overseas income and gains to the extent that they are brought to the UK.

These include special rules in sections 809X to 809Z6 which apply to property which has been purchased overseas, wholly or in part, with foreign income and gains and which is brought to the UK by an individual who is taxed on the remittance basis. Such property is known as exempt property and, provided certain conditions are met, can be brought to the UK without the foreign income and gains which were used to acquire the property being treated as a taxable remittance.

Proposed revisions

Legislation will be introduced in Finance Bill 2013 to make changes to the exempt property rules to remove a tax charge which can arise where such property is lost, stolen or destroyed whilst it is in the UK. Changes will also be made to the exempt property rules to remove a minor anomaly and to extend the range of exempt property which can be brought to the UK for the purpose of public display at an approved establishment such as a museum or gallery and clarify the interaction between the various time limits for the exempt property rules.

Draft legislation setting out the rules for inadvertent remittances will be published in January 2013.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	-	nil	nil	nil	nil	nil
	This measure is not expected to have an Exchequer impact.					
Economic impact	The measure is not expected to have any economic impacts.					
Impact on individuals and households	The proposals affect only individuals who are resident non-domiciles and who are taxed on the remittance basis. In 2009-10, there were approximately 45,000 individuals who elected to pay on the remittance basis. The objective of the proposals is to reduce the complexity of calculations that individuals and their advisers have to make to comply with the remittance basis rules.					
Equalities impacts	No impacts based on race, gender disability or other equality groups are anticipated.					
Impact on business including civil society organisations	This measure is expected to have no impact on businesses or civil society organisations, as it only affects individuals. As a simplification, it could not in any case increase burdens on businesses or civil society organisations.					
Operational impact (£m) (HMRC or other)	Simplification will result in some efficiencies for HMRC in undertaking and checking calculations, but these will not be significant.					
Other impacts	Other impacts have been considered and none have been identified.					

Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups.

Further advice

If you have any questions about these changes, please send an email to: offshorepersonal.taxteam@hmrc.gsi.gov.uk

1 Remittance basis: exempt property

Schedule 1 contains provision about the application of the remittance basis in relation to exempt property.

SCHEDULE 1

Section 1

REMITTANCE BASIS: EXEMPT PROPERTY

- 1 Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.
- 2 In section 809X(3) (exempt property: public access rule), for “sections 809Z and 809Z1” substitute “section 809Z”.
- 3 (1) Section 809Y (property that ceases to be exempt property treated as remitted) is amended as follows.
 - (2) In subsection (2), for “either” substitute “any”.
 - (3) After subsection (4) insert –
 - “(4A) Where exempt property has been lost, stolen or destroyed, the first and second cases do not apply in relation to the property during any period –
 - (a) beginning with the time at which it was lost, stolen or destroyed, and
 - (b) (if lost or stolen) ending with the time at which it is recovered.
 - (4B) The third case is where a compensation payment is released in respect of exempt property that has been lost, stolen or destroyed.”
 - (4) In subsection (6), after “exempt property” insert “by virtue of the first or second case”.
- 4 After section 809YE insert –

“809YF Exception to section 809Y: compensation taken offshore or invested

 - (1) Section 809Y(1) does not apply to property if –
 - (a) it ceases to be exempt property because a compensation payment in respect of it is released, and
 - (b) conditions A and B are met.
 - (2) Condition A is that the whole of the compensation payment is taken offshore or used by a relevant person to make a qualifying investment within the period of 45 days beginning with the day on which the payment is released.
 - (3) Condition B is that, if Condition A is satisfied wholly or in part by using the compensation payment to make a qualifying investment, the remittance basis user makes a claim for relief under subsection (4) on or before the first anniversary of the 31 January following the tax year in which the payment is released.
 - (4) If section 809Y(1) does not apply to property by virtue of subsection (1), the income and gains treated under section 809X as not remitted to the United Kingdom continue to be treated after the compensation payment is released as not remitted to the United Kingdom even though the property has ceased to be exempt property.

- (5) But nothing in subsection (4) prevents anything done in relation to any part of the compensation payment after that payment is taken offshore (or used to make a qualifying investment) from counting as a remittance of the underlying income or gains to the United Kingdom at the time when the thing is done.
 - (6) Treat the compensation payment as containing or deriving from an amount of each kind of income and gain mentioned in section 809Q(4)(a) to (h) equal to the amount of that kind of income or gain contained in the exempt property when it was brought to, or received or used in, the United Kingdom (as mentioned in section 809X).
 - (7) Where Condition A was met by using the compensation payment to make a qualifying investment –
 - (a) the business investment provisions apply to the income and gains that continue, by virtue of subsection (4), to be treated as not remitted as they apply to income or gains that are treated under section 809VA(2) as not remitted, and
 - (b) if the investment was made using more than just the compensation payment, treat only the part of the investment made using the payment as “the investment” for the purposes of those provisions.”
- 5
 - (1) Section 809Z (public access rule: general) is amended as follows.
 - (2) In subsection (1), for “A to D” substitute “B and C”.
 - (3) Omit subsection (2).
 - (4) In subsection (7) for “the relevant period,” substitute “all the periods that are relevant periods in relation to the property,”.
 - (5) For subsection (8) substitute –
 - “(8) For the purposes of this section and section 809Z3, a “relevant period” in relation to the property is any period which –
 - (a) begins with either –
 - (i) the importation of the property, or
 - (ii) the recovery of the property after it has been lost or stolen, and
 - (b) ends with the first of the following –
 - (i) the property ceasing to be in the United Kingdom following that importation or recovery, and
 - (ii) the property being lost or stolen.”
 - (6) Omit subsection (10).
- 6 Omit section 809Z1 (public access rule: relevant VAT relief).
- 7
 - (1) Section 809Z3 (repair rule) is amended as follows.
 - (2) In subsections (1) and (2), for “the relevant period” substitute “any period which is a relevant period in relation to the property”.
 - (3) Omit subsection (7).
- 8
 - (1) Section 809Z4 (temporary importation rule) is amended as follows.

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- (2) In subsection (1), after “days” insert “(subject to any increase under subsection (3B))”.
- (3) In subsection (3) –
- (a) before paragraph (a) insert –
 - “(za) the property meets the public access rule,”
 - (b) after paragraph (b) insert –
 - “(ba) subsection (3A) applies to the property,” and
 - (c) in paragraph (d) for “or 809YC(2)” substitute “, 809YC(2) or 809YF(4)”.
- (4) After that subsection insert –
- “(3A) This subsection applies to the property if –
- (a) it is not available to be used or enjoyed in the United Kingdom by or for the benefit of a relevant person because it has been lost, stolen or destroyed,
 - (b) (if lost or stolen) it has not been recovered, and
 - (c) no compensation payment has been released in respect of it.
- (3B) If –
- (a) property that has been lost or stolen is recovered,
 - (b) the first day after the day on which it is recovered is a countable day, and
 - (c) excluding that countable day there have already been 231 or more countable days in relation to the property,
- the number of countable days specified in subsection (1) is read as being increased by the number necessary for there to be 45 countable days beginning with the countable day mentioned in paragraph (b).”
- (5) Omit subsections (4) to (10).
- 9 In section 809Z6 (exempt property: other interpretation), after subsection (4) insert –
- “(5) References to property being lost, stolen or destroyed are to the property being lost, stolen or destroyed whilst in the United Kingdom.
 - (6) “Compensation payment”, in relation to property that has been lost, stolen or destroyed, means any payment of compensation (whether under an insurance policy or otherwise) in respect of the property.
 - (7) A compensation payment is “released” on the day on which it first becomes available for use in the United Kingdom by or for the benefit of any relevant person.
 - (8) Property that has been lost or stolen is “recovered” on the day on which it becomes available to be used or enjoyed in the United Kingdom by or for the benefit of a relevant person.”
- 10 The amendments made by this Schedule have effect in relation to property that is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies on or after 6 April 2013.

EXPLANATORY NOTE

REMITTANCE BASIS: EXEMPT PROPERTY

SUMMARY

1. This clause and Schedule amend the rules which apply to exempt property in sections 809X to 809Z6 of the Income Tax Act (ITA) 2007.

DETAILS OF THE SCHEDULE

2. Paragraph 1 introduces the changes to the exempt property rules.
3. Paragraph 2 of the Schedule removes the reference to a relevant VAT relief in section 809X(3) for the purposes of the public access rule in section 809Z.
4. Paragraph 3 of the Schedule amends section 809Y ITA to provide that, where exempt property is lost, stolen or destroyed, the rules which treat such property as remitted when it ceases to be exempt property do not apply during the period beginning with the loss, theft or destruction and ending with the recovery of the property (in cases where the property has been lost or stolen). It also provides that property which has been lost, stolen or destroyed will be treated as remitted where a compensation payment is released with respect to that property.
5. Paragraph 4 of the Schedule inserts new section 809YF ITA, which provides that, where a compensation payment is released with respect to exempt property which is lost, stolen or destroyed, that property will not be treated as remitted to the UK provided the following conditions are met:
 - the whole of the compensation payment is taken offshore or used to make a qualifying investment as defined in section 809VC ITA within 45 days of being released; and,
 - where the payment is used, wholly or in part, to make a qualifying investment, the remittance basis user makes a claim for relief under subsection 809YF(4) within one year from the 31 January following the tax year in which the payment was released.

New section 809YF also provides that, where subsection (1) applies to the property, the foreign income and gains treated as not remitted to the UK by virtue of subsection 809X continue to be treated as not remitted to the UK after the compensation payment is released, even

though the property has ceased to be exempt property. It further provides that a compensation payment will be subject to the normal remittance basis rules once all or part of such a payment has been taken offshore, or used to make a qualifying investment. A compensation payment will be treated as containing the same amounts of income and gain as were contained in the property when it was brought to, or received or used in the UK, in accordance with the rules set out in section 809Q ITA. Where a compensation payment is used to make a qualifying investment, the business investment provisions will apply to the income and gains so invested.

6. Paragraph 5 of the Schedule amends section 809Z by removing condition A (that the property is a work of art, collector's item or antique within the meaning of Council Directive 2006/112/EC) and condition D (that the property attracts a relevant VAT relief) from the public access rule. It also inserts a new definition of a relevant period for the purposes of the public access rule and the repair rule. The relevant period is one which begins either when the property is brought to the UK or when property which has been lost or stolen or destroyed is recovered. The relevant period ends on the earlier of the date on which the property ceases to be in the UK after being brought to the UK or recovered and the date on which the property is lost or stolen.
7. Paragraph 6 of the Schedule removes section 809Z1 which defined relevant VAT relief for the purposes of the public access rule.
8. Paragraph 7 of the Schedule makes consequential amendments to the repair rule in section 809Z3 as a result of the new definition of a relevant period.
9. Paragraph 8 of the Schedule amends section 809Z4 which applies to property which is exempt property by virtue of the temporary importation rule. It provides that property will meet that rule where the total number of countable days is 275 or fewer, subject to any increase under new subsection (3B). It also provides that any day, or part of a day, on which property meets the public access rule or meets new subsection (3A) are not treated as countable days. New subsection (3A) applies to property which is not available to be used or enjoyed in the UK by any relevant person, has not been recovered (in the case of property which has been lost or stolen) and where no compensation payment has been released with respect to that property.
10. Paragraph 8 of the Schedule also introduces new subsection (3B), which applies where property has been recovered after having been lost or stolen. It provides that if the first day following the day on which the property is recovered is a countable day and where, apart from that day, there have been at least 231 countable days in relation

to the property, the number of countable days is increased by the number of days such that there are 45 countable days beginning with the day following the day on which the property is recovered. This will ensure there will be 45 days in which property will have to be taken offshore after it is recovered to prevent a taxable remittance.

11. Paragraph 9 of the Schedule inserts new subsections 809Z6(5) to (8) which define the terms ‘lost, stolen or destroyed’, ‘compensation payment’, ‘released’ and ‘recovered’ for the purposes of the changes introduced by this Schedule.
12. Paragraph 10 of the Schedule provides commencement and transitional provisions. The amendments made by this Schedule will have effect in relation to property brought to, or received or used in the UK in circumstances which section 809L(2)(a) ITA (which defines what is meant by remitted to the UK) applies on or after 6 April 2013.

BACKGROUND

13. Section 47 and Schedule 12 of 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.
14. In their formal response to that consultation in December 2011, the Government said further consideration would be given to a number of further issues with a view to possible legislation in Finance Bill 2013. These included changes to the rules on exempt property which are set out in this Schedule. Further legislation setting out new rules which will apply to inadvertent remittances will be published in January 2013.
15. 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).