

UK-Swiss Confederation Taxation Cooperation Agreement: remittance basis

Who is likely to be affected?

Individuals who are resident but not domiciled in the UK and who are taxed on the remittance basis and have assets in Switzerland.

General description of the measure

This measure ensures that the policy objectives behind the original agreement are delivered in full. It will ensure that appropriate mechanisms are in place to ensure that levies received by HM Revenue & Customs (HMRC) under the agreement are not treated as taxable remittances where they are made by non-UK domiciled individuals resident in the UK.

Policy objective

The measure supports the Government's objective of addressing the long running problem of offshore tax evasion. The UK-Swiss Confederation Taxation Cooperation Agreement is due to come into effect on 1 January 2013 and is expected to raise significant sums for the UK Exchequer.

Background to the measure

The Government published this measure on 11 December 2012.

It will not be subject to formal consultation.

Detailed proposal

Operative date

The legislation will come into effect on the date that the UK-Swiss Confederation Taxation Cooperation Agreement comes into force. This is expected to be 1 January 2013.

Current law

Schedule 36 to Finance Act 2012 was introduced to bring into effect the necessary changes to UK law to allow implementation of the UK-Swiss Confederation Taxation Cooperation Agreement.

Where an individual who is taxed on the remittance basis makes a payment under the agreement using their untaxed foreign income and gains, that payment would under existing rules be treated as a taxable remittance under section 809L ITA 2007.

Where amounts are levied under the agreement, the legislation provides that UK residents will cease to be liable to UK tax on the underlying income and gains. This includes UK residents who are not domiciled in the UK who are taxed on the remittance basis.

Proposed revisions

Legislation will be introduced in Finance Bill 2013 to amend the position outlined above so as to ensure that where levies are made under the terms of the agreement, those levies are not treated as remittances for UK tax purposes.

Where the levy relates to the past and the non-domiciled individual has opted for the self-assessment method of calculation, this measure will ensure that the levy itself will not constitute a taxable remittance to the UK.

These changes allow 45 days for the non-domiciled individual to inform their paying agent of the nature of any remittance. This will allow the correct amount of levy to be deducted and then transferred to the UK without that levy constituting a taxable remittance.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	negligible	negligible	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer. This measure relates to the UK-Swiss Confederation Taxation Cooperation Agreement and the Exchequer impacts for the agreement are set out in Table 2.1 of the Autumn Statement and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside the Autumn Statement.					
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals and households	This measure is expected to have a negligible impact on individuals and households. The changes being made will impact only on individuals not domiciled in the UK who hold relevant assets in Switzerland and choose not to disclose those assets to HMRC under the terms of the UK-Swiss Confederation Taxation Cooperation Agreement.					
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 not expected to have any impact on businesses or civil society organisations, as it only affects individuals.					
Operational impact (£m) (HMRC or other)	It is not anticipated that implementing this change will incur any additional costs / savings for HMRC.					
Other impacts	Other impacts have been considered and none have been identified.					

Monitoring and evaluation

This measure will be kept under review through regular communication with the relevant customer fora and stakeholder groups.

Further advice

If you have any questions about this change, please contact David Lewis on 020 7147 2403 (email: david.e.lewis@hmrc.gsi.gov.uk).

1 Agreement between UK and Switzerland

- (1) In Schedule 36 to FA 2012 (agreement between UK and Switzerland), after paragraph 26 insert –

“Transfers to HMRC under Agreement

26A (1) Income or chargeable gains of a person are to be treated as not remitted to the United Kingdom if conditions A to D are met.

(2) Condition A is that (but for this paragraph) the income or gains would be regarded as remitted to the United Kingdom by virtue of the bringing of money to the United Kingdom.

(3) Condition B is that the money is brought to the United Kingdom pursuant to a transfer made to HMRC in accordance with the Agreement.

(4) Condition C (which applies only if the money brought to the United Kingdom is a sum levied under Article 19(2)(b)) is that the sum was levied within the period of 45 days beginning with the day on which the amount derived from the income or gain in question was remitted as mentioned in Article 19(2)(b).

(5) Condition D is that the transfer is made in relation to a tax year in which section 809B, 809D or 809E of ITA 2007 (application of remittance basis) applies to the person.”

- (2) In section 809R of ITA 2007 (composition of mixed fund), for subsection (5) substitute –

“(5) A transfer from a mixed fund is an “offshore transfer” for the purposes of subsection (4) –

- (a) if and to the extent that section 809Q does not apply to it,
- (b) if it is a one-off payment levied in accordance with Part 2 of the Agreement, or
- (c) if it is a sum levied under Article 19 of the Agreement and (if levied under paragraph (2)(b) of that Article) condition C in paragraph 26A of Schedule 36 to FA 2012 is met in respect of it.

In this subsection “the Agreement” has the same meaning as in Schedule 36 to FA 2012 (agreement between UK and Switzerland).”

- (3) In subsection (6) of that section after ““offshore transfer”” insert “by virtue of subsection (5)(a)”.
- (4) The amendments made by this section are to be treated as having come into force on the day on which Schedule 36 to FA 2012 came into force.

EXPLANATORY NOTE

AGREEMENT BETWEEN UK AND SWITZERLAND

SUMMARY

1. This clause amends Schedule 36 to Finance Act 2012 which gave effect to the Agreement signed on 6 October 2011 between the UK and Switzerland on co-operation in tax matters. It provides that certain transfers made under the Agreement will not give rise to a taxable remittance where they are made by a person who is an individual who is taxed on the remittance basis.

DETAILS OF THE CLAUSE

2. Subsection 1 introduces new section 26A to Schedule 36 to Finance Act 2012 which provides that foreign income and gains of a person are treated as not remitted to the UK when they are used to make a transfer in accordance with the Agreement, provided the following conditions are met:
 - Condition A is that the foreign income and gains would be treated as remitted to the UK in the absence of subsection (1) as a result of money being brought to the UK;
 - Condition B is that is that the money is brought to the UK as part of a transfer made under the terms of the Agreement;
 - where the money brought to the UK is a sum under Article 19(2)(b) of the Agreement, Condition C is that the sum is levied within 45 days from the day on which the amount derived from the foreign income and gains was remitted to the UK;
 - Condition D is that the transfer is made in relation to a tax year in which the person is an individual who is taxed on the remittance basis.
3. Subsection 2 amends subsection 809R(5) of the Income Tax Act (ITA) 2007 and provides that any transfer from a mixed fund will be treated as a offshore transfer where it is a payment levied in accordance with Part 2 of the Agreement or a sum levied under Article 19 of the Agreement.
4. Subsection 3 amends subsection 809R(6) of ITA 2007 and provides that the changes made by subsection 2 are restricted to the transfers

defined in that subsection. This will mean that any transfer from a mixed fund to the UK will not be treated as an offshore transfer.

5. Subsection 4 provides that the effective date of this section will be the date on which Schedule 36 to Finance Act 2012 came into force.

BACKGROUND

6. The UK Switzerland Agreement was signed on 6 October 2011. Schedule 36 to Finance Act 2012 was enacted to give the terms and principles of that agreement statutory effect in the UK.
7. The Agreement is expected to come into force on 1 January 2013.
8. If you have any questions about this change, or comments on the legislation, please contact David Lewis on 020 7147 2403 (email: david.e.lewis@hmrc.gsi.gov.uk).