



HM Treasury

# Summary of responses on minimum claim period consultation

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July 2015





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# 1 Introduction

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## Background

**1.1** At Autumn Statement 2014, the government announced it would consult on making the claim to pay the remittance basis charge apply for a minimum of 3 years, so that non-UK domiciled individuals could not easily arrange their tax affairs so as to only pay the charge occasionally. The consultation sought to better understand the reasons why individuals choose not to pay the remittance basis charge consistently from year to year. It also sought views on how a minimum claim period for the charge might apply, but also any alternatives that would also meet the government's objectives.

**1.2** The government held a formal consultation from 22 January 2015 until 16 April 2015. The proposals were at stage 1 (setting out objectives and identifying options) of the government's tax consultation framework.

**1.3** HM Treasury received and considered 19 written responses to the published consultation. Responses were received from a mixture of representative bodies and individual organisations that provide advice to non-UK domiciled individuals. During the consultation period, HM Treasury and HM Revenue and Customs (HMRC) also met with several of those representative bodies and organisations. The views expressed have been incorporated into this summary of responses.

**1.4** The government is grateful to all those who contributed to the consultation process. A list of the organisations that provided a written response is available in Annex A.

## Summary of respondents' views

**1.5** Respondents did not support the introduction of a minimum claim period for the remittance basis charge. It was argued that there is very little evidence of individuals actively arranging their affairs to plan around the remittance basis charge and that the fluctuation of income and gains from year to year was more likely to be the reason for an individual opting in and out of paying the charge. It was also considered to be complex and unnecessary because of the scale of the issue. Some responses indicated that if the government wished to take action then there would be greater support for restricting the ability to pay the remittance basis charge for a period of time once an individual chooses not to pay the charge.

**1.6** Chapter 2 provides more detail.

## Summary of the government's response

**1.7** As a result of significant reforms to the taxation of non-UK domiciled individuals and the responses to the consultation, the government announced at Summer Budget 2015 that it will not introduce a minimum claim period for the remittance basis charge.

**1.8** Chapter 3 provides more detail.



## 2 Summary Of Responses

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**2.1** This chapter summarises the key points and suggestions put forward by participants in the consultation.

### **Rationale for the introduction of a new minimum claim period**

**2.2** Prior to the consultation, it had been suggested to the government that some very wealthy non-UK domiciled individuals actively plan their affairs so that they only pay the remittance basis charge every few years despite being continuously resident in the UK for an extended period. The consultation recognised there could be a variety of reasons why an individual would stop paying the remittance basis charge and then later begin to pay it again. For example, it may simply reflect the fluctuation of income and gains, or it may be that the individual concerned became temporarily non-resident. Therefore, the consultation sought views on the reasons for individuals choosing to pay the remittance basis charge again after a period of non-payment and the extent to which individuals actively plan their affairs with the aim to reduce exposure to the remittance basis charge.

**2.3** Responses stated that an individual's annual decision to either pay the remittance basis charge or pay on the arising basis is mainly influenced by:

- the fluctuation of income and gains from year to year;
- a one-off event with long-term implications, such as an inheritance of overseas assets (for example, as a portfolio of shares) that generate varying amounts of income or gains each year; or
- a one-off event with short-term implications, such as the sale of an asset, which makes it advantageous to pay the remittance basis charge in a single year.

**2.4** The majority of responses suggested there is very little evidence of individuals actively arranging their affairs to plan around the remittance basis charge. However, leaving the UK to become non-resident for a period of time, offshore trusts, and offshore bonds did feature in some responses as potential mechanisms for tax planning in this area.

### **Proposed minimum claim period**

**2.5** The consultation outlined how a minimum claim period of 3 years for the remittance basis charge could work. This sought to strike a balance between the annual claim, which can be made under the current rules and allows a judgment to be made on whether to pay the charge in relation to a particular year, and a lengthier period, which would require people to have much greater foresight about their future income and gains.

**2.6** The government sought views on: whether the minimum claim period struck the appropriate balance; how subsequent claim periods should be treated; special circumstances when it might be inappropriate for the claim period to span 3 consecutive years; and how individuals might plan their affairs in response to the introduction of a minimum claim period.

**2.7** Respondents did not support the introduction of the minimum claim period. They believed that it would be unfair, complex, and unnecessary because of the scale of the issue. It was felt that a minimum claim period required taxpayers to have unrealistic foresight and make assumptions about their future income and gains, which they would be unable to control or

accurately predict. Responses also claimed that some non-UK domiciled individuals who don't pay the remittance basis charge every year might leave the UK in response to such a restriction, which would have a negative impact on the UK economy.

**2.8** However, if the government did decide to introduce a minimum claim period then some suggested a 2 year period would be fairer as it would help mitigate the potential uncertainty facing individuals. It was also suggested the restriction should only apply to those who had been resident in the UK for the longest time and paying the highest remittance basis charge of £90,000.

**2.9** There was general agreement that the subsequent claim period could become a rolling period so that the individual is in effect taking an annual decision on the previous three year period once that initial three year claim has passed. However, respondents also highlighted the need to introduce safeguards to ensure that taxpayers are not required to meet the tax charges if they can no longer afford to make the payments due. These circumstances included where an individual's earning capacity was affected by severe illness or mental incapacity, the loss of a job, a divorce, or where a company in which they were employed closed down.

## **Alternatives and complementary action**

**2.10** Some responses indicated that if the government wished to take action then there would be greater support for the alternative approach outlined in the consultation. This involved restricting the ability to pay the remittance basis charge for a period of time once an individual chooses not to pay the charge and pay on the arising basis instead. This was viewed by some respondents as a simpler approach, which would help ensure that non-UK domiciled individuals paid tax in the same way as a UK domiciled individual for an extended period once they chose not to pay the remittance basis charge.

# The Government's

## 3 Response

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**3.1** The government wants the UK to be a destination that will attract talented people to work and to do business. Having a tax system that is internationally competitive brings in talent and investment which contributes to the growth of the economy. The UK's rules for those who are not domiciled here are important in attracting people to live and to work here. The government remains committed to that aim. However, the government also wants the system to be fair. It believes that those who choose to live in the UK for a long time should pay taxes here like everybody else.

**3.2** As a result, at Summer Budget 2015 the government announced significant reforms to the taxation of non-UK domiciled individuals. These included:

- from April 2017, anybody who has been resident in the UK for more than 15 of the past 20 tax years will be deemed to be domiciled in the UK for tax purposes; and
- from April 2017, individuals who are born in the UK to parents who are domiciled here, will no longer be able to claim non-domiciled status whilst they are resident in the UK.

**3.3** As a result of these reforms and the responses to the consultation, the government also announced that it will not introduce a minimum claim period for the remittance basis charge or restrict the ability of individuals to pay the charge in future years when an individual opts out of paying it. The government has concluded that bringing an end to the permanent non-UK domicile status diminishes the opportunity for long-term UK residents to structure their affairs to reduce exposure to the charge over an extended period. The government will monitor the response to the reform of the taxation of non-UK domiciled individuals to ensure the rules operate as intended.



# A List of respondents

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The Association of Accounting Technicians

Arnold Hill & Co LLP

Baker Tilly Tax and Accounting Ltd

Brian White Ltd

CBW Tax Ltd

The Chartered Institute of Taxation

Deloitte LLP

Frank Hirth

Grant Thornton UK LLP

The Institute of Chartered Accountants in England and Wales

J J Doshi

KPMG LLP

The Law Society

Mark Davies & Associates Ltd

McKie & Co (Advisory Services) LLP

Mischon de Reya

Moore Stephens LLP

PriceWaterhouseCoopers LLP

The Society of Trust and Estate Practitioners



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