

## **REPLACEMENT GUIDANCE ON RESIDENCE AND DOMICILE – FEEDBACK**

### **Introduction**

1. In September 2008 we explained that we intended to provide new guidance on the residence and domicile rules to take into account the new rules introduced by the Finance Act 2008. We asked for your comments on the scope and structure of the guidance that would replace the existing guidance, IR20.

### **Responses received**

2. We received 15 substantive responses from representative bodies, businesses and individuals. We are very grateful for everyone's feedback.
3. All but one of the responses recognised the need for new guidance to replace the IR20. The respondent who was not in favour of new guidance considered that any new guidance could cause confusion to individuals if it varied from the IR20.
4. In order to gauge the scope of the new guidance we first asked if the scope of guidance in the current IR20 was about right. Most respondents were content with the scope, although there was one call to drop some contents such as guidance on types of income, capital gains tax and National Insurance Contributions. There was a general consensus that the IR20 does not reflect the realities of modern living with easy international travel and modern communications.
5. We asked whether there were any areas or issues not covered by the current IR20 which should be addressed by new guidance. Suggestions were made to include guidance on record keeping and operational processes such as the use of DOM 1 and P86 forms. There were several requests for more detailed guidance on the new remittance basis rules, the impact of the new day counting rules and for a section on case law, particularly in relation to recent residence and domicile cases.
6. While no one felt that the content of the current IR20 is unnecessary or irrelevant there were several calls for greater certainty about the operation of the law in response to our question about where clearer guidance is needed.
7. In particular, several respondents asked for clear guidance on an individual's residence, ordinary residence and domicile status, particularly for individuals arriving in, and leaving, the UK.
8. Several respondents suggested using detailed examples, flow charts or some form of status indicator, such as the employment status indicator, to assist individuals to work out their residence, ordinary residence and domicile status.
9. Others felt that the fluidity of the law means that it is not possible to provide certainty and suggested that the new guidance should make clear to readers that they cannot rely upon the guidance unless their situation is relatively simple.
10. In response to our question about the proposed structure of the guidance, one respondent felt that the sections on domicile and remittances should be separate. Otherwise most respondents thought the structure was reasonable, subject to some minor shifting of sections.

11. We also asked if there were any groups who might benefit from a simple guide tailored to the circumstances of the group, such as the leaflet produced for migrant workers and another, to be published shortly, for international students. A number of ideas were supplied: aircrew; globally mobile employees; Crown servants; seafarers; UK students working abroad. Other respondents felt that additional guidance would be unhelpful owing to the inherent complexities of the subject material.

### **Next Steps**

12. We have drafted new guidance, HMRC 6, to replace the IR20. The guidance is aimed at unrepresented individuals.

13. We have also drafted technical guidance for HMRC staff providing a more detailed account of the new rules on the remittance basis, and of domicile, which we expect will be useful for practitioners.

14. We are happy to take comments on the new guidance over the next few months. Please send your comments to

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**HMRC CAR Residency**  
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