



**HM Revenue
& Customs**

The Remittance Basis: Minor Amendments

Draft legislation and Explanatory Note
22 April 2009

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Introduction

1. Finance Act 2008 introduced significant changes to the remittance basis regime which became effective from 6 April 2008. Finance Bill 2009 will introduce minor changes to these rules which are designed to make the rules simpler to operate in practice and to ensure the legislation effectively delivers its policy objectives.
2. This document provides a draft of part of the legislation that will be included in the Finance Bill 2009 which will apply from 22 April 2009, together with an Explanatory Note.

SCHEDULE

REMITTANCE BASIS

- 1 Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.
- 2 (1) Section 809M (meaning of “relevant person” for purposes of sections 809L, 809N and 809O) is amended as follows.
 - (2) In subsection (2)(e), insert at the end “or a company which is a 51% subsidiary of such a close company”.
 - (3) In subsection (3), after paragraph (c) insert—
 - (ca) “participator”, in relation to a close company, means a person who is a participator in relation to the company for the purposes of section 419 of ICTA (see sections 417(1) and 419(7) of that Act),
 - (cb) “51% subsidiary” has the same meaning as in the Corporation Tax Acts (see section 838 of ICTA),”.
- 3 In section 809P (amount remitted), insert at the end—
 - (13) If the property forms part of a set only part of which is in the United Kingdom, the amount remitted is such portion of what it would have been had the complete set been brought to, or received or used in, the United Kingdom when the part was as is just and reasonable (having regard to the part of the set which is there).”
- 4 (1) Section 809Z5 (notional remitted amount) is amended as follows.
 - (2) Omit subsections (2) and (3).
- 5 The amendments made by this Schedule come into force on 22 April 2009.

Chapter 2: Explanatory Note

EXPLANATORY NOTE

SCHEDULE: RESIDENCE AND DOMICILE

SUMMARY

1. This Schedule makes a number of minor amendments to provisions relating to the remittance basis of taxation.

DETAILS OF THE SCHEDULE

2. Paragraph 1 introduces the Schedule which amends Chapter A1 of Part 14 of the Income Tax Act 2007 (ITA).
3. Paragraph 2 amends the definition of a relevant person in section 809M of ITA.
4. Section 809M(2)(e) is amended to provide that references to a close company include subsidiaries of such companies.
5. The new paragraph (ca) of section 809M(3) introduces a definition of a participator in relation to a close company for the purposes of defining a relevant person.
6. Paragraph 3 amends section 809P of ITA to provide a statutory rule for determining the value of a remittance where property forming part of a larger set is remitted to the UK.
7. Paragraph 4 makes consequential amendments to section 809Z5 of ITA required by the changes made elsewhere in this Schedule.

BACKGROUND NOTE

8. Individuals who are resident but not ordinarily resident or not domiciled in the UK can choose to use the remittance basis of taxation whereby they are required to pay UK tax on their offshore income only to the extent which it is are brought - or remitted - into the UK.
9. Section 25 and Schedule 7 of FA 2008 introduced changes to the remittance basis which came into effect from the start of the 2008-2009 tax year.
10. During the passage of Finance Bill 2008 the Government gave an undertaking that HM Treasury and HM Revenue and Customs officials would consult with external stakeholders following Royal Assent to review the legislation to ensure it operated as intended and to identify areas where it could be clarified or improved.
11. A number of minor changes will be made to the remittance basis in Finance Bill 2009, the majority of which arise from this consultation.

12. The Bill will also clarify the definition of a relevant person and provide a statutory rule for determining the value of a remittance where property forming part of a larger set is remitted to the UK. Both changes are intended to prevent potential abuse of the remittance basis rules.
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