

2007 Pre-Budget Report and Comprehensive Spending Review



PBRN 18

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RESIDENCE & DOMICILE REVIEW

Who is likely to be affected?

1. UK residents paying tax on the remittance basis and non-resident individuals who spend a significant amount of time in the UK.

General description of the measure

2. Legislation will be introduced in Finance Bill 2008 to:
 - Introduce an additional tax charge for individuals using the remittance basis of taxation;
 - End the automatic entitlement to certain personal allowances for individuals resident in the UK who are using the remittance basis;
 - Ensure that when determining if an individual is resident in the UK in any year, days of arrival and departure are counted; and
 - Address a range of anomalies in the remittance basis.
3. The remittance basis of taxation can apply to those UK residents who are not domiciled in the UK or who are not ordinarily resident in the UK. The remittance basis provides that such residents will be taxed on foreign income and gains only when they are remitted to the UK.

Operative date

4. All these changes will apply on or after 6 April 2008.

Current law and proposed revisions

An additional tax charge for the remittance basis

5. UK residents who are not domiciled or not ordinarily resident within the UK can currently use the remittance basis of taxation. This means that any income and capital gains arising overseas are only taxed here when that income or gain is remitted into the UK.

6. After a non-domiciled individual has been resident in the UK for seven years they will only be able to use the remittance basis of taxation if they pay an additional tax charge of £30,000 a year. Where an individual then decides not to use the remittance basis (and not pay the additional tax charge) they will be taxed on all their worldwide income and gains whether or not they are remitted to the UK.
7. The new rules will come into force on and after 6 April 2008 and all previous years of residence will count from that day. So, for example, an individual not domiciled within the UK who has been resident in the UK for five years in April 2008 will only be able to claim the remittance basis of taxation for two more years before they have to pay either the £30,000 annual tax charge or account for tax under the arising basis.

Residence

8. When deciding if an individual is resident in the UK for tax purposes HMRC does not currently count the days they arrive in or depart from the UK. On and after 6 April 2008, days of arrival and departure will be counted as days of presence in the UK for residence test purposes.

Personal allowances

9. Everyone who is resident in the UK is entitled to an income tax personal allowance and, in some circumstances, a blind person's allowance. These are the amounts of income someone can receive without paying tax. Certain individuals are also entitled to the married couple's allowance. These allowances reduce the amount of tax they have to pay.
10. On or after 6 April 2008, subject to a *de minimis* limit, individuals who are resident but not UK domiciled or not ordinarily resident will not be able to use both the remittance basis and any of the personal income tax allowances. The change will apply to personal allowances, married couple's allowance and the blind person's allowance. A *de minimis* limit will apply such that remittance basis users who have unremitted foreign income of less than £1,000 a year will be able to retain their personal, married couple's and blind person's allowances as appropriate.
11. A person who has triggered the additional tax charge detailed above will still have no entitlement to UK personal allowances in the following year if they decide to continue using the remittance basis and pay the additional charge. If, at any future point, that person no longer uses the remittance basis, they will again be entitled to UK personal allowances.

Anomalies

12. Anomalies in the current rules mean that individuals using the remittance basis of taxation can avoid paying UK tax on their foreign income and gains effectively brought into the UK. A number of changes are being made to ensure that where foreign income and gains are remitted to the UK then tax is charged on those remittances. The changes include:

- Correcting a flaw in the current claims mechanism which allows income arising in one year to be remitted tax free the following year by claiming the remittance basis in the first year but not in the second;
- Reducing the scope for the alienation of income and gains through the use of offshore structures, such as companies and trusts, which convert taxable income and gains into non-taxable payments;
- Extending those existing anti-avoidance measures which currently do not apply to remittance basis users so that in future they do;
- Removing the 'ceased source' rule; and
- Extending the definition of remittance in relevant foreign income.

Consultation

13. There will be consultation on the detail of the changes, based round draft legislation that will be published towards the end of the year.
14. The Government will also be consulting on whether people who have been resident in the UK for longer than ten years should make a greater contribution.

Further advice

15. If you have any questions about the changes please telephone 020 7147 2762 or email andrew.hayward@hmrc.gsi.gov.uk. Information about Pre-Budget Report measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk