

Bill 7: UK representatives of non-UK residents

Summary

1. This paper is the first to propose, in accordance with paper CC/SC (08) 05, the rewriting for insertion in existing Acts of “orphan” provisions which have not been picked up by the rewrite of income tax and will not be dealt with as part of the rewrite of corporation tax.

2. It presents a draft clause and Schedule which insert provisions rewriting sections 126 and 127 of, and Schedule 23 to, FA 1995 in ITA and TCGA.

3. Sections 126 and 127 of FA 1995 determine who is a UK representative of a non-UK resident carrying on a trade, profession or vocation through a branch or agency in the United Kingdom in relation to the income and chargeable gains of the non-UK resident arising from or through the branch or agency.

4. Schedule 23 to FA 1995 deals with the assessment of income tax and capital gains tax on, and its collection and recovery from, a UK representative.

5. These provisions are the counterpart for the purposes of income tax and capital gains tax of the corporation tax provisions of section 150 of FA 2003 which are proposed to be rewritten in Bill 6 (see Committee paper CC/SC (08) 10).

6. The paper contains:

- the draft clause and Schedule, with origins; and
- draft explanatory notes.

7. These provisions of FA 1995 are administration provisions. It is proposed that the rewritten provisions be inserted in ITA, as regards income tax, and in TCGA, as regards capital gains tax, rather than in TMA. In particular, this enables the rewritten income tax provisions to be brigaded with Chapter 1 of Part 14 of ITA (Limits on liability to income tax of non-UK residents) which is also based, in part, on section 127 of FA 1995.

Question for the committee

8. We would be grateful for any comments you may have about the proposed location of the provisions.

9. We would also be grateful for any comments you may have on the draft clause and Schedule.

Closing date for comments

10. We would welcome any comments by 11 July 2008. If possible, they should be sent by e-mail to:

jackie.bartlett@hmrc.gsi.gov.uk

Written comments should be sent to:

Jackie Bartlett
Tax Law Rewrite
8th Floor
South West Wing
Bush House
London
WC2B 4RD

11. Please note that the names of respondents may be published unless they ask for their comments to be treated in confidence.

15 April 2008