



# Constitutional Reform and Governance Act 2010

## 2010 CHAPTER 25

### PART 4

#### TAX STATUS OF MPs AND MEMBERS OF THE HOUSE OF LORDS

#### **41 Tax status of MPs and members of the House of Lords**

- (1) Subsection (2) applies if a person is for any part of a tax year—
  - (a) a member of the House of Commons, or
  - (b) a member of the House of Lords.
- (2) The person is to be treated for the purposes of the taxes listed in subsection (3) as resident, ordinarily resident and domiciled in the United Kingdom for the whole of that tax year.
- (3) The taxes are—
  - (a) income tax,
  - (b) capital gains tax, and
  - (c) inheritance tax.
- (4) For the purposes of this section a person—
  - (a) becomes a member of the House of Commons when (having been elected to that House) the person makes and subscribes the oath required by the [Parliamentary Oaths Act 1866](#) (or the corresponding affirmation), and
  - (b) ceases to be a member of that House when—
    - (i) the Parliament to which the person was elected is dissolved, or
    - (ii) the person's seat is otherwise vacated.
- (5) For the purposes of this section and section 42 a person is a member of the House of Lords if the person is entitled to receive writs of summons to attend that House.

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*Status: This is the original version (as it was originally enacted).*

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- (6) In relation to a member of the House of Lords, in subsection (1) the reference to any part of a tax year excludes any part of the year during which—
  - (a) section 137(3) of the [Constitutional Reform Act 2005](#) applies to the member, or
  - (b) the member is entitled to receive writs of summons to attend the House of Lords by virtue of being an archbishop or bishop.
- (7) This section applies in relation to the tax year 2010-11 and subsequent tax years.
- (8) But in applying this section to the tax year 2010-11—
  - (a) if the Parliament in which this Act is passed is dissolved in that tax year, ignore a person’s membership of the House of Commons in that Parliament, and
  - (b) in any event, ignore a person’s membership of the House of Lords at any time before the end of the period of 3 months beginning with the day on which section 42 comes into force.
- (9) In this section, in relation to inheritance tax—
  - (a) “tax year” means a year beginning on 6 April and ending on the following 5 April, and
  - (b) “the tax year 2010-11” means the tax year beginning on 6 April 2010.
- (10) In determining for the purposes of this section and section 42 whether a person is entitled to receive writs of summons to attend the House of Lords, ignore—
  - (a) section 2 of the [Forfeiture Act 1870](#);
  - (b) sections 426A and 427 of the [Insolvency Act 1986](#).

#### **42 Tax status of members of the House of Lords: transitional provision**

- (1) This section applies if, before the end of the period of 3 months beginning with the day on which this section comes into force, a member of the House of Lords (“M”) gives written notice to the Clerk of the Parliaments that M does not want section 41 to apply to M.
- (2) M shall not be a member of the House of Lords at any time after the notice is given and accordingly—
  - (a) M shall not be entitled to receive writs of summons to attend the House, and
  - (b) any writ of summons previously issued to M has no further effect.
- (3) If M is a person excepted from section 1 of the [House of Lords Act 1999](#) by virtue of section 2 of that Act—
  - (a) M shall no longer be excepted from section 1 of the 1999 Act, and
  - (b) if M counted towards the limit under section 2(2) of the 1999 Act, that limit is reduced by one.
- (4) But section 3(1)(b) of the 1999 Act does not apply in relation to M before the end of the period of three years beginning with the date on which the notice is given.
- (5) If M is not such a person, M ceases to be disqualified by virtue of M’s peerage (or dignity) for—
  - (a) voting at elections to the House of Commons, or
  - (b) being, or being elected as, a member of that House.

- (6) But subsection (5)(b) does not apply before the end of the period of three years beginning with the date on which the notice is given.
- (7) In relation to M, any reference in section 1(3) or (4)(b) of the [Representation of the People Act 1985](#) to a register of parliamentary electors is to be read as including—
- (a) any register of local government electors in Great Britain, and
  - (b) any register of local electors in Northern Ireland,
- which was required to be published on any date before the notice is given.
- (8) If, after the notice is given, a peerage is conferred on M or M succeeds to a peerage, subsection (2) above does not stop M being entitled to receive writs of summons to attend the House of Lords by virtue of that peerage.
- If subsection (3)(a) has applied to M, it does not stop M becoming excepted from section 1 of the House of Lords Act 1999 again by filling a vacancy under section 2 of that Act after the notice is given.
- (9) If, after the notice is given, M becomes the person who is to hold the office of Earl Marshal or perform the office of Lord Great Chamberlain, subsection (2) above does not stop M being entitled to receive writs of summons to attend the House of Lords by virtue of the peerage that led to M becoming the person who is to hold or perform the office in question.
- (10) A person to whom regulation 4 of the European Parliament (House of Lords Disqualification) Regulations 2008 ([S.I. 2008/1647](#)) applies is to be treated as a member of the House of Lords for the purposes of this section.