These notes refer to the Finance Act 2013 (c.29) which received Royal Assent on 17 July 2013

FINANCE ACT 2013

EXPLANATORY NOTES

INTRODUCTION

Section 20, Schedule 7: Remittance Basis: Exempt Property

Summary

1. Section 20 introduces Schedule 7 which makes changes to the rules in sections 809X to 809Z6 of the Income Tax Act (ITA 2007) applying to certain property acquired with overseas using foreign income and gains which determine when the bringing of certain property to the UK will not constitute a taxable remittance under Chapter A1 of Part 14 of ITA. The Schedule amends the exempt property rules to ensure that property which is lost, stolen or destroyed will not trigger a taxable remittance to the UK and that any compensation payment relating to the loss, theft or destruction of such property will not be treated as a remittance provided such payments are taken offshore or used to make a qualifying investment within 45 days of being received. The Schedule also makes changes to the public access rule so that it is no longer restricted to works of art, collector's items and antiques, and attract a relevant VAT relief, but is instead available to any property which is brought to the UK and put on public display at an approved establishment such as a gallery or museum or in transit to or from such display, for no more than two years or such longer period specified by HMRC.

Details of the Schedule

2. Paragraph 2 of the Schedule makes a change to section 809X ITA 2007 to reflect the removal of the reference to a relevant VAT relief in the public access rule in section 809Z.

3. Paragraph 3 of the Schedule amends section 809Y ITA 2007 to provide that, where exempt property is lost, stolen or destroyed, the rules which treat such property as remitted when it ceases to be exempt property do not apply after the loss, theft or destruction and, in cases where the property has been lost or stolen, until the property is subsequently recovered. It also provides that property which has been lost, stolen or destroyed will be treated as remitted where a compensation payment is released with respect to that property.

4. Paragraph 4 of the Schedule inserts new section 809YF ITA 2007. New subsections 809YF(1) to (3) provide that, where a payment is made in compensation for exempt property which has been lost, stolen or destroyed, that property will not be treated as remitted to the UK provided the payment is taken offshore or used to make a qualifying investment as defined in section 809VC ITA within 45 days of receipt.

5. Paragraph 5 of the Schedule amends the public access rule in section 809Z ITA 2007 by removing the conditions which require that the property must be a work of art, collector's item or antique in order to be treated as exempt property under that rule and must attract a relevant VAT relief.

6. Paragraph 6 of the Schedule removes section 809Z1 which defines relevant VAT relief for the purposes of the public access rule.

7. Paragraph 7 of the Schedule amends the temporary importation rule in section 809Z4 which applies to property which has been brought to the UK for 275 countable days or fewer. It provides that this total is subject to any increase provided by new subsection (3B). It also provides that any day, or part of a day, on which property meets the public access rule or meets new subsection (3A) are not treated as a countable day.

8. New subsection (3A) applies to property which is not available to be used or enjoyed in the UK, has not been recovered (in the case of lost or stolen property) and where no compensation payment has been released with respect to its loss, theft or destruction.

9. New subsection (3B) applies to property which has been lost or stolen and subsequently recovered. It provides that there will be 45 days in which such property needs to be taken offshore after it is recovered to prevent a taxable remittance.

10. Paragraphs 9 to 11 provides the commencement rules for the changes made by the Schedule.

Background

11. Section 47 and Schedule 12 of Finance Act 2012 introduced a number of changes to the remittance basis of taxation provided by Chapter A1 of Part 14 of ITA 2007. These changes followed Government consultation in 2011.

12. In their formal response to that consultation in December 2011, the Government said further consideration would be given to a number of further issues with a view to possible legislation in Finance Act 2013. These included new rules for inadvertent remittances which can arise in certain circumstances which are set out in section 21 and changes to the rules on exempt property which are set out in this Schedule.

13. Property which is acquired using, or otherwise derives from, foreign income and gains and which is brought to the UK by or for the benefit of a relevant person (as defined in section 809M ITA 2007) will normally be treated as a remittance to the UK. However, certain property will not be treated as remitted to the UK where they meet the rules in sections 809X to 809Z6 of ITA 2007 and will instead be treated as exempt property.