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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 2013, Paragraph 125. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 45

#### STATUTORY RESIDENCE TEST

#### PART 4

##### ANTI-AVOIDANCE

*New special rule: lump sum payments under pension schemes etc*

125 In Chapter 2 of Part 6 (employer-financed retirement benefits), after section 394 insert—

#### “394A Temporary non-residents

- (1) This section applies if an individual is temporarily non-resident.
- (2) Any benefits within subsection (3) are to be treated for the purposes of section 394(1) as if they were received by the individual in the period of return.
- (3) A benefit is within this subsection if—
  - (a) this Chapter applies to it,
  - (b) it is in the form of a lump sum,
  - (c) it is received by the individual in the temporary period of non-residence, and
  - (d) ignoring this section—
    - (i) no charge to tax arises by virtue of section 394(1) in respect of it, but
    - (ii) such a charge would arise if the existence of any double taxation relief arrangements were disregarded.
- (4) Subsection (3)(d)(i) includes a case where the charge could be prevented by making a DTR claim, even if no claim is in fact made.
- (5) Subsection (2) does not affect the operation of section 394(1A) (and, accordingly, “the relevant tax year” for the purposes of section 394(1A) remains the tax year in which the benefit is actually received).
- (6) Nothing in any double taxation relief arrangements is to be read as preventing the individual from being chargeable to income tax in respect of any benefit treated by virtue of this section as received in the period of return (or as preventing a charge to that tax from arising as a result).
- (7) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

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- (a) when an individual is to be regarded as “temporarily non-resident”, and
  - (b) what “the temporary period of non-residence” and “the period of return” mean.
- (8) In this section—
- “double taxation relief arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010;
  - “DTR claim” means a claim for relief under section 6 of that Act.”

**Changes to legislation:**

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