
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, Cross
Heading: New special rule: lump sum payments under pension schemes etc. (See end of Document for details)

SCHEDULES

SCHEDULE 45

STATUTORY RESIDENCE TEST

PART 4

ANTI-AVOIDANCE

New special rule: lump sum payments under pension schemes etc

124 ITEPA 2003 is amended as follows.

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).

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(7) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

- (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.”

126 In Chapter 2 of Part 7A (employment income provided through third parties: treatment of relevant step for income tax purposes), after section 554Z4 insert—

“554Z4A Temporary non-residents

- (1) This section applies if A is temporarily non-resident.
- (2) Any relevant step within subsection (3) is to be treated for the purposes of section 554Z2 as if it were taken in the period of return.
- (3) A relevant step is within this subsection if—
 - (a) it is the payment of a lump sum to a relevant person (see section 554C(2)),
 - (b) the lump sum is a relevant benefit provided under a relevant scheme,
 - (c) the step is taken in the temporary period of non-residence, and
 - (d) ignoring this section—
 - (i) no charge to tax arises by virtue of section 554Z2 by reason of the step, 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) Nothing in any double taxation relief arrangements is to be read as preventing A from being chargeable to income tax in respect of any relevant step treated by virtue of this section as taken in the period of return (or as preventing a charge to that tax from arising as a result).
- (6) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—
 - (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.
- (7) 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;

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“relevant benefit” has the same meaning as in Chapter 2 of Part 6;
“relevant scheme” means an employer-financed retirement benefits scheme (within the meaning of that Chapter) or a superannuation fund to which section 615(3) of ICTA applies.”

127 In that Chapter, after section 554Z11 insert—

“554Z11A Temporary non-residents

- (1) This section applies if A is temporarily non-resident.
- (2) Any amount within subsection (3) is to be treated for the purposes of section 554Z9(2) or (as the case may be) 554Z10(2) as if it were remitted to the United Kingdom in the period of return.
- (3) An amount is within this subsection if—
 - (a) it is all or part of a relevant benefit provided to a relevant person (see section 554C(2)) under a relevant scheme,
 - (b) it is provided in the form of the lump sum,
 - (c) it is remitted to the United Kingdom in the temporary period of non-residence, and
 - (d) ignoring this section—
 - (i) no charge to tax arises by virtue of section 554Z9(2) or 554Z10(2) in respect of it, but
 - (ii) such a charge would arise by virtue of one of those sections 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) Nothing in any double taxation relief arrangements is to be read as preventing A from being chargeable to income tax in respect of any income treated by virtue of this section as remitted to the United Kingdom in the period of return (or as preventing a charge to that tax from arising as a result).
- (6) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—
 - (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.
- (7) 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;

“relevant benefit” has the same meaning as in Chapter 2 of Part 6;

“relevant scheme” means an employer-financed retirement benefits scheme (within the meaning of that Chapter) or a superannuation fund to which section 615(3) of ICTA applies;

“remitted to the United Kingdom” has the same meaning as in Chapter A1 of Part 14 of ITA 2007.”

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128 In that Chapter, in section 554Z12 (relevant step taken after A's death etc), after subsection (8) insert—

“(9) Section 554Z4A and section 554Z11A apply for the purposes of subsection (4) as for the purposes of section 554Z2 and section 554Z9(2) or 554Z10(2) respectively (reading references in sections 554Z4A and 554Z11A to “A” as references to “the relevant person”).

(10) But those sections do not apply for the purposes of subsection (4) if the relevant person's temporary period of non-residence began before A died.”

129 In Chapter 3 of Part 9 (United Kingdom pensions: general rules), after section 572 insert—

“572A Temporary non-residents

- (1) This section applies if an individual is temporarily non-resident.
- (2) Any pension within subsection (3) is to be treated for the purposes of section 571 as if it accrued in the period of return.
- (3) A pension is within this subsection if—
 - (a) section 569 applies to it,
 - (b) it is in the form of a lump sum,
 - (c) it accrued in the temporary period of non-residence, and
 - (d) ignoring this section—
 - (i) it is not chargeable to tax under this Chapter, but
 - (ii) it would be so chargeable 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) 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 pension treated by virtue of this section as accruing in the period of return (or as preventing a charge to that tax from arising as a result).
- (6) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—
 - (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.
- (7) 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.”

130 (1) In Chapter 1 of Part 11 (pay as you earn: introduction), section 683 is amended as follows.

(2) After subsection (3) insert—

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“(3ZA) PAYE employment income” for a tax year does not include any taxable specific income treated as paid or received in that tax year by section 394A or 554Z4A (temporary non-residents).”

(3) For subsection (3B) substitute—

“(3B) PAYE pension income” for a tax year does not include any taxable pension income that is treated as accruing in that tax year by section 572A or 579CA (temporary non-residents).”

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