

EXPLANATORY NOTE

CLAUSE 23 SCHEDULE 7: REMITTANCE BASIS: AMENDMENT 354

(Government amendment on Consideration for certain services)

SUMMARY

1. Amendment 354 introduces a new section 809SA. This provides an exemption from the usual tax charge on remittances to the UK where a remittance basis taxpayer uses untaxed overseas income or gains to pay for certain services.
2. The exemption applies, subject to conditions, where a service is provided in the UK but relates wholly or mainly to property situated outside the UK.
3. Payment for the service must also be made outside the UK for the exemption to apply.

DETAIL OF THE AMENDMENT

4. Subsection (1) sets out the main scope of the new section. It applies to relevant foreign income, employment income and chargeable gains, where these would be treated as

remitted to the UK in accordance with Conditions A and B in section 809K. It is concerned with the case where a service is provided in the UK, and the consideration used to pay for the service either consists of, or is derived from, the income or gains.

5. Subsection (2) provides that the income or gains are treated as not remitted to the UK, and therefore not liable to UK tax, if Conditions A and B are met.
6. Subsection (3) sets out Condition A. The UK service provided must relate wholly or mainly to property situated outside the UK.
7. Condition A would cover, for example, fees paid to a UK bank for managing an individual's overseas investment portfolio. It would cover legal or brokerage fees in respect of offshore assets, such as the legal fees on the sale of a foreign house.
8. The term "wholly or mainly" is not defined in the clause, and for the purposes of applying the exemption in section 809SA this means more than half.
9. Subsection (4) sets out Condition B. The payment for the service must be made by payments to a bank account held outside the UK by or on behalf of the person providing the service.

10. Subsection (5) provides for the rules in sections 275 - 275C Taxation of Chargeable Gains Act 1992 to apply in determining whether assets are situated outside the UK.

BACKGROUND

11. This amendment introduces an exemption from a charge under the remittance basis where, broadly, a UK service provider provides a service to a remittance basis user where that service is in respect of non-UK property. The exemption only applies, however, if the payment for the service is made into a non-UK bank account of the service provider.
12. Following publication of the Finance Bill consultation with representative bodies and other interested parties revealed that the original changes could have a detrimental effect on some UK service providers. The amendment addresses those concerns by providing an exemption in certain circumstances.
13. Among the sort of payments that Condition A might cover would be fees paid by non-UK resident trustees to UK advisers for advice on managing the assets held in the trust or non-UK assets the trustees are considering purchasing. Accountancy fees for preparing non-UK tax returns would

also be covered providing the majority of the accountancy service relates to non UK property.

14. Condition A would not cover payments for services in respect of property wholly in the UK or where the service was provided in respect of a mixture of UK and non-UK property and the majority of the property was in the UK. For example, legal fees on the sale of a UK house would not be covered.
15. The phrase "wholly or mainly" in Condition A means in this context that if a payment to a UK adviser relates to advice given on both UK and overseas property, that payment will not be treated as a remittance so long as more than half the advice relates to the overseas property.