

## NOTICES OF AMENDMENTS

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given on

**Thursday 13 June 2013**

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*For other Amendment(s) see the following page(s):*  
Finance Bill Committee 128-135

### PUBLIC BILL COMMITTEE

#### FINANCE BILL

**(Except Clauses 1, 3, 16, 183, 184 and 200 to 212; Schedules 3 and 41; any new Clauses, and any new Schedules, first appearing on the Order Paper not later than Tuesday 16 April 2013 and relating to tax measures concerning housing; and any new Clauses, and any new Schedules, relating to value added tax or the bank levy or air passenger duty or the subject matter of Clauses 1 and 16 and Schedule 3 or the subject matter of Clause 3 or the subject matter of Clauses 203 to 212 and Schedule 41)**

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Mr David Gauke

Schedule **44**, page **563**, line **29**, leave out from beginning to ‘for’ in line 30 and insert—

‘(a) was resident in the United Kingdom’.

**136**

Mr David Gauke

Schedule **44**, page **563**, line **31**, leave out ‘is’ and insert ‘was’.

**137**

Mr David Gauke

Schedule **44**, page **565**, line **24**, leave out paragraph 38 and insert—

‘38(1) Section 413 (exception in certain cases of foreign service) is amended as follows.

(2) In subsection (2), after “subsection” (in the second place it occurs) insert “(2A).”

(3) After that subsection insert—

“(2A) This subsection applies to service in or after the tax year 2013-14—

(a) to the extent that it consists of duties performed outside the United Kingdom in respect of which earnings would not be relevant earnings, or

(b) if a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers’ earnings).”

**138**

**Finance Bill, continued**

- (4) In subsection (3), after “2003-04” insert “but before the tax year 2013-14”.
- (5) After that subsection insert—
- “(3ZA) In subsection (2A)(a) “relevant earnings” means earnings for a tax year that are earnings to which section 15 applies and to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year.”.

Mr David Gauke

**139**

Schedule **44**, page **569**, line **36**, leave out from beginning to ‘for’ in line 37 and insert—

‘(a) was resident in the United Kingdom’.

Mr David Gauke

**140**

Schedule **44**, page **569**, line **38**, leave out ‘is’ and insert ‘was’.

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**FINANCE BILL 2013**  
**CLAUSE 216 SCHEDULE 44**

**EXPLANATORY NOTE**

**CLAUSE 216: SCHEDULE 44: ORDINARY RESIDENCE**

**AMENDMENTS 136 TO 140**

**SUMMARY**

1. Schedule 44 removes the concept of ‘ordinary residence’ from most UK tax legislation with effect from 6 April 2013. The amendments make minor changes to the transitional rules for individuals who were resident but not ordinarily resident in the UK at the end of the tax year 2012-13 so that provisions continue to operate on the old basis for so long as they remain not ordinarily resident (a maximum of three more years). One amendment clarifies how section 413 of ITEPA will apply in future.

**DETAILS OF THE AMENDMENTS**

2. Amendment 136 combines paragraph 26(1)(a) and (b) into a single rule that the paragraph applies to an individual who was resident in the UK for 2012-13.
3. Amendment 137 revises paragraph 26(1)(c) so that it uses the past tense (because the provision can only apply to a date that has already passed).
4. Amendment 138 omits paragraph 38 and instead inserts two new subsections (2A) and (3ZA) into section 413 of ITEPA in order to clarify the meaning.
5. Sub-paragraphs (1) and (2) of new paragraph 38 provide for section 413 of ITEPA to be amended and make a minor change to section 413(2) to reflect the insertion of subsection (2A).
6. Sub-paragraph (3) of new paragraph 38 inserts new subsection (2A) into section 413. This provides that for 2013-14 onwards service will only count as ‘foreign service’ where the earnings are not ‘relevant earnings’ and to the extent that the duties are performed outside the UK. The provision whereby service for which earnings are subject to the deduction from seafarer’s earnings under Chapter 6 of Part 5 of ITEPA also counts as ‘foreign service’ is retained.
7. Sub-paragraph (4) of new paragraph 38 retains the old rules for service prior to 6 April 2013.
8. Sub-paragraph (5) of new paragraph 38 inserts a new subsection (3ZA) into section 413. It defines ‘relevant earnings’ for the purposes of new subsection (2A). With the abolition of ordinary residence relevant earnings are defined for 2013-14 onwards in terms of earnings within section 15 of ITEPA directly or which would fall under that section even if a remittance basis claim under section 809B of ITA were made.
9. Amendment 139 combines paragraph 73(1)(a) and (b) into a single rule that the paragraph applies to an individual who was resident in the UK for 2012-13.

**FINANCE BILL 2013**  
**CLAUSE 216 SCHEDULE 44**

10. Amendment 140 revises paragraph 73(1)(c) so that it uses the past tense (because the provision can only apply to a date that has already passed).

**BACKGROUND NOTE**

11. In considering paragraphs 26 and 73 as drafted, it was noted that they did not apply to an individual who had been resident in the UK for 2009-10, became non-resident and was resident again for 2012-13. It was not intended to exclude such individuals from the transitional provision and the amendments correct the provisions and simplify the rules at the same time.
12. The exemption for termination payments under section 413 of ITEPA is geared to periods of employment ('foreign service') for which the earnings are not relevant earnings. For 2013-14 onwards an anomaly in the old rules is corrected whereby for an individual who was resident but not ordinarily resident, all service, including UK duties, could count as 'foreign service'. For 2013-14 onwards, service under a contract providing for both UK and overseas duties which could be subject to Overseas Workday Relief under section 26 of ITEPA will be apportioned.