

# Tax Exemptions: International Military Headquarters, EU Forces, etc.

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## Who is likely to be affected?

Members of EU military forces and EU civilian staff (working alongside military forces) serving in the UK or attached to international military headquarters in the UK.

## General description of the measure

The measure ensures that members of EU forces and their civilian staff receive the tax privileges to which they are entitled under the EU Status of Forces Agreement. These privileges are the same as already apply to visiting North Atlantic Treaty Organisation (NATO) forces.

## Policy objective

The measure is required in order that the UK can ratify the EU Status of Forces Agreement signed at Brussels on 17 November 2003.

## Background to the measure

In 2003 the EU drew up the EU Status of Forces Agreement which was put to Parliament by the Foreign & Commonwealth Office in 2009. All Member States are required to ratify the Agreement once they have the domestic law in place to do so. This measure is the final step required to enable the UK to ratify the Agreement.

This measure has not been previously announced and the changes required are technical ones.

## Detailed proposal

### Operative date

The measure will have effect on and after the date that Finance Bill 2012 receives Royal Assent.

### Current law

Section 74A Finance Act (FA) 1960, section 155 Inheritance Tax Act 1984, section 303 Income Tax (Earnings and Pensions) Act 2003 and section 833 Income Tax Act 2007.

Section 74A FA 1960 applies an exemption from stamp duty land tax in respect of any land transaction in connection with a NATO headquarters. The other three sections provide tax privileges to members of visiting armed forces and their civilian component who are either stationed in the UK or serving at a NATO headquarters in the UK. Section 155 Inheritance Tax Act 1984 provides for an exemption from any liability to inheritance tax, section 303 Income Tax (Earnings and Pensions) Act 2003 provides for an exemption from income tax in respect of their earnings. Section 833 Income Tax Act 2007 provides that they are not to be treated as resident in the UK which means that their non-UK source income is exempt from tax, it also means they are not liable to capital gains tax which is only charged on residents.

## Proposed revisions

Legislation will be introduced in Finance Bill 2012 so that section 74A FA 1960 will apply to any international military headquarters in the UK. The other three sections will apply to military and civilian personnel either stationed in the UK or working at an international military headquarters in the UK.

## Summary of impacts

| Exchequer impact (£m)   | 2011-12  | 2012-13    | 2013-14    | 2014-15    | 2015-16    |
|---|--|------------|------------|------------|------------|
|   | -  | negligible | negligible | negligible | negligible |
|   | This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2012.  |            |            |            |            |
| <b>Economic impact</b>  | The measure has no significant economic impacts.   |            |            |            |            |
| <b>Impact on individuals and households</b>                     | There are probably no more than 100 EU military and civilian staff in the UK at any one time. There is a positive impact on those affected.                          |            |            |            |            |
| <b>Equalities impacts</b>                                       | This measure is likely to predominantly affect men but there are no other impacts on other equality groups.  |            |            |            |            |
| <b>Impact on business including civil society organisations</b> | The Government does not anticipate any specific impact on business or civil society organisation since EU military and civilian staff are the only parties affected. |            |            |            |            |
| <b>Operational impact (£m) (HMRC or other)</b>                  | Any additional costs or savings will be negligible.  |            |            |            |            |
| <b>Other impacts</b>  | No other impacts are anticipated.  |            |            |            |            |

## Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups.

## Further advice

If you have any questions about this change, please contact Geoff Barnard on 020 7147 2734 (email: [geoff.barnard@hmrc.gsi.gov.uk](mailto:geoff.barnard@hmrc.gsi.gov.uk)).

**1 International military headquarters, EU forces, etc**

Schedule 1 contains provision about the tax treatment of international military headquarters, EU forces, etc.

## SCHEDULE 1

Section 1

## INTERNATIONAL MILITARY HEADQUARTERS, EU FORCES, ETC

*FA 1960*

- 1 (1) Section 74A of FA 1960 (visiting forces and allied headquarters: stamp duty land tax exemptions) is amended as follows.
  - (2) In subsection (4) –
    - (a) for “allied”, in the first place, substitute “international military”, and
    - (b) omit paragraph (c).
  - (3) In subsection (5) –
    - (a) omit paragraph (a),
    - (b) in paragraph (b), after “Council” insert “made for giving effect to an international agreement”, and
    - (c) in paragraph (c), after “detachment of” insert “a”.
  - (4) Accordingly, in the heading for that section for “**allied**” substitute “**international military**”.

*IHTA 1984*

- 2 In section 6 of IHTA 1984 (excluded property), in subsection (4), after “section 155(1)” insert “or (5A)”.
- 3 (1) Section 155 of that Act (visiting forces and allied headquarters: residence, etc) is amended as follows.
  - (2) In subsection (4) for “allied” substitute “international military”.
  - (3) After subsection (5) insert –
    - “(5A) Section 6(4) also applies to –
      - (a) the emoluments paid by the Government of any designated country to a person belonging to the EU civilian staff, not being a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, and
      - (b) any tangible movable property the presence of which in the United Kingdom is due solely to the presence in the United Kingdom of such a person serving as part of that staff.
    - (5B) A period during which any such person belonging to the EU civilian staff as is referred to in subsection (5A) is in the United Kingdom by reason solely of that person belonging to that staff is not to be treated for the purposes of this Act as a period of residence in the United Kingdom or as creating a change of that person’s residence or domicile.”
  - (4) In subsection (6), at the end insert –
    - ““the EU civilian staff” means –

- (a) civilian personnel seconded by a member State to an EU institution for the purposes of activities (including exercises) relating to the preparation for, and execution of, tasks mentioned in Article 43(1) of the Treaty on European Union (tasks relating to a common security and defence policy), as amended from time to time, and
- (b) civilian personnel (other than locally hired personnel) –
  - (i) made available to the EU by a member State to work with designated international military headquarters or a force of a designated country, or
  - (ii) otherwise made available to the EU by a member State for the purposes of activities of the kind referred to in paragraph (a).”

#### ITEPA 2003

- 4 (1) Section 303 of ITEPA 2003 (visiting forces and staff of designated allied headquarters: relief from income tax) is amended as follows.
  - (2) In subsection (2)(a) for “allied” substitute “international military”.
  - (3) After subsection (4) insert –
    - “(4A) No liability to income tax arises in respect of earnings if –
      - (a) they are paid by the government of a designated country to a person belonging to the EU civilian staff, and
      - (b) that person is not a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen.”
  - (4) In subsection (6) –
    - (a) omit the “and” before the definition of “designated”, and
    - (b) after that definition insert “, and  
“the EU civilian staff” means –
      - (a) civilian personnel seconded by a member State to an EU institution for the purposes of activities (including exercises) relating to the preparation for, and execution of, tasks mentioned in Article 43(1) of the Treaty on European Union (tasks relating to a common security and defence policy), as amended from time to time, and
      - (b) civilian personnel (other than locally hired personnel) –
        - (i) made available to the EU by a member State to work with designated international military headquarters or a force of a designated country, or
        - (ii) otherwise made available to the EU by a member State for the purposes of

activities of the kind referred to in paragraph (a).”

- (5) Accordingly, in the heading for that section for “**and staff of designated allied headquarters**” substitute “**etc**”.

ITA 2007

- 5 (1) Section 833 of ITA 2007 (visiting forces and staff of designated allied headquarters: residence, etc) is amended as follows.
- (2) In subsection (2), in paragraph (a) for “allied” substitute “international military”.
- (3) After that subsection insert –
- “(2A) This section also applies to an individual within subsection (3) or (3A).”
- (4) In subsection (3) for “This section also applies to an individual who –” substitute “An individual is within this subsection if the individual –”.
- (5) After that subsection insert –
- “(3A) An individual is within this subsection if the individual –
- (a) belongs to the EU civilian staff,
- (b) is in the United Kingdom, but only because of serving as part of that staff, and
- (c) is not a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen.”
- (6) In subsection (7) –
- (a) omit the “and” before the definition of “designated”, and
- (b) after that definition insert “, and
- “the EU civilian staff” means –
- (a) civilian personnel seconded by a member State to an EU institution for the purposes of activities (including exercises) relating to the preparation for, and execution of, tasks mentioned in Article 43(1) of the Treaty on European Union (tasks relating to a common security and defence policy), as amended from time to time, and
- (b) civilian personnel (other than locally hired personnel) –
- (i) made available to the EU by a member State to work with designated international military headquarters or a force of a designated country, or
- (ii) otherwise made available to the EU by a member State for the purposes of activities of the kind referred to in paragraph (a).”
- (7) Accordingly, in the heading for that section for “**and staff of designated allied headquarters**” substitute “**etc**”.

**EXPLANATORY NOTE**

**INTERNATIONAL MILITARY HEADQUARTERS, EU FORCES ETC.**

**SUMMARY**

1. This clause and Schedule provide the tax treatment required by the EU Status of Forces Agreement for visiting EU military and civilian staff, in order to enable the UK to ratify the agreement. This treatment is in line with the tax treatment already given to visiting North Atlantic Treaty Organisation (NATO) forces and their civilian staff. The Schedule amends the provisions of the four taxes acts that apply to visiting forces and allied headquarters.

**DETAILS OF THE SCHEDULE**

2. Paragraph 1 amends section 74A of the Finance Act (FA) 1960 so that the section applies an exemption from Stamp Duty Land Tax (SDLT) not just to land transactions in respect of a NATO headquarters, but also to land transactions in respect of any international military headquarters designated under an Order in Council. It also deletes the redundant subparagraph 4(c).
3. Paragraphs 2 and 3 amend sections 6 and 155 of the Inheritance Tax Act 1984 so that an exemption from inheritance tax applies not only to NATO military and civilian personnel stationed in the UK or attached to a NATO headquarters in the UK, but also to EU military and civilian staff attached to an international military headquarters designated under an Order in Council.
4. Paragraph 3(3) inserts into section 155:
  - new subsection 5A which provides that the official earnings of EU civilian staff, who are not British citizens, paid by a government of a Member State, and any movable property they have in the UK solely because they are part of the EU civilian staff, are excluded property and thus not chargeable to inheritance tax in the event of their death.
  - new subsection 5B which provides that EU civilian staff are not regarded for the purposes of the Inheritance Tax Act as becoming resident in the UK if their presence in the UK is solely because of being part of the EU civilian staff.
5. Paragraph 3(4) inserts new paragraphs (a) and (b) into subsection 6 of section 155 to define what is meant by EU civilian staff, this covers

both staff working with EU forces in the UK and those attached to international military headquarters situated in the UK.

6. Paragraph 4 amends section 303 of the Income Tax (Earnings and Pensions) Act 2003 so that the section also applies to EU military and civilian staff, as well as to military and civilian personnel working for NATO countries.
7. Paragraph 4(3) inserts new subsection 4A into section 303 which provides that the earnings of EU civilian staff paid by a government of a Member State are exempt from income tax. This exemption does not apply to British citizens and certain other classes of British nationals.
8. Paragraph 4(4) defines what is meant by EU civilian staff and covers both staff working with EU forces in the UK and those attached to international military headquarters.
9. Paragraph 5 amends section 833 of the Income Tax Act 2007 (ITA) so that the section applies to EU military and civilian staff, as well as to military and civilian staff working for NATO countries.
10. Paragraph 5(2) expands the type of headquarters covered from just NATO ones to any international military headquarters designated by Order in Council.
11. Paragraph 5(5) inserts new subsection 3A into section 303 ITA which brings EU civilian staff who are not British citizens, or certain other classes of British nationals, within the provision.
12. Paragraph 5(6) defines what is meant by EU civilian staff, and covers both staff working with EU forces in the UK and those attached to international military headquarters.

#### **BACKGROUND NOTE**

13. In 2003 the European Council decided, in pursuit of the Common Foreign and Security Policy, to give the EU the capabilities required to take and implement decisions on the full range of conflict prevention and crisis management tasks defined in the Treaty on European Union (TEU).
14. In order to facilitate the movement of forces between Member States of the European Union in the context of the TEU, an Agreement was drawn up regarding the status of military and civilian staff. This is the EU Status of Forces Agreement. The Agreement was presented to Parliament in March 2009.



15. Although most of the Agreement is not to do with tax, it does provide for tax privileges to be granted to EU military and civilian staff of one Member State, who are present in another Member State to carry out tasks relating to common security and defence policy in accordance with the EU Status of Forces Agreement.
16. The UK cannot ratify the Agreement until all the domestic legislation is in place to give effect to its provisions.
17. Existing tax legislation provides that members of visiting forces and staff of designated NATO allied headquarters, who are present in the UK solely because of their official duties, are exempt from tax on their official remuneration and do not become tax resident in the UK if they are stationed here. There are also provisions providing exemptions from Capital Gains Tax, Inheritance Tax and Stamp Duty Land Tax.
18. This section and schedule expand the existing legislation so that it will also apply to members of visiting EU forces and to the civilian staff which may accompany them, as well as to EU military and civilian staff working at designated international military headquarters in the United Kingdom.
19. If you have any questions about this change, or comments on the legislation, please contact Geoff Barnard on 020 7147 2734 (email: [geoff.barnard@hmrc.gsi.gov.uk](mailto:geoff.barnard@hmrc.gsi.gov.uk)).