HM Revenue & Customs

Capital Gains Tax: Foreign Currency Bank Accounts

Who is likely to be affected?

Individuals, trustees and personal representatives of deceased persons who hold bank accounts in a currency other than sterling.

General description of the measure

Capital gains arising on withdrawals of money in foreign currency bank accounts will not be liable to capital gains tax (CGT), and capital losses will not be allowable losses.

Policy objective

The measure will increase simplicity in the tax system by reducing administrative burdens in certain cases, by removing foreign currency bank accounts (FCBAs) from the scope of CGT.

Background to the measure

Bank accounts denominated in a currency other than sterling are chargeable assets for CGT. There is an exemption from CGT for certain funds held in these accounts held by individuals, but not all. This means that every withdrawal, however small or large, of funds from accounts that are not exempt funds constitutes a part disposal of the account on which a capital gain or loss can arise as a result of movements in currency exchange rates.

The administrative burden of calculating gains and losses and keeping detailed records for very long periods can be disproportionate to the final tax payable or losses allowable. The burdens are particularly relevant to non-domiciled individuals taxed on the remittance basis as they are more likely to make regular use of FCBAs and cannot rely on the CGT annual exempt amount (AEA) to cover small net chargeable gains arising on the accounts.

At Budget 2011 the Government announced that it would reform the taxation of non-domiciled individuals, including measures to simplify aspects of the current remittance basis rules to remove undue administrative burdens.

Reform of the taxation of non-domiciled individuals: a consultation, issued on 17 June 2011, included consultation on changes to the CGT treatment of FCBAs. The Government has considered all the responses to the consultation, as detailed in the summary of responses published on 6 December 2011.

A separate Tax Information and Impact Note covers other reforms to the taxation of non-domiciled individuals proposed in the consultation.

Detailed proposal

Operative date

The measure will have effect for withdrawals of money from FCBAs on or after 6 April 2012.

Current law

Debts are assets for CGT purposes (section 21(1) of the Taxation of Chargeable Gains Act 1992 (TCGA 1992)). The person holding a debt in the form of a credit balance on a bank account is exempt from CGT on withdrawals from the account (section 251(1) TCGA 1992). But the exemption does not apply where the bank account is not in sterling (section 252(1) TCGA 1992). Sums deposited in an individual's bank account in a foreign currency are however exempt if the monies are held for the purpose of personal expenditure abroad by the individual, their family or dependants (section 252(2) TCGA 1992).

Certain other provisions of the TCGA 1992 are indirectly affected by the main change and will be removed.

Proposed revisions

Legislation will be introduced in Finance Bill 2012 to amend section 252 TCGA 1992 so that the exemption in section 251(1) applies to all bank accounts held by individuals, trustees of settled property, and personal representatives of deceased persons.

As a result of the main change outlined above some consequential changes will be made to provisions in the TCGA 1992, as follows.

A provision in section 13(5)(c) that refers to the current section 252 is obsolete and will be repealed.

The existing, limited, exemption in section 252(2) for certain funds held in accounts held by individuals will be superseded and cease to apply.

Schedule 8A will be repealed. The Schedule provides rules for calculating chargeable gains and allowable losses where individuals withdraw money from a FCBA situated outside the UK and some or all of the amount withdrawn is liable to tax as income under the remittance basis of taxation. The new section 252 prevents chargeable gains or allowable losses from arising to individuals on any such withdrawals, rendering the rules in schedule 8A redundant.

Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	The figures were set out as part of a wider reform to the taxation of non-domiciled individuals in Table 2.1 of Budget 2011 and have been certified by the Office of Budget Responsibility. More detail can be found in the policy costings document published alongside the Budget. This element of the reform is expected to decrease receipts by approximately £5 million per annum.				
Economic impact	The change has no significant effects but, due to simplification of the tax system, any impact would be positive.				
Impact on individuals and households	This measure simplifies the tax system for individuals and households, trustees and personal representatives of deceased persons who would otherwise have had to calculate gains and losses on FCBAs to complete their tax return and pay small amounts of tax. Exact numbers affected are not available but are likely to be low.				
Equalities impacts	This measure is not expected to have any impacts on groups with protected characteristics. It seems likely to benefit non-domiciled residents more than others as they are more likely to have FCBAs. It may benefit men slightly more than women, as the former have a greater tendency to have a CGT liability, but this effect is uncertain.				
Impact on business including civil society organisations	The Government does not anticipate any specific impacts on business or civil society organisations.				

Operational impact (£m) (HMRC or other)	The Government expects there to be a negligible operational impact for HMRC.
Other impacts	The potential for other impacts has been considered and none have been identified.

Monitoring and evaluation

This measure may be kept under review through communication with taxpayer groups affected by the measure. Any risk of exploitation of the exemption will be monitored through usual HMRC channels, including examination of information from tax returns and the Disclosure of Tax Avoidance Schemes (DOTAS) regime.

Further advice

If you have any questions about this change, email capitalgains.taxteam@hmrc.gsi.gov.uk or telephone Colin Weston on 020 7147 0127.

1 Foreign currency bank accounts

(1) TCGA 1992 is amended as follows.

(2) In section 13 (attribution of gains to members of non-resident companies), in subsection (5), omit paragraph (c).

(3) In section 251 (debts: general provisions), after subsection (5) insert—

“(5A) References in this section to the disposal of a debt include the disposal of an interest in a debt (and, in the case of an interest in a debt, the reference in subsection (3) to the amount of the debt is to the amount of the person’s interest in the debt).”

(4) For section 252 substitute—

“252 Foreign currency bank accounts

(1) Section 251(1) does not apply in relation to a gain accruing to a person on a disposal of a foreign currency debt (or an interest in such a debt) unless that person is—

(a) an individual,

(b) the trustees of a settlement, or

(c) the personal representatives of a deceased person.

(2) A “foreign currency debt” is a debt—

(a) owed by a bank in a currency other than sterling, and

(b) represented by a sum standing to the credit of an account-holder in an account in that bank.”

(5) Omit section 252A and Schedule 8A (foreign currency bank accounts).

(6) The amendments made by this section have effect in relation to disposals occurring on or after 6 April 2012.

EXPLANATORY NOTE

FOREIGN CURRENCY BANK ACCOUNTS

SUMMARY

1. This clause exempts individuals, trustees of settled property, and personal representatives of deceased persons from capital gains tax on gains made on withdrawals of money from bank accounts denominated in a foreign currency. The clause takes effect from 6 April 2012.

DETAILS OF THE CLAUSE

2. Subsection (4) of the clause makes the main change. It replaces the existing section 252 of the Taxation of Chargeable Gains Act 1992 (TCGA) with a new provision.

New section 252 TCGA

3. Section 252(1) restricts the scope of section 251 TCGA. Section 251 exempts gains on certain debts, including credit balances on bank accounts, from tax on chargeable gains. Where the debt is a “foreign currency debt”, section 252(1) limits this exemption to gains accruing to individuals, trustees of settled property and personal representatives of deceased persons.

4. Section 252(2) defines “foreign currency debt” as a credit balance on a bank account in a currency other than sterling.

5. Subsections (2), (3) and (5) of the clause make other changes to the TCGA as a consequence of the main change in subsection (4).

6. Subsection (2) removes a redundant rule concerning the attribution of gains to members of non-resident companies in section 13(5)(c) that referred to the original version of section 252 TCGA.

7. Subsection (3) inserts a new section 251(5A) TCGA to make clear that relevant references in section 251 to debt include references to an interest in debts that a person holds, for example, as a joint owner of the account. It aligns section 251 with new section 252.

8. Subsection (5) repeals the rules in section 252A and Schedule 8A TCGA for calculating chargeable gains and allowable losses where individuals withdraw money from foreign currency bank accounts. The new section 252 prevents chargeable gains or allowable losses

from arising to individuals on any such withdrawals, rendering these rules redundant.

9. Subsection (6) provides for the changes to the TCGA to apply from 6 April 2012.

BACKGROUND NOTE

10. Under the TCGA, for capital gains tax purposes, gains and losses can arise on foreign currency bank accounts because the calculation must be made in sterling. If the exchange rate between sterling and the foreign currency in question changes between the time when the money was put into the account and the time when it is taken out, a gain or loss will arise.

11. At Budget 2011 the Government announced that it would reform the taxation of non-domiciled individuals, including measures to simplify aspects of the current remittance basis rules to remove undue administrative burdens. "Reform of the taxation of non-domiciled individuals: a consultation", issued on 17 June 2011, included a proposal to remove gains and losses on individuals' foreign currency bank accounts from the scope of capital gains tax (CGT).

12. This clause implements the simplification, and extends the exemption from CGT to trustees and personal representatives.

13. The original section 252 TCGA limits the exemption from CGT for foreign currency bank accounts to cases where individuals withdraw money that they have put into their account for personal expenditure abroad. The new section 252 replaces this with a broader exemption.

14. If you have any questions about this change, or comments on the legislation, please contact Colin Weston on 020 7147 0127 (email: capitalgains.taxteam@hmrc.gsi.gov.uk).