



HM Revenue
& Customs

Reform of an anti- avoidance provision: Transfer of Assets Abroad

Outcome of Consultation
December 2013

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1. Background

A summary of responses and further consultation document *“Reform of an anti-avoidance provision: Transfer of Assets Abroad”* was published on 18 July 2013.

The document summarised the Transfer of Assets (ToA) responses to the [consultation document](#) *“Reform of two anti-avoidance provisions (i) the attribution of gains to members of closely controlled non-resident companies, and (ii) the transfer of assets abroad”* published on 30 July 2012. It also set out a further consultation on one aspect of the ToA rules, the so-called “matching rules” for the benefits charge, and invited comments on draft guidance published alongside.

Following publication of the further consultation document, a working group comprising of HMRC and external volunteers was set up. The working group has met twice: on 6 September 2013 to discuss the matching rules and on 22 October 2013 to discuss the draft guidance.

The Government is grateful for the participation of external stakeholders in the working group, and to others who responded to the consultation.

14 written responses were received to the matching rules consultation and 7 written responses were received commenting on the draft guidance. The written responses came mostly from members of the working group.

2. Points raised

Work on developing both the matching rules and draft guidance is continuing through the working group. Hence, some working group participants decided not to submit a formal written response or otherwise provided an interim response.

General points raised by respondents were:

- The issues underlying the matching rules are complex.
- Because of the complexity of the ToA regime, amending the matching rules in isolation risks unintended consequences of unfairness and opening new opportunities for avoidance.
- Support for a pragmatic way forward for improving clarity and certainty of the matching rules through improving HMRC guidance rather than attempting legislative change in Finance Bill 2014.
- Appreciation of the clarity provided by the draft guidance but further work is needed to provide greater certainty.

A minority of stakeholders commented that:

- The ToA regime is outdated and requires comprehensive review.
- The draft guidance on the matching rules does not reflect HMRC's practice in applying the rules.
- Some issues may be difficult to resolve through guidance.

3. Next steps

Having carefully considered the views put forward in the consultation and through the working group, the Government has decided not to pursue legislative change to the matching rules at present.

As explained in the summary of responses published 18 July 2013, the Government is not minded to undertake wholesale reform of the ToA rules as the legislation remains effective in its anti-avoidance purpose.

To achieve the aim of providing greater clarity and certainty in the operation of the current legislation, HMRC will continue to work closely with members of the working group to develop improved guidance on the matching rules.

HMRC will also continue to work with members of the working group to develop improvements to the wider draft guidance.

4. Annex : List of stakeholders

Working group members:

BDO LLP
Chartered Institute of Taxation
Deloitte LLP
Ernst & Young LLP
Haines Watts
Institute of Chartered Accountants of England & Wales
KPMG LLP (UK)
Law Society of England & Wales
Macfarlanes LLP
Mishcon de Reya
Moore Stephens LLP
Paul Hastings (Europe) LLP
Setu Kamal, Barrister
Society of Trust and Estate Practitioners

Representations were also received from:

Alternative Investment Management Association
PricewaterhouseCoopers LLP
Rawlinson & Hunter
Share Plan Lawyers
Simmons & Simmons LLP
One individual