

Clause 1 and Schedule 1: Tax exemptions for Windrush Compensation Scheme payments etc

Summary

1. This clause and Schedule introduce an exemption for income tax and capital gains tax and a relief from inheritance tax for payments made under the Windrush Compensation Scheme. The Schedule also introduces a power for the Treasury to provide similar exemptions and reliefs for payments made under other compensation schemes, administered by or on behalf of the Government or other foreign governments, by statutory instrument.

Details of the clause and Schedule

2. Clause 1 introduces Schedule 1 which provides for tax exemptions for Windrush compensation scheme payments and other compensation payments.

Schedule 1

3. Paragraph 1 sets out that qualifying compensation payments will be exempt from income tax, capital gains tax and there will be a relief from inheritance tax.
4. Paragraph 2 defines a qualifying compensation payment and the scope of the power to provide similar exemptions by statutory instrument.
5. Sub-paragraph 2(1) sets out where the qualifying compensation payments are defined in legislation.
6. Sub-paragraph 2(2) confirms that payments under the Windrush Compensation Scheme are qualifying payments.
7. Sub-paragraph 2(3) (a) and (b) set out that a payment will be within this sub-paragraph if a claim for the payment is made under the Windrush Compensation Scheme by a person who dies before the payment is made and the payment is made otherwise than to the person's personal representative.
8. Sub-paragraph 2(4) (a) introduces a power to extend the definition of "qualifying compensation payment" to payments made under other government compensation schemes which the Treasury can exercise by making regulations in a statutory instrument.
9. Sub-paragraph 2(4) (b) explains that the power extends to compensation payments made by the UK government, the devolved administrations, other countries' or territories' governments and local or public authorities in the UK or abroad.
10. Sub-paragraph 2(5) provides that where the Treasury makes regulations under the

power in paragraph 2 they can specify that qualifying compensation payments will only be eligible for some of the exemptions and reliefs, for example income and capital gains tax exemptions only.

11. Sub-paragraph 2(6) sets out that a statutory instrument which extends the definition of qualifying compensation payments will be subject to negative procedure.
12. Sub-paragraphs 3(1) and (2) explain that there is no liability to income tax in relation to qualifying compensation payments and that they are to be ignored for all income tax purposes, including the need to file a Self-Assessment return to declare the payments.
13. Sub-paragraph 3(3) sets out that an exemption to income tax for payments made under the Windrush Compensation Scheme takes effect from 3 April 2019.
14. Sub-paragraph 3(4) explains that in respect of any other qualifying compensation payments this paragraph applies from a date specified in regulations made under paragraph 2(1)(b), which can be a date before the regulations are made.
15. Sub-paragraphs 4(1) and (2) broadly have the effect of exempting from capital gains tax the disposal of the right, or of an interest in the right, to receive a payment in respect of a qualifying compensation scheme. Sub-paragraph (3) explains that this paragraph applies to qualifying Windrush Compensation Scheme payments made on or after 3 April 2019. In respect of any other qualifying compensation payments this paragraph applies from the date specified in regulations made under paragraph 2(1)(b), which can be a date before the regulations are made.
16. Sub-paragraph 5(1) explains there will be relief from inheritance tax where a qualifying compensation payment, other than one within paragraph 2(3), has at any time been received by a person or the personal representatives of a person. Sub-paragraphs (2) and (3) explain how much tax relief will be available. Sub-paragraph (4) explains that relief is available for payments under the Windrush Compensation Scheme in relation to deaths occurring on or after 3 April 2019. Sub-paragraph (5) explains that in respect of any other qualifying compensation payments within paragraph 2(4), this paragraph applies from the date specified in regulations made under paragraph 2 which can be a date before the regulations are made.

Background note

17. The Windrush Compensation Scheme has been set up by Home Office following consultation and was launched on 3 April 2019.
18. The Windrush Compensation Scheme compensates individuals who have suffered loss in connection with being unable to demonstrate their lawful status in the United Kingdom.
19. The Windrush compensation scheme payments covers fees for unsuccessful immigration applications, loss of income from and denial of access to the labour market (including self-employment). It also covers denial of access to social security benefits, denial of access to services, impact on daily life, and incorrect detention, removal and ability to return to the UK.

20. This Schedule takes effect in relation to income tax and capital gains tax to payments made under the Windrush Compensation Scheme on or after 3 April 2019, which is the date that the scheme was launched. In relation to inheritance tax it takes effect in respect of someone who dies on or after that date.
21. If you have any questions about this change, or questions on the legislation, please email: incometax.structure@hmrc.gov.uk.