

CONSTITUTIONAL REFORM AND GOVERNANCE ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Tax Status of MPs and Members of the House of Lords

Section 41: Tax status of MPs and members of the House of Lords

268. *Section 41* provides that MPs and most members of the House of Lords are to be deemed resident, ordinarily resident and domiciled in the UK (“ROD”) for the purposes of income tax, capital gains tax and inheritance tax. This means that they will be liable to pay these taxes in the UK on their worldwide income, gains, and assets regardless of their actual status in the UK, and that they will be unable to access the remittance basis of taxation.
269. The section provides that MPs and peers are deemed ROD for the whole of each tax year in which they are a member of either House (including those tax years in which they are a member for only part of the year). This means that they will be deemed ROD from the start of the tax year in which they become a member of that House and to the end of the tax year in which they cease to be a member. *Subsection (7)* provides that the section applies from the start of the tax year 2010-2011, but under subsection (8) (a) it will only apply in that tax year to MPs who are members of the new Parliament meeting in 2010. *Subsection (9)* defines a tax year for the purposes of inheritance tax as running from 6 April to 5 April (the phrase is already defined in other legislation for the other taxes).
270. *Section 41* applies to a person who has been elected as an MP after they have taken the oath of allegiance at the start of a new Parliament (as they are required to do under the Parliamentary Oaths Act 1866). For the purposes of the section, an MP ceases to be a member when the Parliament to which they were elected has been dissolved or their seat is otherwise vacated (by resignation, death or disqualification).
271. For the purposes of *section 41*, a member of the House of Lords is someone who is entitled to receive a writ of summons. *Subsection (6)(a)* specifically disapplies the provision for members of the judiciary who are disqualified from sitting and voting in the House under section 137 of the Constitutional Reform Act 2005. If such an individual were to leave the House on assuming judicial office during the course of a tax year, or return to the House after retiring during the course of a tax year, they will be deemed ROD for the whole of the tax year in question. *Subsection (6)(b)* disapplies the provision for the Lords Spiritual.
272. *Subsection (10)* provides that any temporary suspension or disqualification from entitlement to receive a writ imposed in the circumstances set out in paragraphs (a) or (b) are discounted when determining whether a person is entitled to receive a writ of summons (and is therefore a member of the House of Lords for the purposes of the

These notes refer to the Constitutional Reform and Governance Act 2010 (c.25) which received Royal Assent on 8th April 2010

section). While a peer is subject to such temporary suspension or disqualification, the deeming provision would still apply to them.