

# FINANCE ACT 2013

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## EXPLANATORY NOTES

### INTRODUCTION

#### *Section 221: Agreement between UK and Switzerland*

#### Summary

1. **Section 221** amends Schedule 36 to Finance Act 2012 which gave effect to the UK-Swiss Confederation Taxation Cooperation Agreement (the Agreement) signed on 6 October 2011 between the UK and Switzerland on co-operation in tax matters. It provides that certain transfers made under the Agreement will not give rise to a taxable remittance where they are made by a person who is taxed on the remittance basis.

#### Details of the Section

2. Subsection 1 introduces new paragraph 26A to Schedule 36 to Finance Act 2012 which provides that foreign income and gains of a person are treated as not remitted to the UK when they are used to make a transfer in accordance with the Agreement, provided the conditions A to D are met:
  - Condition A is that the foreign income and gains would be treated as remitted to the UK in the absence of subparagraph 26A(1) as a result of money being brought to the UK;
  - Condition B is that the money is brought to the UK as part of a transfer made under the terms of the Agreement;
  - Condition C is that, where the money brought to the UK is a sum under Article 19(2)(b) of the Agreement, that sum is levied within 45 days from the day on which the amount derived from the foreign income and gains was remitted to the UK;
  - Condition D is that the transfer is made in relation to a tax year in which the person is taxed on the remittance basis;
3. Subparagraph (6) provides that the exemption provided by subparagraph (1) does not apply to money brought to the UK if, or to the extent that, it is set off against other tax liabilities, repaid or refunded by HMRC.
4. Subsection 2 introduces new paragraph 26B to the Schedule and provides that any payment made under the Agreement from a mixed fund to which subparagraph (1) of new paragraph 26A applies will, for the purposes of determining the composition of the mixed fund, be treated as an offshore transfer as defined in section 809R of the Income Tax Act 2007.

#### Background

5. The UK-Switzerland Agreement was signed on 6 October 2011. Schedule 36 to Finance Act 2012 was enacted to give the terms and principles of that Agreement statutory effect in the UK.

*These notes refer to the Finance Act 2013 (c.29)  
which received Royal Assent on 17 July 2013*

6. The Agreement is designed to provide an effective mechanism to enable HMRC to secure payment of both past and future UK tax liabilities in respect of assets located in Switzerland held by UK resident individuals. It does so by introducing an obligation on such individuals to make a one-off payment on 31 May 2013 to clear past unpaid tax liabilities and become subject to a withholding tax on income and gains arising from 1 January 2013.
7. The Agreement came into force on 1 January 2013 and this section will come into force from the same date.