102 Frimley House
5 The Parade, High Street
Frimley, Surrey
GU16 7JQ
Tel: 01276 509306
Fax: 01276 761076
Email: info@labourproviders.org.uk
Website: www.labourproviders.org.uk

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Residence and Domicile

Response by the Association of Labour Providers to the Treasury Consultation

Contact: Mark Boleat, ALP Chairman
Tel: 07770 441377 E-mail: mark.boleat@btinternet.com

Introduction

In December 2007 the Treasury published a consultation document on its proposals to change the taxation on people not domiciled in the UK

Comments on the consultation document are sought by 28 February 2008.

This paper is the response of the Association of Labour Providers to the proposals. The ALP represents labour providers that supply workers to the agricultural and food industries.

Executive summary

The proposals will catch large numbers of low paid migrant workers. If implemented they would cause some of the lowest paid workers to lose their personal tax allowances or to tie them (and their employers) up in a paperwork nightmare. However, the proposals are unworkable. The government does not understand the nature of employment in the UK.

The issue

The ALP is purely concerned with the proposals in 2.12 – 2.17 which are reproduced below -

> **"2.12** A further change applies to remittance basis users. Under the current rules remittance basis users enjoy the double benefit of having two elements of their overall income and gains exempt from UK tax. Firstly, their unremitted foreign income and gains is not subject to UK tax. Secondly, they also enjoy the same tax-free personal allowances as other UK taxpayers.
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> **2.13** Under the new rules, remittance basis users will lose automatic access to personal tax allowances, blind person's allowance, reductions for married couples and civil partners, reliefs on payments to trade unions, police organisations, and relief for payments for the benefit of family members. They will similarly lose access to the Annual Exempt Amount (AEA) on gains.
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> **2.14** They will instead have a choice between continuing to use the remittance basis or continuing to enjoy their personal allowances. This choice will be made annually and it will therefore be open to an individual to opt out of the remittance in one year and maintain their personal allowances and AEA for that year; then opt back in for the next year but lose their personal allowances and AEA for that year.
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> **2.15** The ability to opt in and out of the remittance basis could open up avenues for avoidance and abuse. These will be addressed as part of the package to address flaws and anomalies discussed at 2.25 below.
>
> **2.16** As with the £30,000 tax charge discussed above, the new rules on allowances will include a threshold (or de minimis limit) set at £1,000, below which the new rules will not apply. Therefore, a remittance basis user who, in a given tax year, has unremitted foreign income and gains of less than £1,000 will be able to retain both access to the remittance basis and access to personal allowances and AEA.

2.17 It is estimated that just over 113,000 remittance basis users will lose personal allowances as a result of this reform. Almost 88,000 of these will be non-domiciles and almost 26,000 will people who are not ordinarily resident. The usual personal allowance (£5,435 in 2008-09) is worth approximately £2,200 to an individual whose marginal tax rate is the higher rate of 40 per cent, and £1,100 at a marginal rate of 20 per cent. The removal of income tax personal allowances is expected to yield additional tax revenue around £230 million in 2009-10 and £150 million in 2010-11.

Labour providers supply large number of migrant workers to the food industry. Most of these workers are not permanent immigrants, but rather short term migrants. Many have families, properties and income in their home country. They may work in the UK for just a few weeks at a time, so as to boost their incomes.

Under the proposals any such workers who are resident in the UK and have just £1,000 of unremitted foreign income face either being taxed on their worldwide income or losing their personal tax allowances. This begs many questions. Short-term migrants do not count how many days they are in the UK. So are they resident or not and how is HMRC going to tell them? Then the employers of migrant workers do not distinguish between who is a migrant and who is not when dealing with HMRC so how does HMRC propose to inform each migrant of what it is that is expected of them?

The government estimate that there are around 100,000 non doms. There are well over half a million migrant workers employed in the food industry. In 2007 alone over 200,000 new workers from the accession States registered under the Accession States Worker Registration Scheme. This considerably understates the number as many workers are not obliged to register and many of those who are supposed to do, do not. The Treasury bases its nondom figure on self assessments. Most migrant workers do not make self assessment returns. Indeed some probably overpay tax as they have tax deducted from pay but may never earn more than the personal allowance if they work in the UK for only a few months a year. The proposals are based on a false understanding of the nature of the labour market in the UK.

The Association concurs with the views expressed in the article on the website of the Low Incomes Tax Reform Group http://www.litrg.org.uk/news/latest.cfm?id=485 and with the response to the consultation by this Group which is on their News section.

Joined-up government

Over the last few years the Home Office and Defra have commissioned a number of research exercises on the supply of labour to agriculture and migrant workers. This research appears to have been ignored by the Treasury. There is also no evidence that the work of the Low Pay Commission has been taken into account. Depriving low paid workers of their personal tax allowances on the grounds that they have £1,000 of income in their home country seems a long way from the purpose of the nondom proposals.

Conclusion

We hope that the government will abandon this plan to add enormous bureaucracy to a migrant worker (and those that employ them, who will surely bear the brunt of this proposal). If the Treasury want to understand the nature of the migrant economy in the agricultural and food sectors then the Association of Labour Providers would be more than happy to help.