R15 Pro-rating personal and other allowances in the year of arrival in, and permanent departure from, Guernsey (sections 3, 5, 36, 51, 51A and SOP R3)

Introduction

The States resolved on 29 October 2015 (Resolution 4, Billet XIX, 2015) that with effect from 1 January 2016, a person who is solely or principally resident in Guernsey is entitled to personal and other allowances on a pro-rated basis for the year of arrival in, and permanent departure from, Guernsey, based on the proportion of time spent in Guernsey in the relevant year.

Further Explanation

Prior to 1 January 2016, an individual who was solely or principally resident would have received the full personal and other allowances to which they were entitled, even for the years in which they arrived or departed. With effect from 1 January 2016, entitlement to personal and other allowances for the years of arrival or permanent departure will be pro-rated based on the time the individual resides in Guernsey during the year of charge.

If the individual is in receipt of a Guernsey source pension and liable to be taxed at source under the ETI Scheme, they would continue to be entitled to a proportion of the personal and other allowances for every seven days that they are in receipt of that pension (such allowances to be available for offset only against the pension income and not against any other Guernsey source income), as is the case for an individual who is resident only or is non-resident. However, such an individual would not be entitled to more allowances than an individual who is in Guernsey for the whole year.

An individual shall be regarded as being in Guernsey on any particular day if he is in Guernsey at midnight on that day.

Permanent arrival

The date on which an individual first arrives in Guernsey, for the purposes of section 5(3)(c), means the date on which a person first arrived to take up permanent residence. Therefore if an individual visited Guernsey for job interviews or to look at housing prior to taking up permanent residence, the date of arrival would be taken as the date when they arrived to live in Guernsey, not the earlier dates when they came for a job interview or to look at housing. However, the earlier nights in Guernsey would still be counted to determine the number of days in the island, in order to determine residential status and the allowances to which they are entitled.

Permanent departure

A permanent departure will occur if a person, as a matter of fact, leaves Guernsey with no intention to return to live. If an individual returns to Guernsey to visit relatives or friends after permanently departing, these dates will still be counted to determine the number of days in the island in order to determine residential status and the allowances to which they are entitled, but will not change the date of permanent departure.

The following are examples which would be deemed by the Director to point to permanent departure from Guernsey:

- Leaving the island (for example due to expiration of a housing licence) and not returning to live within the same calendar year (albeit if the individual returned in the following calendar year, they may be taxable on their worldwide income in that year, and entitled to the full personal allowance if they are solely and principally resident).

- Moving to another jurisdiction with the intention of it being a permanent move, and subsequently not returning to live within the same calendar year.

The following are examples which would not be deemed by the Director to constitute permanent departure from Guernsey:

- A student attending university/college overseas, provided they are in full time education and their permanent home remains in Guernsey, where their intention is to permanently return to Guernsey.

- Absences from the island on holiday where the individual's permanent home remains in Guernsey and available for their use, where the intention is to permanently return to Guernsey.

An individual should advise the Director if they leave Guernsey permanently, and a Leaving Guernsey form (form 348) is available at www.gov.gg/tax under "Other tax forms" for this purpose.

Example 1 – Arrival in Guernsey

Mr W arrived in Guernsey on 1 July 2016. As Mr W resides in Guernsey for 26 weeks in the Year of Charge 2016, he will be entitled to 26/52 of his personal and other tax allowances.

Example 2 – Arriving and permanently departing from Guernsey

Mr X arrived in Guernsey on 1 April 2016 on a short term housing licence and permanently departed on 28 October 2016. Mr X will be taxable on his Guernsey source income plus the relevant proportion of his worldwide income from the date of arrival (calculated in accordance with section 5(3)) to the date of departure (calculated in accordance with section 5(4)). As Mr X resides in Guernsey for 30 weeks in the Year of Charge 2016, he will be entitled to 30/52 of his personal and other tax allowances.

Mr X returned to Guernsey on 1 April 2017 on a short term housing licence and permanently departed on 28 October 2017. Mr X will be taxable on his Guernsey source income plus the relevant proportion of his worldwide income from 1 January 2017 (as he was resident/principally resident in Guernsey in 2016, so section 5(3) does not apply) to the date of departure (calculated in accordance with section 5(4)). As Mr X is liable on his income from 1 January, he is entitled to the personal allowance from this date, so he will be entitled to 43/52 of the personal and other allowances for this year of charge.

Example 3 – Permanently departing from Guernsey and in receipt of a Guernsey occupational pension

Mr Y has lived and worked in Guernsey for a number of years, contributing to an approved occupational pension scheme. Mr Y retires on 4 March 2016. On 2 April 2016, Mr Y moves to Spain. As Mr Y resides in Guernsey for 14 weeks in the Year of Charge 2016, he will be entitled to 14/52 of his personal and other tax allowances.

Mr Y will also be entitled to a proportion of personal and other allowances for every seven days that he is in receipt of that pension. Mr Y will therefore also be entitled to 43/52 of his personal and other allowances, such allowances to be available for offset only against the pension income and not against any other Guernsey source income. An individual is unable to claim more than one “set” of the available allowances (in this example Mr Y is therefore entitled to the maximum that may be claimed – 52/52 not 57/52 (43/52 plus 14/52).

Example 4 – Permanently departing from Guernsey and in receipt of Guernsey rental income

Mr Z has lived and worked in Guernsey for a number of years. On 2 April 2016, Mr Z moves to Spain and rents out his Guernsey property. Mr Z will be taxable on his worldwide income to the date of departure, and on his Guernsey source income for the calendar year. As Mr Z resides in Guernsey for 14 weeks in the Year of Charge 2016, he will be entitled to 14/52 of his personal and other tax allowances. In the Year of Charge 2017, Mr Z will be taxable on his Guernsey source income but will not be entitled to any personal allowances to offset against the rental income.

Published: 05.10.17
Revised: 17.03.20