

M51 AVAILABILITY OF DOUBLE TAXATION RELIEF FOR UK TAX PAID (sections 172-175)

Introduction

It has come to the Director's attention that claims for relief from UK double taxation are being made by individuals who would be entitled to claim the personal allowances in the UK, and had they done so, they would have received a full or partial refund of the tax suffered from HMRC.

Director's Interpretation

Section 172 of the Law allows for relief from double taxation for a territory with which the States, by Resolution, has an agreement "in relation to income tax and any tax of a similar character imposed by the Laws of that territory". Section 173 defines foreign tax as meaning "any tax payable in that territory".

The Director is of the opinion that tax would not be classed as "imposed" or "payable" in the other territory, if the individual would be eligible to claim a full refund of the tax deducted.

As such, the Director will no longer be allowing a claim for UK double taxation relief, where the individual is eligible for a full refund of the tax deducted, regardless of whether or not the individual has applied to HMRC for a refund. Guidance is available on HMRC's website regarding how to claim.

In addition, the Director would also expect those individuals, whose income is above the UK allowances, to have made a claim for those personal allowances to HMRC, prior to claiming Double Taxation Relief in Guernsey. Should an individual not do so, the relief granted may be restricted accordingly.

This will be effective for all assessments for the Year of Charge 2015 and subsequent years.

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