



Income Tax Act 2007

2007 CHAPTER 3

PART 13

TAX AVOIDANCE

CHAPTER 2

TRANSFER OF ASSETS ABROAD

Modifications etc. (not altering text)

- C1** Pt. 13 Ch. 2 applied by 1988 c. 1, s. 762ZA (as inserted (21.7.2008 with effect in accordance with Sch. 7 para. 98 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 94](#))
- C2** Pt. 13 Ch. 2 applied (with effect in accordance with art. 1(2)(3) Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), regs. 1(1), [21](#)

Introduction

714 Overview of Chapter

- (1) This Chapter imposes a charge to income tax on—
- individuals to whom income is treated as arising under section 721 (individuals with power to enjoy income as a result of relevant transactions),
 - individuals to whom income is treated as arising under section 728 (individuals receiving capital sums as a result of relevant transactions), and
 - individuals to whom income is treated as arising under section 732 (non-transferors receiving a benefit as a result of relevant transactions).
- (2) The charges apply only if a relevant transfer occurs, and they operate by reference to income of a person abroad that is connected with the transfer or another relevant transaction.

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

(3) For the meaning of “relevant transaction”, “relevant transfer” and “person abroad”, see sections 715, 716 and 718 respectively.

(4) In this Chapter references to individuals include their spouses or civil partners.

715 Meaning of “relevant transaction”

(1) A transaction is a relevant transaction for the purposes of this Chapter if it is—

- (a) a relevant transfer, or
- (b) an associated operation.

(2) For the meaning of “relevant transfer” and “associated operation”, see sections 716 and 719 respectively.

716 Meaning of “relevant transfer” and “transfer”

(1) A transfer is a relevant transfer for the purposes of this Chapter if—

- (a) it is a transfer of assets, and
- (b) as a result of—
 - (i) the transfer,
 - (ii) one or more associated operations, or
 - (iii) the transfer and one or more associated operations,
 income becomes payable to a person abroad.

(2) In this Chapter “transfer”, in relation to rights, includes the creation of the rights.

(3) For the meaning of “assets”, see section 717.

717 Meaning of “assets” etc

In this Chapter—

- (a) “assets” includes property or rights of any kind, and
- (b) references to assets representing any assets, income or accumulations of income include references to—
 - (i) shares in or obligations of any company to which the assets, income or accumulations are or have been transferred, or
 - (ii) obligations of any other person to whom the assets, income or accumulations are or have been transferred.

718 Meaning of “person abroad” etc

[^{F1}(1) In this Chapter “person abroad” means—

- (a) a person who is resident outside the United Kingdom, or
- (b) an individual who is domiciled outside the United Kingdom.]

(2) For the purposes of this Chapter, the following persons are treated as resident outside the United Kingdom—

- ^{F2}(a)
- (b) the person treated as [^{F3}non-UK resident] under section 475(3) (trustees of settlements), and

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- (c) persons treated as non-UK resident under section 834(4) (personal representatives).

[^{F4}(3) Section 835BA (deemed domicile) applies for the purposes of subsection (1)(b).]

Textual Amendments

- F1** S. 718(1) substituted (with effect in accordance with Sch. 10 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 2\(2\)](#)
- F2** S. 718(2)(a) omitted (with effect in accordance with Sch. 10 para. 9(1) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 2\(3\)](#)
- F3** Words in s. 718(2)(b) substituted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 59](#) (with [Sch. 46 para. 73](#))
- F4** S. 718(3) inserted (with effect in accordance with Sch. 8 para. 13(2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 13\(1\)](#)

719 Meaning of “associated operation”

- (1) In this Chapter “associated operation”, in relation to a transfer of assets, means an operation of any kind effected by any person in relation to—
- any of the assets transferred,
 - any assets directly or indirectly representing any of the assets transferred,
 - the income arising from any assets within paragraph (a) or (b), or
 - any assets directly or indirectly representing the accumulations of income arising from any assets within paragraph (a) or (b).
- (2) It does not matter whether the operation is effected before, after or at the same time as the transfer.

Charge where power to enjoy income

720 Charge to tax on income treated as arising under section 721

- (1) The charge under this section applies for the purpose of preventing the avoiding of liability to income tax by individuals who are ^{F5}... UK resident by means of relevant transfers.
- (2) Income tax is charged on income treated as arising to such an individual under section 721 (individuals with power to enjoy income as a result of relevant transactions).
- (3) Tax is charged under this section on the amount of income treated as arising in the tax year.
- (4) But see section 724 (special rules where benefit provided out of income of person abroad) [^{F6}and section 726 (non-UK domiciled individuals to whom remittance basis applies)].
- (5) The person liable for any tax charged under this section is the individual to whom the income is treated as arising.
- (6) For rules about the reduction in the amount charged in some circumstances and the availability of deductions and reliefs, see—

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section 725 (reduction in amount charged where controlled foreign company involved), and
 section 746 (deductions and reliefs where individual charged under this section or section 727).

- (7) For exemptions from the charge under this section, see sections 736 to [F7742A] (exemptions where no tax avoidance purpose or genuine commercial transaction [F8 etc]).

Textual Amendments

- F5** Word in s. 720(1) omitted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by virtue of Finance Act 2013 (c. 29), Sch. 46 para. 60 (with Sch. 46 para. 73)
- F6** Words in s. 720(4) inserted (21.7.2008 with effect in accordance with Sch. 7 para. 170 of the amending Act) by Finance Act 2008 (c. 9), Sch. 7 para. 164
- F7** Word in s. 720(7) substituted (with effect in accordance with Sch. 10 para. 9(2) of the amending Act) by Finance Act 2013 (c. 29), Sch. 10 para. 3(a)
- F8** Word in s. 720(7) inserted (with effect in accordance with Sch. 10 para. 9(2) of the amending Act) by Finance Act 2013 (c. 29), Sch. 10 para. 3(b)

721 Individuals with power to enjoy income as a result of relevant transactions

- (1) Income is treated as arising to such an individual as is mentioned in section 720(1) in a tax year for income tax purposes if [F9 conditions A to C] are met.
- (2) Condition A is that the individual has power in the tax year to enjoy income of a person abroad as a result of—
- (a) a relevant transfer,
 - (b) one or more associated operations, or
 - (c) a relevant transfer and one or more associated operations.
- (3) Condition B is that the income [F10 of the person abroad] would be chargeable to income tax if it were the individual's and received by the individual in the United Kingdom.

[F11(3A) Condition C is that the individual is UK resident for the tax year.]

[F12][F13(3B) The amount of the income treated as arising under subsection (1) is (subject to sections 724 and 725) given by the following rules—

Rule 1 The amount is equal to the amount of the income of the person abroad if the individual—

- (a) is domiciled in the United Kingdom at any time in the tax year, or
- (b) is at any time in the tax year regarded for the purposes of section 718(1) (b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.

Rule 2 In any other case, the amount is equal to so much of the income of the person abroad as is not protected foreign-source income (see section 721A).

(3BA) In a case in which rule 2 of subsection (3B) applies, so much of the income of the person abroad as is protected foreign-source income for the purposes of that rule counts as “protected income” for the purposes of section 733A(1)(b)(i).]

(3C) Subsection (1) does not apply if—

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- (a) the individual is liable for income tax charged on the income of the person abroad by virtue of a charge not contained in this Chapter, and
 - (b) all that income tax has been paid.]
- (4) For the purposes of subsection (2), it does not matter whether the income [^{F14}of the person abroad] may be enjoyed immediately or only later.
- (5) It does not matter for the purposes of this section—
- ^{F15}(a)
 - [^{F16}(b) whether the individual is UK resident for the tax year in which the relevant transfer is made (if different from the tax year mentioned in subsection (1)), or]
 - (c) whether the avoiding of liability to income tax is a purpose for which the transfer is effected.
- (6) For the circumstances in which an individual is treated as having the power to enjoy income for the purposes of this section, see section 722.

Textual Amendments

- F9** Words in s. 721(1) substituted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 61\(2\)](#) (with [Sch. 46 para. 73](#))
- F10** Words in s. 721(3) inserted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 10\(2\)](#)
- F11** S. 721(3A) inserted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 61\(3\)](#) (with [Sch. 46 para. 73](#))
- F12** S. 721(3B)(3BA) substituted for s. 721(3B) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 28](#)
- F13** S. 721(3B)(3C) inserted (with effect in accordance with Sch. 10 paras. 20, 21(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 10\(3\)](#)
- F14** Words in s. 721(4) inserted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 10\(4\)](#)
- F15** S. 721(5)(a) omitted (with effect in accordance with Sch. 10 paras. 20, 21(2) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 10\(5\)](#)
- F16** S. 721(5)(b) substituted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 61\(4\)](#) (with [Sch. 46 para. 73](#))

[^{F17}721A Meaning of “protected foreign-source income” in section 721

- (1) This section has effect for the purposes of rule 2 of section 721(3B) (cases where the individual is not UK domiciled and is not deemed domiciled by virtue of Condition A in section 835BA).
- (2) The income of the person abroad is “protected foreign-source income” so far as it is within subsection (3) or (4).
- (3) Income is within this subsection if—
 - (a) it would be relevant foreign income if it were the individual's,
 - (b) the person abroad is the trustees of a settlement,
 - (c) the trustees are non-UK resident for the tax year,
 - (d) when the settlement is created, the individual is—
 - (i) not domiciled in the United Kingdom, and

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- (ii) if the settlement is created on or after 6 April 2017, not deemed domiciled in the United Kingdom, and
- (e) no property or income is provided directly or indirectly for the purposes of the settlement by the individual, or by the trustees of any other settlement of which the individual is a beneficiary or settlor, at a time in the period—
 - (i) beginning with the start of 6 April 2017 or, if later, the creation of the settlement, and
 - (ii) ending with the end of the tax year,
 when the individual is domiciled or deemed domiciled in the United Kingdom.
- (4) Income is within this subsection if—
 - (a) it would be relevant foreign income if it were the individual's,
 - (b) the person abroad is a company,
 - (c) the trustees of a settlement—
 - (i) are participators in the person abroad, or
 - (ii) are participators in the first in a chain of two or more companies where the last company in the chain is the person abroad and where each company in the chain (except the last) is a participator in the next company in the chain,
 - (d) the individual's power to enjoy the income results from the trustees being participators as mentioned in paragraph (c)(i) or (ii),
 - (e) the trustees are not UK resident for the tax year,
 - (f) when the settlement is created, the individual is—
 - (i) not domiciled in the United Kingdom, and
 - (ii) if the settlement is created on or after 6 April 2017, not deemed domiciled in the United Kingdom, and
 - (g) no property or income is provided directly or indirectly for the purposes of the settlement by the individual, or by the trustees of any other settlement of which the individual is a beneficiary or settlor, at a time in the period—
 - (i) beginning with the start of 6 April 2017 or, if later, the creation of the settlement, and
 - (ii) ending with the end of the tax year,
 when the individual is domiciled or deemed domiciled in the United Kingdom.
- (5) For the purposes of subsections (3)(e) and (4)(g), the addition of value to property comprised in the settlement is to be treated as the direct provision of property for the purposes of the settlement.
- (6) Section 721B (tainting) contains further provision for the purposes of subsections (3)(e) and (4)(g).
- (7) In this section—
 - “participator”, in relation to a company, has the meaning given by section 454 of CTA 2010;
 - “deemed domiciled” means regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect.

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Textual Amendments

F17 Ss. 721A, 721B inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 8 para. 29**

721B Section 721A: tainting

- (1) This section applies for the purposes of subsections (3)(e) and (4)(g) of section 721A.
- (2) Ignore—
 - (a) property or income provided under a transaction, other than a loan, where the transaction is entered into on arm's length terms,
 - (b) property or income provided, otherwise than under a loan, without any intention by the person providing it to confer a gratuitous benefit on any person,
 - (c) the principal of a loan which is made to the trustees of the settlement on arm's length terms,
 - (d) the payment of interest to the trustees of the settlement under a loan made by them on arm's length terms,
 - (e) repayment to the trustees of the settlement of the principal of a loan made by them,
 - (f) property or income provided in pursuance of a liability incurred by any person before 6 April 2017, and
 - (g) where the settlement's expenses relating to taxation and administration for a tax year exceed its income for that year, property or income provided towards meeting that excess if the value of any such property and income is not greater than the amount of—
 - (i) the excess, or
 - (ii) if greater, the amount by which such expenses exceed the amount of such expenses which may be paid out of the settlement's income.
- (3) Where—
 - (a) a loan is made to the trustees of the settlement by the settlor or the trustees of a settlement connected with the settlor, and
 - (b) the loan is on arm's length terms, but
 - (c) a relevant event occurs,the principal of the loan is to be regarded as having been provided to the trustees at the time of that event (despite subsection (2)).
- (4) In subsection (3) “relevant event” means—
 - (a) capitalisation of interest payable under the loan,
 - (b) any other failure to pay interest in accordance with the terms of the loan, or
 - (c) variation of the terms of the loan such that they cease to be arm's length terms.
- (5) Subsection (6) applies (subject to subsection (7)) where—
 - (a) the settlor becomes deemed domiciled in the United Kingdom on or after 6 April 2017,
 - (b) before the date on which the settlor becomes deemed domiciled in the United Kingdom (“the deemed domicile date”), a loan has been made to the trustees of the settlement by—

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- (i) the settlor, or
 - (ii) the trustees of a settlement connected with the settlor,
 - (c) the loan is not entered into on arm's length terms, and
 - (d) any amount that is outstanding under the loan on the deemed domicile date (“the outstanding amount”) is payable or repayable on demand on or after that date.
- (6) Where this subsection applies, the outstanding amount is to be regarded as property directly provided on the deemed domicile date by the lender for the purposes of the settlement (despite subsection (2)).
- (7) But if the deemed domicile date is 6 April 2017, subsection (6) does not apply if—
- (a) the principal of the loan is repaid, and all interest payable under the loan is paid, before 6 April 2018, or
 - (b) the loan becomes a loan on arm's length terms before 6 April 2018 and—
 - (i) before that date interest is paid to the lender in respect of the period beginning with 6 April 2017 and ending with 5 April 2018 as if those arm's length terms had been terms of the loan in relation to that period, and
 - (ii) interest continues to be payable from 6 April 2018 in accordance with those terms.
- (8) For the purposes of this section, a loan is on “arm's length terms”—
- (a) in the case of a loan made to the trustees of a settlement, only if interest at the official rate or more is payable at least annually under the loan;
 - (b) in the case of a loan made by the trustees of a settlement, only if any interest payable under the loan is payable at no more than the official rate.
- (9) For the purposes of this section—
- a settlement is “connected” with a person if the person is the settlor or a beneficiary of it;
 - “deemed domiciled” has the same meaning as in section 721A;
 - “official rate”, in relation to interest, means the rate of interest applicable from time to time under section 178 of FA 1989 for the purposes of Chapter 7 of Part 3 of ITEPA 2003.]

Textual Amendments

F17 Ss. 721A, 721B inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 8 para. 29**

722 When an individual has power to enjoy income of person abroad

- (1) For the purposes of section 721, an individual is treated as having power to enjoy income of a person abroad if any of the enjoyment conditions are met.
- (2) In subsection (1) “the enjoyment conditions” means conditions A to E as specified in section 723.
- (3) In determining whether an individual has power to enjoy income for the purposes of section 721, regard must be had to the substantial result and effect of all the relevant transactions.

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- (4) In making that determination all benefits which may at any time accrue to the individual as a result of the transfer and any associated operations must be taken into account, irrespective of—
- (a) the nature or form of the benefits, or
 - (b) whether the individual has legal or equitable rights in respect of the benefits.

723 The enjoyment conditions

- (1) Condition A is that the income is in fact so dealt with by any person as to be calculated at some time to enure for the benefit of the individual, whether in the form of income or not.
- (2) Condition B is that the receipt or accrual of the income operates to increase the value to the individual—
- (a) of any assets the individual holds, or
 - (b) of any assets held for the individual's benefit.
- (3) Condition C is that the individual receives or is entitled to receive at any time any benefit provided or to be provided out of the income or related money.
- (4) In subsection (3) “related money” means money which is or will be available for the purpose of providing the benefit as a result of the effect or successive effects—
- (a) on the income, and
 - (b) on any assets which directly or indirectly represent the income, of the associated operations referred to in section 721(2).
- (5) Condition D is that the individual may become entitled to the beneficial enjoyment of the income if one or more powers are exercised or successively exercised.
- (6) For the purposes of subsection (5) it does not matter—
- (a) who may exercise the powers, or
 - (b) whether they are exercisable with or without the consent of another person.
- (7) Condition E is that the individual is able in any manner to control directly or indirectly the application of the income.

724 Special rules where benefit provided out of income of person abroad

- (1) This section applies if an individual has power to enjoy income of a person abroad for the purposes of section 721 because of receiving any such benefit as is referred to in section 723(3) (benefit provided out of income of person abroad).
- (2) Despite anything in section 720, the individual is liable to income tax under that section for the tax year in which the benefit is received on [^{F18}an amount equal to] the whole of the amount or value of that benefit.
- (3) But subsection (2) does not apply so far as it is shown that the benefit derives directly or indirectly from income [^{F19}by reference to] which the individual has already been charged to income tax for that tax year or a previous tax year [^{F20}under this Chapter].

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

Textual Amendments

- F18** Words in s. 724(2) inserted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 11\(2\)](#)
- F19** Words in s. 724(3) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 11\(3\)\(a\)](#)
- F20** Words in s. 724(3) inserted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 11\(3\)\(b\)](#)

725 Reduction in amount charged where controlled foreign company involved

[^{F21}(1) This section applies if—

- (a) under Part 9A of TIOPA 2010 (controlled foreign companies), the CFC charge is charged in relation to a CFC's accounting period,
- [^{F22}(b) an amount of income is treated as arising to an individual under section 721 for a tax year, and
- (c) the income mentioned in section 721(2) is or includes a sum forming part of the CFC's chargeable profits for that accounting period.]]

(2) The amount of income so treated is reduced by—

$$S \times \frac{CA}{CP}$$

where—

S is the sum forming part of the [^{F23}CFC's] chargeable profits for that accounting period,

CA is the [^{F24}CFC's chargeable profits for that accounting period so far as apportioned to chargeable companies at step 3 in section 371BC(1) of TIOPA 2010], and

CP is the [^{F23}CFC's] chargeable profits for that accounting period.

[^{F25}(2A) In a case in which section 724 applies, the reference to S in the formula in subsection (2) is to be read as a reference to X% of S.

(2B) “X%” is determined as follows—

$$100 \% \times A I$$

where—

A is the amount on which the individual is liable as determined under section 724(2), and

I is the amount of the income mentioned in section 721(2).]

[^{F26}(3) Terms used in this section which are defined in Part 9A of TIOPA 2010 have the same meaning as in that Part.]

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

Textual Amendments

- F21** S. 725(1) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 para. 22\(2\)](#) (with [Sch. 20 para. 50\(9\)](#))
- F22** S. 725(1)(b)(c) substituted for s. 725(1)(b) (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 12\(2\)\(4\)](#) (with [Sch. 10 para. 12\(4\)\(5\)](#))
- F23** Words in s. 725(2) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 para. 22\(3\)\(a\)](#) (with [Sch. 20 para. 50\(9\)](#))
- F24** Words in s. 725(2) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 para. 22\(3\)\(b\)](#) (with [Sch. 20 para. 50\(9\)](#))
- F25** S. 725(2A)(2B) inserted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 12\(3\)](#)
- F26** S. 725(3) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 para. 22\(4\)](#) (with [Sch. 20 para. 50\(9\)](#))

[^{F27}726 Non-UK domiciled individuals to whom remittance basis applies

[^{F28}(1) This section applies in relation to income treated under section 721 as arising to an individual in a tax year (“the deemed income”) if section 809B, 809D or 809E (remittance basis) applies to the individual for that year.]

- (2) For the purposes of this section the deemed income is “foreign” if (and to [^{F29}the corresponding extent] that) the income mentioned in section 721(2) would be relevant foreign income if it were the individual's.
- (3) Treat the foreign deemed income as relevant foreign income of the individual.
- (4) For the purposes of Chapter A1 of Part 14 (remittance basis) treat so much of the income within section 721(2) as would be relevant foreign income if it were the individual's as deriving from the foreign deemed income.

[^{F30}(5) In the application of section 832 of ITTOIA 2005 to the foreign deemed income, subsection (2) of that section has effect with the omission of paragraph (b).]

[^{F31}(6) In addition, where the tax year in which any foreign deemed income arises is earlier than the tax year 2017-18, section 832 of ITTOIA 2005 does not apply to the foreign deemed income so far as it—

- (a) is remitted to the United Kingdom in the tax year 2017-18 or a later tax year, and
- (b) is transitionally protected income.

(7) In subsection (6)—

“remitted to the United Kingdom” is to be read in accordance with Chapter A1 of Part 14, and

“transitionally protected income” means any foreign deemed income where the income mentioned in section 721(2)—

- (a) arises in a tax year earlier than the tax year 2017-18,
- (b) would be protected foreign-source income as defined by section 721A if section 721A—
- (i) had effect for tax years earlier than the tax year 2017-18, and
- (ii) so had effect with the omission of its subsections (3)(e), (4)(g), (5) and (6), and

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(c) has not prior to 6 April 2017 been distributed by the trustees of the settlement concerned.]]

Textual Amendments

- F27** S. 726 substituted (21.7.2008 with effect in accordance with Sch. 7 para. 170 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 165](#)
- F28** S. 726(1) substituted (with effect in accordance with Sch. 46 para. 25 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 19](#) (with [Sch. 46 para. 26](#))
- F29** Words in s. 726(2) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 13](#)
- F30** S. 726(5) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 91\(2\)](#)
- F31** S. 726(6)(7) inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 30](#)

Charge where capital sums received

727 Charge to tax on income treated as arising under section 728

- (1) The charge under this section applies for the purpose of preventing the avoiding of liability to income tax by individuals who are ^{F32}... UK resident by means of relevant transfers.
 - (2) Income tax is charged on income treated as arising to such an individual under section 728 (individuals receiving capital sums as a result of relevant transactions).
 - (3) Tax is charged under this section on the amount of income treated as arising in the tax year.
- [^{F33}(3A) But see section 730 (non-UK domiciled individuals to whom remittance basis applies).]
- (4) The person liable for any tax charged under this section is the individual to whom the income is treated as arising.
 - (5) For exemptions from the charge under this section, see sections 736 to [^{F34}742A] (exemptions where no tax avoidance purpose or genuine commercial transaction [^{F35}, etc]).
 - (6) For rules about the availability of deductions and reliefs where income is charged under this section, see section 746 (deductions and reliefs where individual charged under section 720 or this section).

Textual Amendments

- F32** Word in s. 727(1) omitted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 62](#) (with [Sch. 46 para. 73](#))
- F33** S. 727(3A) inserted (21.7.2008 with effect in accordance with Sch. 7 para. 170 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 166](#)
- F34** Word in s. 727(5) substituted (with effect in accordance with Sch. 10 para. 9(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 4\(a\)](#)

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

F35 Word in s. 727(5) inserted (with effect in accordance with Sch. 10 para. 9(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 10 para. 4(b)**

728 Individuals receiving capital sums as a result of relevant transactions

- (1) Income is treated as arising to such an individual as is referred to in section 727(1) in a tax year for income tax purposes if—
- (a) income has become the income of a person abroad as a result of—
 - (i) a relevant transfer,
 - (ii) one or more associated operations, or
 - (iii) a relevant transfer and one or more associated operations, ^{F36} ...
 - (b) the capital receipt conditions are met in respect of the individual in the tax year (see section 729) [^{F37}, and
 - (c) the individual is UK resident for the tax year].

[^{F38}(1A) The amount of the income treated as arising under subsection (1) is (subject to subsection (2)) given by the following rules—

Rule 1 The amount is equal to the amount of the income of the person abroad if the individual—

- (a) is domiciled in the United Kingdom at any time in the tax year, or
- (b) is at any time in the tax year regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.

Rule 2 In any other case, the amount is equal to so much of the income of the person abroad as is not protected foreign-source income (see section 729A).

(1B) In a case in which rule 2 of subsection (1A) applies, so much of the income of the person abroad as is protected foreign-source income for the purposes of that rule counts as “protected income” for the purposes of section 733A(1)(b)(i).]

- (2) Section 725 (reduction in amount charged where controlled foreign company involved) applies for determining the amount of income treated as arising under subsection (1) as [^{F39}if—
- (a) in subsection (1) of that section—
 - (i) the reference to section 721 were a reference to this section, and
 - (ii) the reference to section 721(2) were a reference to subsection (1)(a) of this section, and
 - (b) subsections (2A) and (2B) of that section were omitted.]

[^{F40}(2A) Subsection (1) does not apply if—

- (a) the individual is liable for income tax charged on the income of the person abroad by virtue of a charge not contained in this Chapter, and
- (b) all that income tax has been paid.]

(3) It does not matter for the purposes of this section—

- ^{F41}(a)
- [^{F42}(b) whether the individual is UK resident for the tax year in which the relevant transfer abroad is made (if different from the tax year mentioned in subsection (1)), or]
- (c) whether the avoiding of liability to income tax is a purpose for which that transfer is effected.

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

Textual Amendments

- F36** Word in s. 728(1)(a)(iii) omitted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 63\(2\)\(a\)](#) (with [Sch. 46 para. 73](#))
- F37** S. 728(1)(c) and word inserted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 63\(2\)\(b\)](#) (with [Sch. 46 para. 73](#))
- F38** S. 728(1A)(1B) substituted for s. 728(1A) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 31](#)
- F39** Words in s. 728(2) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 14\(3\)](#)
- F40** S. 728(2A) inserted (with effect in accordance with Sch. 10 paras. 20, 21(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 14\(4\)](#)
- F41** S. 728(3)(a) omitted (with effect in accordance with Sch. 10 paras. 20, 21(2) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 14\(5\)](#)
- F42** S. 728(3)(b) substituted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 63\(3\)\(b\)](#) (with [Sch. 46 para. 73](#))

729 The capital receipt conditions

- (1) For the purposes of section 728(1), the capital receipt conditions are met in respect of the individual in a tax year (“the relevant year”) if—
- (a) either—
 - (i) in the relevant year the individual receives or is entitled to receive any capital sum, whether before or after the relevant transfer, or
 - (ii) in any earlier tax year the individual has received any capital sum, whether before or after the relevant transfer, and
 - (b) the payment of that sum is (or, in the case of an entitlement, would be) in any way connected with any relevant transaction.
- (2) But subsection (1)(a)(ii) does not apply merely because of the receipt of a sum by way of loan if the loan is wholly repaid before the relevant year begins.
- (3) In subsection (1) “capital sum” means—
- (a) any sum paid or payable by way of loan or repayment of a loan, and
 - (b) any other sum paid or payable—
 - (i) otherwise than as income, and
 - (ii) not for full consideration in money or money's worth.
- (4) For the purposes of subsection (1), a sum is treated as a capital sum which the individual (“A”) receives or is entitled to receive if another person receives or is entitled to receive it—
- (a) at A's direction, or
 - (b) as a result of the assignment by A of A's right to receive it.

[^{F43}729A Meaning of “protected foreign-source income” in section 728

- (1) This section has effect for the purposes of rule 2 of section 728(1A) (cases where the individual is not UK domiciled and is not deemed domiciled by virtue of Condition A in section 835BA).

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

- (2) The income of the person abroad is “protected foreign-source income” so far as it is within subsection (3) or (4).
- (3) Income is within this subsection if—
- (a) it would be relevant foreign income if it were the individual's,
 - (b) the person abroad is the trustees of a settlement,
 - (c) the trustees are non-UK resident for the tax year,
 - (d) when the settlement is created, the individual is—
 - (i) not domiciled in the United Kingdom, and
 - (ii) if the settlement is created on or after 6 April 2017, not deemed domiciled in the United Kingdom, and
 - (e) no property or income is provided directly or indirectly for the purposes of the settlement by the individual, or by the trustees of any other settlement of which the individual is a beneficiary or settlor, at a time in the period—
 - (i) beginning with the start of 6 April 2017 or, if later, the creation of the settlement, and
 - (ii) ending with the end of the tax year,when the individual is domiciled or deemed domiciled in the United Kingdom.
- (4) Income is within this subsection if—
- (a) it would be relevant foreign income if it were the individual's,
 - (b) the person abroad is a company,
 - (c) the trustees of a settlement—
 - (i) are participators in the person abroad, or
 - (ii) are participators in the first in a chain of two or more companies where the last company in the chain is the person abroad and where each company in the chain (except the last) is a participator in the next company in the chain,
 - (d) the condition in paragraph (c) is met as a result of a relevant transaction (whether or not it is also met otherwise than as a result of a relevant transaction),
 - (e) the income has become the income of the person abroad as a result of that relevant transaction,
 - (f) the trustees are not UK resident for the tax year,
 - (g) when the settlement is created, the individual is—
 - (i) not domiciled in the United Kingdom, and
 - (ii) if the settlement is created on or after 6 April 2017, not deemed domiciled in the United Kingdom, and
 - (h) no property or income is provided directly or indirectly for the purposes of the settlement by the individual, or by the trustees of any other settlement of which the individual is a beneficiary or settlor, at a time in the period—
 - (i) beginning with start of 6 April 2017 or, if later, the creation of the settlement, and
 - (ii) ending with the end of the tax year,when the individual is domiciled or deemed domiciled in the United Kingdom.
- (5) For the purposes of subsections (3)(e) and (4)(h), the addition of value to property comprised in the settlement is to be treated as the direct provision of property for the purposes of the settlement.

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

(6) Section 721B (tainting) applies for the purposes of subsections (3)(e) and (4)(h) as it applies for the purposes of section 721A(3)(e) and (4)(g).

(7) In this section—

“participator”, in relation to a company, has the meaning given by section 454 of CTA 2010, and

“deemed domiciled” means regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect.]

Textual Amendments

F43 S. 729A inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 32](#)

[^{F44}730 Non-UK domiciled individuals to whom remittance basis applies

[^{F45}(1) This section applies in relation to income treated under section 728 as arising to an individual in a tax year (“the deemed income”) if section 809B, 809D or 809E (remittance basis) applies to the individual for that year.]

(2) For the purposes of this section the deemed income is “foreign” if (and to [^{F46}the corresponding extent] that) the income mentioned in section 728(1)(a) would be relevant foreign income if it were the individual's.

(3) Treat the foreign deemed income as relevant foreign income of the individual.

(4) For the purposes of Chapter A1 of Part 14 (remittance basis) treat so much of the income within section 728(1)(a) as would be relevant foreign income if it were the individual's as deriving from the foreign deemed income.

[^{F47}(5) In the application of section 832 of ITTOIA 2005 to the foreign deemed income, subsection (2) of that section has effect with the omission of paragraph (b).]

[^{F48}(6) In addition, where the tax year in which any foreign deemed income arises is earlier than the tax year 2017-18, section 832 of ITTOIA 2005 does not apply to the foreign deemed income so far as it—

- (a) is remitted to the United Kingdom in the tax year 2017-18 or a later tax year, and
- (b) is transitionally protected income.

(7) In subsection (6)—

“remitted to the United Kingdom” is to be read in accordance with Chapter A1 of Part 14, and

“transitionally protected income” means any foreign deemed income where the income mentioned in section 728(1)(a)—

- (a) arises in a tax year earlier than the tax year 2017-18,
- (b) would be protected foreign-source income as defined by section 729A if section 729A—
 - (i) had effect for tax years earlier than the tax year 2017-18, and
 - (ii) so had effect with the omission of its subsections (3)(e), (4)(h), (5) and (6), and

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(c) has not prior to 6 April 2017 been distributed by the trustees of the settlement concerned.]]

Textual Amendments

- F44** S. 730 substituted (21.7.2008 with effect in accordance with Sch. 7 para. 170 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 167](#)
- F45** S. 730(1) substituted (with effect in accordance with Sch. 46 para. 25 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 20](#) (with [Sch. 46 para. 26](#))
- F46** Words in s. 730(2) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 15](#)
- F47** S. 730(5) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 91\(3\)](#)
- F48** S. 730(6)(7) inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 33](#)

Charge where benefit received

731 Charge to tax on income treated as arising under section 732

(1) Income tax is charged on income treated as arising to an individual under section 732 ([^{F49}individuals] receiving a benefit as a result of relevant transactions).

[^{F50}(1A) But where the individual is non-UK resident for the tax year in which a benefit is received, there is a charge to tax under this section on any matched deemed income—

- (a) only so far as that matched deemed income would under section 735A (if it applied also for this purpose) be matched with an amount of relevant income that is protected income for the purposes of section 733A(1)(b)(i) (see sections 721(3BA) and 728(1B)), and
- (b) only if—
 - (i) the individual is the settlor of the settlement concerned, or
 - (ii) the benefit is received by the individual at a time when the individual is a close member of the family of the settlor of that settlement.

(1B) For the purposes of subsection (1A)—

- (a) “matched deemed income” means income which—
 - (i) is treated by section 732 as arising to the individual, and
 - (ii) would, if section 735A applied also for this purpose, be matched under that section with the benefit, and
- (b) a person is a close member of the family of the settlor of a settlement if the person is—
 - (i) the settlor's spouse or civil partner, or
 - (ii) a child of the settlor, or of a person within sub-paragraph (i), if the child has not reached the age of 18;

and section 733A(7) (persons living together) applies also for the purposes of paragraph (b).]

[^{F51}(1C) Subsection (1A) does not restrict the charge to tax under this section on income treated as arising to the individual by section 733C or 733E (onward gifts: recipient or settlor treated as individual to whom income is treated as arising).]

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

- (2) Tax is charged under this section on the amount of income treated as arising for the tax year.
- [^{F52}(2A) But see [^{F53}sections 735, 735B and 735C] (non-UK domiciled individuals to whom remittance basis applies).]
- (3) The person liable for any tax charged under this section is the individual to whom the income is treated as arising[^{F54}, but this is subject to section 733A.]
- (4) For exemptions from the charge under this section, see sections 736 to [^{F55}742A] (exemptions where no tax avoidance purpose or genuine commercial transaction [^{F56}, etc]).

Textual Amendments

- F49** Word in s. 731(1) substituted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 34\(2\)](#)
- F50** S. 731(1A)(1B) inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 34\(3\)](#)
- F51** S. 731(1C) inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 13\(2\)](#), 21(1)
- F52** S. 731(2A) inserted (21.7.2008 with effect in accordance with Sch. 7 para. 170 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 168](#)
- F53** Words in s. 731(2A) substituted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 13\(3\)](#), 21(1)
- F54** Words in s. 731(3) inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 34\(4\)](#)
- F55** Word in s. 731(4) substituted (with effect in accordance with Sch. 10 para. 9(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 5\(a\)](#)
- F56** Word in s. 731(4) inserted (with effect in accordance with Sch. 10 para. 9(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 5\(b\)](#)

732 [^{F57}Individuals] receiving a benefit as a result of relevant transactions

- (1) This section applies if—
- (a) a relevant transfer occurs,
 - (b) an individual [^{F58}receives a benefit in a tax year],
 - (c) the benefit is provided out of assets which are available for the purpose as a result of—
 - (i) the transfer, or
 - (ii) one or more associated operations,
 - [^{F59}(d) where there is a time in the year when the individual is relevantly domiciled, the individual is not liable to income tax under section 720 or 727 by reference to the transfer, and]
 - (e) the individual is not liable to income tax [^{F60}, under any provision that is none of section 731 of this Act and sections 643A, 643J and 643L of ITTOIA 2005,] on the amount or value of the benefit [^{F61}....
- (2) Income is treated as arising to the individual for income tax purposes for any tax year for which section 733 provides that income arises.
- (3) Also see that section for the amount of income treated as arising for any such tax year.

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

- [^{F62}(4) For the purposes of subsection (1)(d), the individual is “relevantly domiciled” at any time if at that time—
- (a) the individual is domiciled in the United Kingdom, or
 - (b) the individual is regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.]

Textual Amendments

- F57** Word in s. 732 heading substituted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 35\(4\)](#)
- F58** Words in s. 732(1)(b) substituted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 35\(2\)\(a\)](#)
- F59** S. 732(1)(d) substituted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 35\(2\)\(b\)](#)
- F60** Words in s. 732(1)(e) inserted (with effect according to Sch. 10 para. 21(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 14\(a\)](#),
- F61** Words in s. 732(1)(e) omitted (with effect according to Sch. 10 para. 21(1) of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 14\(b\)](#)
- F62** S. 732(4) inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 35\(3\)](#)

733 Income charged under section 731

- (1) To find the amount (if any) of the income treated as arising under section 732(2) for any tax year in respect of benefits provided as mentioned in section 732(1)(c) take the following steps.

Step 1

Identify the amount or value of such benefits received by the individual in the tax year and in any earlier tax years in which section 732 has applied.

The sum of those amounts and values is “the total benefits”.

Step 2

Deduct from the total benefits the total amount of income treated as arising to the individual under section 732(2) for earlier tax years as a result of the relevant transfer or associated operations.

The result is “the total untaxed benefits” [^{F63}except that, where any of that income is matched deemed income for the purposes of section 731(1A), that matched deemed income is to be deducted only so far as it is matched deemed income on which tax has been charged under section 731 for an earlier tax year.]

Step 3

Identify the amount of any income which—

- (a) arises in the tax year to a person abroad, and
- (b) as a result of the relevant transfer or associated operations can be used directly or indirectly for providing a benefit for the individual.

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That amount is “the relevant income of the tax year” in relation to the individual and the tax year.

Step 4

Add together the relevant income of the tax year and the relevant income of earlier tax years in relation to the individual (identified as mentioned in Step 3).

The sum of those amounts is “total relevant income”.

Step 5

Deduct from total relevant income—

- (a) the amount deducted at Step 2, and
- (b) any other amount which may not be taken into account because of section 743(1) and (2) (no duplication of charges).

The result is “the available relevant income”.

Step 6

Compare the total untaxed benefits and the available relevant income.

The amount of the income treated as arising under section 732(2) for any tax year is the total untaxed benefits unless the available relevant income is lower.

If the available relevant income is lower, it is the amount of income treated as so arising.

- (2) Subsection (1) is subject to section 734 (reduction in amount charged: previous capital gains tax charge).
- (3) See also section 740(5) to (7) (which makes provision about relevant income and benefits where relevant transactions include both transactions before 5 December 2005 and transactions after 4 December 2005 and exemptions under this Chapter cease to apply).

Textual Amendments

F63 Words in s. 733(1) inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 8 para. 35(5)**

[^{F64}733A] Settlor liable for section 731 charge on closely-related beneficiary

- (1) Subsections (2) and (3) apply if—
 - (a) an amount of income is treated as arising to an individual under section 732 for a tax year,
 - (b) under section 735A (if it applied also for this purpose) that amount would be matched—
 - (i) with an amount of relevant income that is protected income for the purposes of this sub-paragraph (see sections 721(3BA) and 728(1B)), and

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- (ii) with a benefit received by the individual at a time when the individual was a close member (see subsection (7)) of the family of the settlor of the settlement concerned,
 - (c) there is no time in the year when the trustees of the settlement are resident in the United Kingdom,
 - (d) there is a time in the year when the settlor is resident in the United Kingdom,
 - (e) there is no time in the year when the settlor is domiciled in the United Kingdom, and
 - (f) there is no time in the year when the settlor is regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.
- (2) If—
 - (a) the individual is not resident in the United Kingdom at any time in the year, or
 - (b) section 809B, 809D or 809E (remittance basis) applies to the individual for the year and none of the amount mentioned in subsection (1)(a) of this section is remitted to the United Kingdom in the year,the settlor is liable for the tax charged under section 731 on that amount as if that amount were income arising to the settlor in the year (and the individual is not liable in any later year for income tax on that amount).
- (3) If—
 - (a) section 809B, 809D or 809E (remittance basis) applies to the individual for the year, and
 - (b) part only of the amount mentioned in subsection (1)(a) of this section is remitted to the United Kingdom in the year,the settlor is liable for the tax charged under section 731 on the remainder of that amount as if that remainder were income arising to the settlor in the year (and the individual is not liable in any later year for income tax on that remainder).
- (4) The amount mentioned in subsection (1)(a) may be the whole, or part only, of the amount treated as arising to the individual under section 732 for the year in the case of the relevant transfer and its associated operations.
- (5) Where any tax for which the settlor is liable as a result of subsection (2) or (3) is paid, the settlor is entitled to recover the amount of the tax from the individual.
- (6) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
 - (a) the amount of the income concerned, and
 - (b) the amount of tax paid,and any such certificate is conclusive evidence of the facts stated in it.
- (7) For the purposes of subsection (1)(b)(ii), a person is a close member of the family of the settlor ^{F65}at any time if the settlor is living at that time and—
 - (a) the person is the settlor's spouse or civil partner at that time, or
 - (b) the person—
 - (i) is a child of the settlor, or of a person who at that time is the settlor's spouse or civil partner, and
 - (ii) at that time has not reached the age of 18.]
- (8) For the purposes of subsection (7)—

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- (a) two people living together as if they were spouses of each other are treated as if they were spouses of each other, and
 - (b) two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other.
- (9) Sections 809L to 809Z6 (remittance basis: rules about when income is remitted, including rule treating pre-arising remittances of deemed income as made when the income arises) apply for the purposes of this section.]

Textual Amendments

- F64** S. 733A inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 36](#)
- F65** Words in s. 733A(7) substituted (with effect for the tax year 2017-18 and tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 15, 21\(1\)\(5\)](#)

[^{F66}733B Recipients of onward gifts

- (1) Sections 733C to 733E apply if—
- (a) an amount of income is treated as arising under section 732 to an individual (“the original beneficiary”) in a tax year (“the arising year”) but neither by section 733C nor by section 733E,
 - (b) under section 735A (if it applied also for this purpose) that amount would be matched—
 - (i) with an amount of relevant income that is protected income for the purposes of section 733A(1)(b)(i) (see sections 721(3BA) and 728(1B)), and
 - (ii) with the whole or part of a benefit received by the original beneficiary,
 - (c) at the time that benefit is received by the original beneficiary (“the distribution time”)—
 - (i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole or part of that benefit to another person, and
 - (ii) it is reasonable to expect that, in the event of the whole or part of that benefit being passed on to another person as envisaged by the arrangements or intention, that other person will be UK resident when they receive at least part of what is passed on to them,
 - (d) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”)—
 - (i) at the distribution time, or at any later time in the 3 years beginning with the start time, or
 - (ii) at any time before the distribution time and, it is reasonable to assume, in anticipation of receipt of the benefit mentioned in paragraph (b)(ii),
 - (e) the gift is of or includes—
 - (i) the whole or part of the benefit mentioned in paragraph (b)(ii),
 - (ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of that benefit, or
 - (iii) any other property, but only if the benefit mentioned in paragraph (b)(ii) is provided with a view to enabling or facilitating, or otherwise

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- in connection with, the making of the gift of the property to the subsequent recipient,
- (f) except where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on the amount mentioned in paragraph (a), either—
 - (i) the original beneficiary is non-UK resident for the arising year, or
 - (ii) section 809B or 809D or 809E (remittance basis) applies to the original beneficiary for the arising year and none of the amount mentioned in paragraph (a) is relevantly remitted before the end of the charging year, and
 - (g) where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on the amount mentioned in paragraph (a), section 809B or 809D or 809E applies to that individual for the arising year and none of the amount mentioned in paragraph (a) is relevantly remitted before the end of the charging year.
- (2) If—
- (a) the amount mentioned in subsection (1)(a) is not treated as arising by section 733D (and neither by section 733C nor by section 733E),
 - (b) except where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on that amount, section 809B or 809D or 809E applies to the original beneficiary for the arising year,
 - (c) where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on that amount, section 809B or 809D or 809E applies to that individual for the arising year, and
 - (d) part only of that amount is relevantly remitted before the end of the charging year,
- subsection (1)(a) is to be treated as referring instead only to the remainder of that amount.
- (3) The original beneficiary is not liable to tax for any year after the charging year on so much of the amount mentioned in subsection (1)(a) as is—
- (a) treated as arising to the subsequent recipient by section 733C, or
 - (b) treated as arising to the settlor by section 733E;
- and the settlor is not is liable under section 733A(2) or (3) to tax for any year after the charging year on so much of the amount mentioned in subsection (1)(a) as is treated as arising to the subsequent recipient by section 733C.
- (4) For the purposes of subsection (1)(d)(i)—
- (a) if the amount mentioned in subsection (1)(a) is not one that is treated as arising by section 733D, “the start time” is the time the benefit mentioned in subsection (1)(b) is provided to the original beneficiary, and
 - (b) if the amount mentioned in subsection (1)(a) is one that is treated as arising by section 733D in connection with the operation of this section on a previous occasion, “the start time” is the time given by this subsection as the start time on that occasion.
- (5) Where the onward payment is made as mentioned in subsection (1)(d)(ii), the onward payment is to be treated—
- (a) for the purposes of the provisions of this section following subsection (1)(d), and

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- (b) for the purposes of sections 733C to 733E, as made immediately after, and in the tax year containing, the distribution time.
- (6) Where subsection (1)(d) and (e) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(c) is also met in that case.
- (7) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
 - “the charging year” means the gift year or, if later, the matching year,
 - “gift” includes any benefit,
 - “the gift year” means the tax year in which the onward payment is made, but see subsection (5),
 - “make”, in relation to a gift that is a benefit, means provide,
 - “the matching year” means the first tax year in which the matching mentioned in subsection (1)(b) would occur,
 - “relevantly remitted” means remitted to the United Kingdom in a tax year for which the original beneficiary is UK resident but, where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on the amount mentioned in subsection (1)(a), means remitted to the United Kingdom in a tax year for which that individual is UK resident, and
 - “the settlor” means the settlor of the settlement, mentioned in section 721A(3) or (4) or 729A(3) or (4), which because of subsection (1)(b) (i) is the settlement concerned.
- (8) Sections 742C to 742E (value of benefit provided to a person) apply in relation to the onward payment as if references in those sections to a benefit provided were references to a gift made.
- (9) Sections 809L to 809Z6 (remittance basis: rules about when income is remitted, including rule treating pre-arising remittances of deemed income as made when the income arises)—
- (a) apply for the purposes of this section and sections 733C to 733E, and
 - (b) apply for those purposes in relation to references to remittance of the onward payment as if the onward payment were relevant foreign income of the subsequent recipient.

Textual Amendments

F66 Ss. 733B-733E inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 16, 21\(1\)](#)

733C Cases where income treated as arising to recipient of onward gift

- (1) Subsection (3) applies if—
- (a) this section applies (see section 733B(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and

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- (d) none of sections 809B, 809D and 809E applies to the subsequent recipient for the charging year.
- (2) Subsection (3) also applies if—
 - (a) this section applies (see section 733B(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) section 809B, 809D or 809E applies to the subsequent recipient for the charging year, and
 - (e) the whole, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (3) Section 731 has effect—
 - (a) as if the subsequent recipient were an individual to whom income is treated as arising under section 732 for the charging year, and
 - (b) as if, subject to subsection (4), the amount of that income—
 - (i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 733B(1)(e), or
 - (ii) were, where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of that part.
- (4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows—
 - (a) deduct any part of the amount on which the subsequent recipient is liable to income tax otherwise than under this section, and
 - (b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 733B(1)(a), deduct the excess.

Textual Amendments

F66 Ss. 733B-733E inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 16, 21\(1\)](#)

733D Cases where deemed income attributed to recipient of onward gift

- (1) Subsection (3) applies if this section applies (see section 733B(1)) and—
 - (a) the subsequent recipient is non-UK resident for the gift year, or
 - (b) the matching year is later than the gift year and the subsequent recipient is UK resident for the gift year but non-UK resident for the matching year.
- (2) Subsection (3) also applies if—
 - (a) this section applies (see section 733B(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) section 809B, 809D or 809E applies to the subsequent recipient for the charging year, and

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- (e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (3) Section 733B(1)(a) has effect—
- (a) as if the subsequent recipient were an individual to whom income is treated as arising under section 732 for the charging year, and
 - (b) as if, subject to subsection (4), the amount of that income—
 - (i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 733B(1)(e) and is not treated as arising to someone other than the subsequent recipient as a result of the operation of section 733E, or
 - (ii) were, where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment.
- (4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows: if that amount exceeds the amount mentioned in section 733B(1)(a) in the case of the original beneficiary, deduct the excess.
- (5) Where the amount mentioned in section 733B(1)(a) is one treated as arising by this section in connection with the operation of section 733B and this section on a previous occasion, section 733B(1) has effect—
- (a) with the omission of its paragraphs (b) and (c),
 - (b) as if the reference in its paragraph (d) to the benefit mentioned in its paragraph (b)(ii) were, instead, to what was the onward payment on that previous occasion,
 - (c) as if the references in its paragraph (d) to the distribution time were, instead, to the time when that onward payment was made, and
 - (d) as if the references in its paragraph (e) to the benefit mentioned in its paragraph (b)(ii) were, instead, to so much of that onward payment as was on that previous occasion within any of sub-paragraphs (i) to (iii) of its paragraph (e).

Textual Amendments

F66 Ss. 733B-733E inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 16, 21\(1\)](#)

733E Cases where settlor liable following onward gift

- (1) Subsection (3) applies if—
- (a) this section applies (see section 733B(1)),
 - (b) the subsequent recipient is a close member of the settlor's family when the onward payment is made,
 - (c) the subsequent recipient is UK resident for the charging year,
 - (d) section 809B, 809D or 809E applies to the subsequent recipient for the charging year,
 - (e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year,

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- (f) there is a time in the charging year when the settlor is UK resident,
 - (g) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and
 - (h) there is no time in the charging year when the settlor is regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.
- (2) Subsection (3) also applies if—
- (a) this section applies (see section 733B(1)),
 - (b) the subsequent recipient is a close member of the settlor's family when the onward payment is made,
 - (c) the subsequent recipient is non-UK resident for the charging year,
 - (d) there is a time in the charging year when the settlor is UK resident,
 - (e) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and
 - (f) there is no time in the charging year when the settlor is regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.
- (3) Section 731 applies—
- (a) as if the settlor were an individual to whom income is treated as arising under section 732 for the charging year, and
 - (b) as if, subject to subsection (4), the amount of that income—
 - (i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 733B(1)(e), or
 - (ii) were, where this subsection applies because of subsection (1) in a case where part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment.
- (4) The amount given by subsection (3)(b) (before adjustment under this subsection) is to be adjusted as follows—
- (a) deduct any part of the amount on which the settlor is liable to income tax otherwise than under this section, and
 - (b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 733B(1)(a), deduct the excess.
- (5) Where any tax for which the settlor is liable as a result of subsections (3) and (4) is paid, the settlor is entitled to recover the amount of the tax from the subsequent recipient.
- (6) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
- (a) the amount of the income concerned, and
 - (b) the amount of tax paid,
- and any such certificate is conclusive evidence of the facts stated in it.
- (7) In this section—
- (a) “the settlor” means the settlor of the settlement, mentioned in section 721A(3) or (4) or 729A(3) or (4), which because of section 733B(1)(b)(i) is the settlement concerned, and

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

- (b) “close member”, in relation to the family of the settlor, is to be read in accordance with section 733A(7) and (8).]

Textual Amendments

F66 Ss. 733B-733E inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 16, 21\(1\)](#)

734 Reduction in amount charged: previous capital gains tax charge

- (1) This section applies if—
- (a) benefits provided as mentioned in section 732(1)(c) are received in a tax year,
 - ^{F67}(b)
 - ^{F67}(c)
 - ^{F68}(d) chargeable gains are treated by section 87, 87K, 87L or 89(2) of, or paragraph 8 of Schedule 4C to, TCGA 1992 as accruing to a person in that or a subsequent tax year by reference (direct or indirect) to the whole or part of any benefits so provided.]
- (2) For any tax year after one in which such chargeable gains are so treated, the amount of income treated as arising to the individual under section 732(2) in respect of benefits provided as mentioned in section 732(1)(c) as a result of the transfer or operations in question is calculated as follows.
- (3) The amount is calculated under section 733(1) as if the total untaxed benefits were reduced by the amount of those gains.
- (4) In this section “the total untaxed benefits” ^{F69}has] the same meaning as in section 733(1) (see ^{F70}Step 2]).
- ^{F71}(5) References in this section to chargeable gains treated as accruing to an individual include offshore income gains treated as arising to the individual (see ^{F72}regulations 20 and 22 to 24 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001)).]

Textual Amendments

- F67** S. 734(1)(b)(c) omitted (with effect for the tax year 2018-19 and subsequent years) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 17\(a\), 21\(1\)](#)
- F68** S. 734(1)(d) substituted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 17\(b\), 21\(1\)](#)
- F69** Word in s. 734(4) substituted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 17\(c\)\(i\), 21\(1\)](#)
- F70** Words in s. 734(4) substituted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 17\(c\)\(ii\), 21\(1\)](#)
- F71** S. 734(5) inserted (21.7.2008 with effect in accordance with Sch. 7 para. 98 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 97](#)
- F72** Words in s. 734(5) substituted (with effect in accordance with art. 1(2)(3) Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), [regs. 1\(1\), 129\(5\)](#)

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

[^{F73}734A Reduction in amount charged: previous settlements charge

- (1) This section applies if—
 - (a) benefits provided as mentioned in section 732(1)(c) are received in a tax year, and
 - (b) income is treated by section 643A, 643J or 643L of ITTOIA 2005 as arising to a person in that or a subsequent tax year by reference (direct or indirect) to the whole or part of any benefits so provided.
- (2) For any tax year after one in which such income is so treated, the amount of income treated as arising to the individual under section 732(2) in respect of benefits provided as mentioned in section 732(1)(c) as a result of the transfer or operations in question is calculated as follows.
- (3) The amount is calculated under section 733(1) as if the total untaxed benefits were reduced by the amount of that income.
- (4) In this section “the total untaxed benefits” has the same meaning as in section 733(1) (see Step 2).]

Textual Amendments

- F73** S. 734A inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 18, 21\(1\)](#)

[^{F74}735 Non-UK domiciled individuals to whom remittance basis applies

- [^{F75}(1) This section applies in relation to income treated under section 732 as arising to an individual in a tax year (“the deemed income”) if section 809B, 809D or 809E (remittance basis) applies to the individual for that year.]
- (2) For the purposes of this section the deemed income is “foreign” if (and to the extent that) the relevant income to which it relates would be relevant foreign income if it were the individual's.
- (3) Treat the foreign deemed income as relevant foreign income of the individual.
- (4) For the purposes of Chapter A1 of Part 14 (remittance basis) treat relevant income, or a benefit, that relates to any part of the foreign deemed income as deriving from that part of the foreign deemed income.
- [^{F76}(5) In the application of section 832 of ITTOIA 2005 to the foreign deemed income, subsection (2) of that section has effect with the omission of paragraph (b).]

Textual Amendments

- F74** Ss. 735, 735A substituted (21.7.2008 with effect in accordance with Sch. 7 para. 170 of the amending Act) for s. 735 by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 169](#)
- F75** S. 735(1) substituted (with effect in accordance with Sch. 46 para. 25 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 21](#) (with [Sch. 46 para. 26](#))
- F76** S. 735(5) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 91\(4\)](#)

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

735A Section 735: relevant income and benefits relating to foreign deemed income

- (1) For the purposes of section 735—
- (a) place the benefits mentioned in Step 1 in the order in which they were received by the individual (starting with the earliest benefit received),
 - (b) deduct from those benefits so much of any benefit within section 734(1)(b) as gives rise as mentioned in section 734(1)(d) to chargeable gains or offshore income gains,
 - (c) place the income mentioned in Step 3 for the tax years mentioned in Step 4 (“the relevant income”) in the order determined under subsection (3),
 - (d) deduct from that income any income that may not be taken into account because of section 743(1) or (2) (no duplication of charges),
 - (e) place the income treated under section 732(2) as arising to the individual in respect of the benefits in the order in which it is treated as arising (starting with the earliest income treated as having arisen), and
 - (f) treat the income mentioned in paragraph (e) as related to—
 - (i) the benefits, and
 - (ii) the relevant income,
 by matching that income with the benefits and the relevant income (in the orders mentioned in paragraphs (a), (c) and (e)).

(2) In subsection (1) references to a step are to a step in section 733(1).

(3) The order referred to in subsection (1)(c) is arrived at by taking the following steps.

Step 1

Find the relevant income for the earliest tax year (of the tax years referred to in subsection (1)(c)).

Step 2

Place so much of that income as is not foreign in the order in which it arose (starting with the earliest income to arise).

Step 3

After that, place so much of that income as is foreign in the order in which it arose (starting with the earliest income to arise).

Step 4

Repeat Steps 1 to 3.

For this purpose, read references to the relevant income for the earliest tax year as references to the relevant income for the first tax year after the last tax year in relation to which those Steps have been undertaken.

- (4) For the purposes of subsection (3) relevant income is “foreign” where it would be relevant foreign income if it were the individual's.
- (5) For those purposes treat income for a period as arising immediately before the end of the period.

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- (6) Subsection (1)(d) does not apply if the income may not be taken into account because the individual^[F77], or as a result of section 733A another person,] has been charged to income tax under section 731 by reason of the income.]

Textual Amendments

- F74** Ss. 735, 735A substituted (21.7.2008 with effect in accordance with Sch. 7 para. 170 of the amending Act) for s. 735 by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 169](#)
- F77** Words in s. 735A(6) inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 37](#)

^[F78]735B Settlor liable under section 733A and remittance basis applies

- (1) This section applies in relation to income if—
- (a) the income is treated by section 732 as arising to an individual (“the beneficiary”) for a tax year,
 - (b) another individual (“the settlor”) is under section 733A(2) or (3) liable for tax on the income, and
 - (c) section 809B, 809D or 809E (remittance basis) applies to the settlor for that year.
- (2) The income (“the transferred-liability deemed income”) is treated as relevant foreign income of the settlor.
- (3) If, for the purposes of section 735 as it applies in relation to the beneficiary, any benefit or relevant income relates to any part of the transferred-liability deemed income then, for the purposes of Chapter A1 of Part 14 as it applies in relation to the settlor, that benefit or relevant income is to be treated as deriving from that part of the transferred-liability deemed income.
- (4) In the application of section 832 of ITTOIA 2005 in relation to the income, subsection (2) of that section has effect with the omission of its paragraph (b).]

Textual Amendments

- F78** S. 735B inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 38](#)

^[F79]735C Person liable under section 733C or 733E and remittance basis applies

- (1) This section applies in relation to income if—
- (a) the income is treated as arising to an individual for a tax year—
 - (i) as a result of the operation of section 733C(3) and (4) where section 733C(3) applies because of section 733C(2), or
 - (ii) as a result of the operation of section 733E, and
 - (b) section 809B, 809D or 809E (remittance basis) applies to the individual for that year.
- (2) The income is treated as relevant foreign income of the individual.

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- (3) For the purposes of Chapter A1 of Part 14 (remittance basis) treat the onward payment, or (as the case may be) the part of it whose amount or value is equal to the amount of the income, as deriving from the income.
- (4) In the application of section 832 of ITTOIA 2005 in relation to the income, subsection (2) of that section has effect with the omission of its paragraph (b).]

Textual Amendments

F79 S. 735C inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 19, 21\(1\)](#)

Exemptions: no tax avoidance purpose or genuine commercial transaction

736 Exemptions: introduction

- (1) Sections 737 to [^{F80}742A] deal with exemptions from liability under this Chapter.
- (2) Some exemptions apply according to whether the relevant transactions are all pre-5 December 2005 transactions or all post-4 December 2005 transactions or include both (see sections 737, 739 and 740).
- [^{F81}(2A) The exemption given by section 742A applies only in the case of a relevant transaction effected on or after 6 April 2012.]
- (3) In this section and sections 737 to 742—
 - “post-4 December 2005 transaction” means a relevant transaction effected on or after 5 December 2005, and
 - “pre-5 December 2005 transaction” means a relevant transaction effected before 5 December 2005.

Textual Amendments

F80 Word in s. 736(1) substituted (with effect in accordance with Sch. 10 para. 9(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 6\(2\)](#)

F81 S. 736(2A) inserted (with effect in accordance with Sch. 10 para. 9(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 6\(3\)](#)

737 Exemption: all relevant transactions post-4 December 2005 transactions

- (1) This section applies if all the relevant transactions are post-4 December 2005 transactions.
- (2) An individual is not liable to income tax under this Chapter for the tax year by reference to the relevant transactions if the individual satisfies an officer of Revenue and Customs—
 - (a) that Condition A is met, or
 - (b) in a case where Condition A is not met, that Condition B is met.
- (3) Condition A is that it would not be reasonable to draw the conclusion, from all the circumstances of the case, that the purpose of avoiding liability to taxation was the

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purpose, or one of the purposes, for which the relevant transactions or any of them were effected.

- (4) Condition B is that—
- (a) all the relevant transactions were genuine commercial transactions (see section 738), and
 - (b) it would not be reasonable to draw the conclusion, from all the circumstances of the case, that any one or more of those transactions was more than incidentally designed for the purpose of avoiding liability to taxation.
- (5) In determining the purposes for which the relevant transactions or any of them were effected, the intentions and purposes of any person within subsection (6) are to be taken into account.
- (6) A person is within this subsection if, whether or not for consideration, the person—
- (a) designs or effects, or
 - (b) provides advice in relation to,
- the relevant transactions or any of them.
- (7) In this section—
- “revenue” includes taxes, duties and national insurance contributions,
 - “taxation” includes any revenue for whose collection and management the Commissioners for Her Majesty's Revenue and Customs are responsible.
- (8) If—
- (a) apart from this subsection, an associated operation would not be taken into account for the purposes of this section, and
 - (b) the conditions in subsections (2) to (4) are not met if it is taken into account, because of—
 - (i) the associated operation, or
 - (ii) the associated operation taken together with any other relevant transactions,
- it must be taken into account for those purposes.

738 Meaning of “commercial transaction”

- (1) For the purposes of section 737, a relevant transaction is a commercial transaction only if it meets the conditions in subsections (2) and (3).
- (2) It must be effected—
- (a) in the course of a trade or business and for its purposes, or
 - (b) with a view to setting up and commencing a trade or business and for its purposes.
- (3) It must not—
- (a) be on terms other than those that would have been made between persons not connected with each other dealing at arm's length, or
 - (b) be a transaction that would not have been entered into between such persons so dealing.
- (4) For the purposes of subsection (2), making investments, managing them or making and managing them is a trade or business only so far as—

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- (a) the person by whom it is done, and
 - (b) the person for whom it is done,
- are persons not connected with each other and are dealing at arm's length.

739 Exemption: all relevant transactions pre-5 December 2005 transactions

- (1) This section applies if all the relevant transactions are pre-5 December 2005 transactions.
- (2) An individual is not liable for income tax under this Chapter for the tax year by reference to the relevant transactions if the individual satisfies an officer of Revenue and Customs that condition A or B is met.
- (3) Condition A is that the purpose of avoiding liability to taxation was not the purpose, or one of the purposes, for which the relevant transactions or any of them were effected.
- (4) Condition B is that the transfer and any associated operations—
 - (a) were genuine commercial transactions, and
 - (b) were not designed for the purpose of avoiding liability to taxation.

740 Exemption: relevant transactions include both pre-5 December 2005 and post-4 December 2005 transactions

- (1) This section applies if the relevant transactions include both pre-5 December transactions and post-4 December transactions.
- (2) An individual is not liable to tax under this Chapter for the tax year by reference to the relevant transactions if—
 - (a) the condition in section 737(2) (exemption where all relevant transactions are post-4 December 2005 transactions) is met by reference to the post-4 December 2005 transactions, and
 - (b) the condition in section 739(2) (exemption where all relevant transactions are pre-5 December 2005 transactions) is met by reference to the pre-5 December transactions.
- (3) If subsection (2)(b) applies but subsection (2)(a) does not, this Chapter applies with the modifications in subsections (4) to (6).
- (4) For the purposes of sections 720 to 730, any income arising before 5 December 2005 must not be brought into account as income of the person abroad.
- (5) In determining the relevant income of an earlier tax year for the purposes of section 733(1) (see Step 4), it does not matter whether that year was a year for which the individual was not liable under section 731 because of section 739 or this section.
- (6) For the purposes of Step 1 in section 733(1), a benefit received by the individual in or before the tax year 2005-06 is to be left out of account.
- (7) But, in the case of a benefit received in the tax year 2005-06, subsection (6) applies only so far as, on a time apportionment basis, the benefit fell to be enjoyed in any part of the year that fell before 5 December 2005.

Status: Point in time view as at 06/04/2018.

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741 Application of section 742 (partial exemption)

- (1) Section 742 (partial exemption where later associated operations fail conditions) applies if—
 - (a) an individual is liable to tax because of section 720 or 727 for a tax year (the “taxable year”) because condition B in section 737(4) (genuine commercial transaction: post-4 December 2005 transactions) is not met, and
 - (b) subsections (2) and (3) apply.
- (2) This subsection applies if—
 - (a) since the relevant transfer there has been at least one tax year for which the individual was not so liable by reference to the relevant transactions effected before the end of the year, and
 - (b) the individual was not so liable for that year because—
 - (i) condition B in section 737(4) was met, or
 - (ii) condition B in section 739(4) (genuine commercial transaction: pre-5 December 2005 transactions) was met.
- (3) This subsection applies if the income by reference to which the individual is liable to tax for the taxable year is attributable—
 - (a) partly to relevant transactions by reference to which one of those conditions was met for the last exempt tax year, and
 - (b) partly to associated operations not falling within paragraph (a).
- (4) For the purposes of this section a tax year is exempt if—
 - (a) it is one of the tax years mentioned in subsection (2), and
 - (b) there is no earlier tax year for which the individual was liable to tax because of section 720 or 727 by reference to the relevant transactions or any of them.
- (5) References in this section to a person being liable to tax for a tax year because of section 720 or 727 include references to the individual being so liable had any income been treated as arising to the individual for that year under section 721 or 728.

742 Partial exemption where later associated operations fail conditions

- (1) If this section applies, the individual is liable to tax under this Chapter only in respect of part of the income for which the individual would otherwise be liable.
- (2) That part is so much of the income as appears to an officer of Revenue and Customs to be justly and reasonably attributable to the operations mentioned in section 741(3) (b) in all the circumstances of the case.
- (3) Those circumstances include how far those operations or any of them directly or indirectly affect—
 - (a) the nature or amount of any person's income, or
 - (b) any person's power to enjoy any income.

[^{F82}742A Post-5 April 2012 transactions: exemption for genuine transactions

- (1) Subsection (2) applies for the purpose of determining the liability of an individual to tax under this Chapter by reference to a relevant transaction if—
 - (a) the transaction is effected on or after 6 April 2012, and

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- (b) conditions A and B are met.
- (2) Income is to be left out of account so far as the individual satisfies an officer of Revenue and Customs that it is attributable to the transaction.
- (3) Condition A is that—
- (a) were, viewed objectively, the transaction to be considered to be a genuine transaction having regard to any arrangements under which it is effected and any other relevant circumstances, and
 - (b) were the individual to be liable to tax under this Chapter by reference to the transaction,
- the individual's liability to tax would, in contravention of a relevant treaty provision, constitute an unjustified and disproportionate restriction on a freedom protected under that relevant treaty provision.
- (4) In subsection (3) “relevant treaty provision” means—
- (a) Title II or IV of Part Three of the Treaty on the Functioning of the European Union,
 - (b) Part II or III of the EEA agreement, or
 - (c) the provision of any subsequent treaty replacing a provision mentioned in paragraph (a) or (b).
- (5) Condition B is that the individual satisfies an officer of Revenue and Customs that, viewed objectively, the transaction must be considered to be a genuine transaction having regard to any arrangements under which it is effected and any other relevant circumstances.
- (6) Without prejudice to the generality of subsection (3)(a) or (5), in order for the transaction to be considered to be a genuine transaction the transaction must not—
- (a) be on terms other than those that would have been made between persons not connected with each other dealing at arm's length, or
 - (b) be a transaction that would not have been entered into between such persons so dealing,
- having regard to any arrangements under which the transaction is effected and any other relevant circumstances.
- (7) Subsection (8) applies if any asset or income falling within subsection (12) is used for the purposes of, or is received in the course of, activities carried on in a territory outside the United Kingdom by a person (“the relevant person”) through a business establishment which the relevant person has in that territory.
- (8) Without prejudice to the generality of subsection (3)(a) or (5), in order for the transaction to be considered to be a genuine transaction the activities mentioned in subsection (7) must consist of the provision by the relevant person of goods or services to others on a commercial basis and involve—
- (a) the use of staff in numbers, and with competence and authority,
 - (b) the use of premises and equipment, and
 - (c) the addition of economic value, by the relevant person, to those to whom the goods or services are provided,
- commensurate with the size and nature of those activities.
- (9) In subsection (8)(a) “staff” means employees, agents or contractors of the relevant person.

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- (10) To determine if a person has a “business establishment” in a territory outside the United Kingdom, apply sections 1141, 1142(1) and 1143 of CTA 2010 as if in those provisions—
- (a) references to a company were to a person, and
 - (b) references to a permanent establishment were to a business establishment.
- (11) Subsection (6) does not apply if—
- (a) the relevant transfer is made by an individual who makes it wholly—
 - (i) for personal reasons (and not commercial reasons), and
 - (ii) for the personal benefit (and not the commercial benefit) of other individuals, and
 - (b) no consideration is given (directly or indirectly) for the relevant transfer or otherwise for any benefit received by any individual mentioned in paragraph (a)(ii),
- and all assets and income falling within subsection (12) are dealt with accordingly.
- (12) The assets and income falling within this subsection are—
- (a) any of the assets transferred by the relevant transfer;
 - (b) any assets directly or indirectly representing any of the assets transferred;
 - (c) any income arising from any assets within paragraph (a) or (b);
 - (d) any assets directly or indirectly representing the accumulations of income arising from any assets within paragraph (a) or (b).
- (13) In subsections (11) and (12) references to the relevant transfer are to—
- (a) if the transaction mentioned in subsection (1) is a relevant transfer, the transfer, or
 - (b) if the transaction so mentioned is an associated operation, the relevant transfer to which it relates.
- (14) Subsection (15) applies if—
- (a) subsection (2) would apply in relation to a transaction but for the individual being unable to satisfy an officer of Revenue and Customs for the purposes of condition B that the transaction meets the requirements set out in subsection (6), but
 - (b) the individual does satisfy an officer of Revenue and Customs that those requirements are met in relation to a part of the transaction.
- (15) Subsection (2) applies as if the reference to the transaction were to that part of the transaction.]

Textual Amendments

F82 S. 742A inserted (with effect in accordance with Sch. 10 para. 9(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 7](#)

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

I^{F83} Value of certain benefits

Textual Amendments

F83 Ss. 742B-742E and cross-heading inserted (with effect in accordance with Sch. 9 para. 3 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 9 para. 2](#)

742B Value of certain benefits

Sections 742C to 742E apply where it is necessary, for the purpose of calculating a charge to income tax under the preceding provisions of this Chapter, to determine the value of a benefit provided to a person by way of—

- (a) a payment by way of loan (see section 742C),
- (b) making available movable property without any transfer of the property in it (see section 742D), or
- (c) making available land for use without transferring the whole interest in it (see section 742E).

742C Value of benefit provided by a payment by way of loan

- (1) The value of the benefit provided to a person (P) by a payment by way of loan to P is, for each tax year in which the loan is outstanding, the amount (if any) by which—
 - (a) the amount of interest that would have been payable in that year on the loan if interest had been payable on the loan at the official rate, exceeds
 - (b) the amount of interest (if any) actually paid by P in that year on the loan.
- (2) In this section and section 742D the “official rate”, in relation to interest, means the rate applicable from time to time under section 178 of the Finance Act 1989 for the purposes of Chapter 7 of Part 3 of ITEPA 2003.

Modifications etc. (not altering text)

- C3** Ss. 742C-742E applied by 2005 c. 5, s. 643B(3) (as inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 11, 21\(1\)](#) (with [Sch. 11 para. 22](#)))
- C4** Ss. 742C-742E applied by 2005 c. 5, s. 643I(8) (as inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 11, 21\(1\)](#) (with [Sch. 11 para. 22](#)))

742D Value of benefit provided by making movable property available

- (1) The value of the benefit provided by making movable property available, without any transfer of the property in it, to a person (P) is, for each tax year in which the benefit is provided to P—

$$(CC \times R \times D Y) - T$$

where—

CC is the capital cost of the movable property on the date when the property is first made available to P in the tax year,

D is the number of days in the tax year on which the property is made available to P (the relevant period),

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R is the official rate of interest for the relevant period (but see subsection (3)),

T is the total of the amounts (if any) paid in the tax year by P—

- (a) to the person providing the benefit, in respect of the availability of the movable property, or
- (b) so far as not within paragraph (a), in respect of the repair, insurance, maintenance or storage of the movable property, and

Y is the number of days in the tax year.

(2) In subsection (1), in the meaning of CC, the “capital cost” of the movable property means an amount equal to the total of—

- (a) the amount which is the greater of—
 - (i) the amount or value of the consideration given for the acquisition of the movable property by, or on behalf of, the person (A) providing the benefit, and
 - (ii) its market value at the time of that acquisition, and
- (b) the amount of any expenditure wholly and exclusively incurred by, or on behalf of, A for the purpose of enhancing the value of the movable property.

(3) If the official rate of interest changes during the relevant period, then in subsection (1) R is the average official rate of interest for the period calculated as follows.

Step 1 Multiply each official rate of interest in force during the relevant period by the number of days when it is in force.

Step 2 Add together the products found in Step 1.

Step 3 Divide the total found in Step 2 by the number of days in the relevant period.

(4) In subsections (1) and (2), “movable property” means any tangible movable property other than money.

Modifications etc. (not altering text)

- C3** Ss. 742C-742E applied by 2005 c. 5, s. 643B(3) (as inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 11, 21\(1\)](#) (with [Sch. 11 para. 22](#)))
- C4** Ss. 742C-742E applied by 2005 c. 5, s. 643I(8) (as inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 11, 21\(1\)](#) (with [Sch. 11 para. 22](#)))

742E Value of benefit provided by making land available

(1) The value of the benefit provided by making land available for the use of a person (P) is, for each tax year in which the benefit is provided to P, the amount by which—

- (a) the rental value of the land for the period of the tax year during which the land is made available to P, exceeds
- (b) the total of the amounts (if any) paid in the tax year by P—
 - (i) to the person providing the benefit, in respect of the availability of the land, or
 - (ii) so far as not within sub-paragraph (i), in respect of costs of repair, insurance or maintenance relating to the land.

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

- (2) Subsection (1) does not apply in the case where the person providing the benefit transfers the whole of the person's interest in the land to P.
- (3) In subsection (1) “the rental value” of the land for a period means the rent which would have been payable for the period if the land had been let to P at an annual rent equal to the annual value.
- (4) For the purposes of subsection (3) “the annual value” of land is the rent that might reasonably be expected to be obtained on a letting from year to year if—
 - (a) the tenant undertook to pay all taxes, rates and charges usually paid by a tenant, and
 - (b) the landlord undertook to bear the costs of the repairs and insurance and the other expenses (if any) necessary for maintaining the property in a state to command that rent.
- (5) For the purposes of subsection (4) that rent—
 - (a) is to be taken to be the amount that might reasonably be expected to be so obtained in respect of a letting of the land, and
 - (b) is to be calculated on the basis that the only amounts that may be deducted in respect of services provided by the landlord are amounts in respect of the costs to the landlord of providing any relevant services.
- (6) In subsection (5) “relevant service” means a service other than the repair, insurance or maintenance of the property.]

Modifications etc. (not altering text)

- C3** Ss. 742C-742E applied by 2005 c. 5, s. 643B(3) (as inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 11, 21\(1\)](#) (with [Sch. 11 para. 22](#)))
- C4** Ss. 742C-742E applied by 2005 c. 5, s. 643I(8) (as inserted (with effect for the tax year 2018-19 and subsequent years) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 paras. 11, 21\(1\)](#) (with [Sch. 11 para. 22](#)))

General

743 No duplication of charges

- (1) No amount of income may be taken into account more than once in charging income tax under this Chapter.
 - (2) If there is a choice about the persons in relation to whom any amount of income may be taken into account in charging income tax under this Chapter, it is to be taken into account—
 - (a) in relation to such one or more of them as appears to an officer of Revenue and Customs to be just and reasonable, and
 - (b) if more than one, in such respective proportions as appears to the officer to be just and reasonable.
- [^{F84}(2A) Subsection (2B) applies if—
- (a) in the case of an individual, an amount of income is taken into account in charging income tax under section 720 or 727, and
 - (b) the individual subsequently receives that income.

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(2B) The income received is treated as not being the individual's income for income tax purposes.]

(3) For the meaning of references in [^{F85}this section] to an amount of income taken into account in charging tax, see section 744.

^{F86}(4)

Textual Amendments

F84 S. 743(2A)(2B) inserted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 16\(2\)](#)

F85 Words in s. 743(3) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 16\(3\)](#)

F86 S. 743(4) omitted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 16\(4\)](#)

744 Meaning of taking income into account in charging income tax for section 743

(1) References in section [^{F87}743] (no duplication of charges) to an amount of income taken into account in charging income tax are to be read as follows.

(2) In the case of tax charged on income under section 720 (charge where income enjoyed as a result of relevant transactions)—

(a) if section 724(1) (benefit provided out of income of person abroad) applies, they are references to an amount of the income out of which the benefit is provided equal to the amount ^{F88}... charged, and

(b) otherwise they are references to the amount of [^{F89}the income mentioned in section 721(2)].

(3) In the case of tax charged on income under section 727 (charge where capital sums received as a result of relevant transactions), they are references to the amount of [^{F90}the income mentioned in section 728(1)(a)].

(4) In the case of tax charged under section 731 (charge to tax on income treated as arising to non-transferors where benefit received as a result of relevant transfers), they are references to the amount of relevant income taken into account under section 733 (income charged under section 731) in calculating the amount to be charged in respect of the benefit for the tax year in question.

Textual Amendments

F87 Word in s. 744(1) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 17\(2\)](#)

F88 Words in s. 744(2)(a) omitted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 17\(3\)\(a\)](#)

F89 Words in s. 744(2)(b) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 17\(3\)\(b\)](#)

F90 Words in s. 744(3) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 17\(4\)](#)

Status: Point in time view as at 06/04/2018.

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745 Rates of tax applicable to income charged under sections 720 and 727 etc

- (1) Income tax at the basic rate, [^{F91}or] the [^{F92}starting rate for savings][^{F93}when that rate is more than 0%,]^{F94} ... is not charged under section 720 or 727 in respect of any income [^{F95}if (and to the corresponding extent that) the income mentioned in section 721(2) or 728(1)(a)] has borne tax at that rate by deduction or otherwise.
- [^{F96}(1A) Income tax at a Scottish rate above 0% and below, or equal to, the basic rate is not charged under section 720 or 727 in respect of any income if (and to the corresponding extent that) the income mentioned in section 721(2) or 728(1)(a) has borne tax at the basic rate.]
- (2) [^{F97}Subsections (1) and (1A) do] not affect the tax charged if section 724(2) applies (benefit provided out of income of person abroad charged in year of receipt).
- [^{F98}(3) Subsection (4) applies to income treated as arising to an individual under section 721 or 728 so far as [^{F99}neither of subsections (1) and (1A) applies] to it.
- (4) The charge to income tax under section 720 or 727 operates by treating the income as if it were income within section 19(2) (meaning of “dividend income”) if the income mentioned in section 721(2) or 728(1)(a) would be dividend income were it the income of the individual.]

Textual Amendments

- F91** Word in s. 745(1) inserted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 63(12)(a)**
- F92** Words in s. 745(1) substituted (21.7.2008 with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 1 para. 24**
- F93** Words in s. 745(1) inserted (with effect for the tax year 2016-17 and subsequent years) by [Finance Act 2016 \(c. 24\)](#), **s. 4(9)(17)**
- F94** Words in s. 745(1) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 63(12)(b)**
- F95** Words in s. 745(1) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 10 para. 18(2)**
- F96** S. 745(1A) inserted (6.4.2018) by [The Scottish Rates of Income Tax \(Consequential Amendments\) Order 2018 \(S.I. 2018/459\)](#), arts. 1(2), **6(6)(a)**
- F97** Words in s. 745(2) substituted (6.4.2018) by [The Scottish Rates of Income Tax \(Consequential Amendments\) Order 2018 \(S.I. 2018/459\)](#), arts. 1(2), **6(6)(b)**
- F98** S. 745(3)(4) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 10 para. 18(3)**
- F99** Words in s. 745(3) substituted (6.4.2018) by [The Scottish Rates of Income Tax \(Consequential Amendments\) Order 2018 \(S.I. 2018/459\)](#), arts. 1(2), **6(6)(c)**

746 Deductions and reliefs where individual charged under section 720 or 727

- (1) This section applies for the purpose of calculating the liability to income tax of an individual charged under section 720 or 727.
- [^{F100}(2) For the purpose of determining the deductions and reliefs allowed to the individual, the individual is to be treated as if the individual had actually received the amount by reference to which the income treated as arising to the individual under section 721 or 728 is determined.]

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

Textual Amendments

F100 S. 746(2) substituted (with effect in accordance with Sch. 10 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 10 para. 19](#)

747 Amounts corresponding to accrued income profits and related interest

- (1) This subsection applies if a person—
 - (a) would have been treated as—
 - (i) making qualifying accrued income profits, or
 - (ii) making qualifying accrued income profits of a greater amount, in an interest period, but
 - (b) is not so treated because of being resident or domiciled outside the United Kingdom throughout any tax year in which the interest period (or part of it) falls.
- (2) If subsection (1) applies, this Chapter applies as if the amount which the person would be treated as making or, as the case may be, the additional amount were income becoming payable to the person.
- (3) Accordingly, any reference in this Chapter to income of (or payable or arising to) a person abroad must be read as including a reference to such an amount.
- (4) This subsection applies if income consisting of interest which falls due at the end of an interest period—
 - (a) would have been income as respects which a person is entitled to an exemption, or an exemption of a greater amount, from liability to income tax under section 679 (interest on securities involving accrued income losses: general), but
 - (b) is not such income because it is income of a person who is resident or domiciled outside the United Kingdom throughout any tax year in which the interest period (or part of it) falls.
- (5) If subsection (4) applies, for the purposes of this Chapter the interest is treated as reduced by the amount of the exemption or, as the case may be, the additional exemption.
- (6) In this section—
 - (a) expressions which are also used in Chapter 2 of Part 12 (accrued income profits) have the same meaning as in that Chapter (but see subsection (7)), and
 - (b) “qualifying accrued income profits” means accrued income profits which are treated as made—
 - (i) under section 628(5), or
 - (ii) under section 630(2) in respect of a transfer of variable rate securities.
- (7) In the case of qualifying accrued income profits within sub-paragraph (ii) of the definition of that expression in subsection (6)(b)—
 - (a) references in subsection (1)(a) to making qualifying accrued income profits in an interest period are to be read as making them in the tax year in which the settlement day falls, and
 - (b) the reference in subsection (1)(b) to the interest period is to the period—

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- (i) beginning with the day after the last day of the only or last interest period of the securities, and
- (ii) ending with the settlement day.

Supplementary

748 Power to obtain information

- (1) An officer of Revenue and Customs may by notice require any person to provide the officer with such particulars as the officer may reasonably require for the purposes of this Chapter.
- (2) The officer may direct the time within which the particulars must be provided and that time must be at least 30 days.
- (3) The particulars which a person must provide under this section, if required to do so by a notice under subsection (1), include particulars about—
 - (a) transactions with respect to which the person is or was acting on behalf of others,
 - (b) transactions which in the opinion of the officer should properly be investigated for the purposes of this Chapter even though in the person's opinion no liability to income tax arises under this Chapter, and
 - (c) whether the person has taken or is taking any part and, if so, what part in transactions of a description specified in the notice.
- (4) A ^{F101}[relevant lawyer] is not treated as having taken part in a transaction for the purposes of subsection (3)(c) merely because of giving professional advice to a client about it.
- ^{F102}(4A) In this section “relevant lawyer” means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege or, in Scotland, protected from disclosure in legal proceedings on grounds of confidentiality of communication.]
- (5) This section is subject to—
 - section 749 (restrictions on particulars to be provided by ^{F103}[relevant lawyers]),
 - and
 - section 750 (restrictions on particulars to be provided by banks).

Textual Amendments

- F101** Words in s. 748(4) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 21 para. 158\(a\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(h)
- F102** S. 748(4A) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 21 para. 158\(b\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(h)
- F103** Words in s. 748(5) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 21 para. 158\(c\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(h)

749 Restrictions on particulars to be provided by ^{F104}[relevant lawyers]

- (1) In relation to anything done by a ^{F105}[relevant lawyer] on behalf of a client who does not consent to the information otherwise required from the ^{F105}[relevant lawyer] under

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section 748 being provided, the [F105relevant lawyer] may not be compelled under that section to do more than—

- (a) state that the [F105relevant lawyer] is or was acting on behalf of a client, and
 - (b) give the name and address of the client and any relevant person.
- (2) In the case of anything done by the [F105relevant lawyer] in connection with the transfer of any asset by or to an individual who is F106... UK resident to or by a body corporate to which subsection (6) applies, the transferor and the transferee are relevant persons.
- (3) In the case of anything done by the [F105relevant lawyer] in connection with any associated operation in relation to any such transfer, the persons concerned in the associated operations are relevant persons.
- (4) In the case of anything done by the [F105relevant lawyer] in connection with the formation or management of a body corporate to which subsection (6) applies, the body corporate is a relevant person.
- (5) In the case of anything done by the [F105relevant lawyer] in connection with—
- (a) the creation of any settlement as a result of which income becomes payable to a person abroad, or
 - (b) the execution of the trusts of any such settlement,
- the settlor and that person are relevant persons.
- (6) This subsection applies to bodies corporate resident or incorporated outside the United Kingdom which—
- (a) are, or if UK resident would be, close companies, and
 - (b) are not companies whose business consists wholly or mainly of the carrying on of a trade or trades.

[F107(7) In this section—

“relevant lawyer” means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege or, in Scotland, protected from disclosure in legal proceedings on grounds of confidentiality of communication;

“settlement” and “settlor” have the meanings given by section 620 of ITTOIA 2005.]

- (8) In the application of this section to Scotland, any reference to the trusts of a settlement is a reference to the purposes of the settlement.

Textual Amendments

F104 Words in s. 749 heading substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\), Sch. 21 para. 159\(a\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250, art. 2\(h\)](#)

F105 Words in s. 749 substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\), Sch. 21 para. 159\(b\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250, art. 2\(h\)](#)

F106 Word in s. 749(2) omitted (with effect in accordance with [Sch. 46 para. 72](#) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\), Sch. 46 para. 65\(1\)](#) (with [Sch. 46 paras. 65\(2\), 73](#))

F107 S. 749(7) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\), Sch. 21 para. 159\(c\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250, art. 2\(h\)](#)

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750 Restrictions on particulars to be provided by banks

- (1) Section 748 does not oblige a bank to provide any particulars of any ordinary banking transactions between the bank and a customer carried out in the ordinary course of banking business, unless subsection (2) or (3) applies.
- (2) This subsection applies if the bank has acted or is acting on behalf of the customer in connection with—
 - (a) the creation of any settlement as a result of which income becomes payable to a person abroad, or
 - (b) the execution of the trusts of any such settlement.
- (3) This subsection applies if the bank has acted or is acting on behalf of the customer in connection with the formation or management of a body corporate to which section 749(6) applies.
- (4) In this section—

“bank” has the meaning given by section 991, and

“settlement” has the meaning given by section 620 of ITTOIA 2005.
- (5) In the application of this section to Scotland, any reference to the trusts of a settlement is a reference to the purposes of the settlement.

751 ^[F108]The tribunal’s] jurisdiction on appeals

^[F109]On any appeal that is notified to the tribunal, the jurisdiction of the tribunal] includes jurisdiction to affirm or replace any decision taken by an officer of Revenue and Customs in exercise of the officer's functions under—

- (a) section 737 (exemption: all relevant transactions post-4 December 2005 transactions),
- (b) section 738 (meaning of “commercial transaction”),
- (c) section 739 (exemption: all relevant transactions pre-5 December 2005 transactions),
- (d) section 742 (partial exemption where later associated operations fail conditions),
- ^[F110](da) section 742A (post-5 April 2012 transactions: exemption for genuine transactions),]
- (e) section 743(2) (no duplication of charges: choice of persons in relation to whom income is taken into account).

Textual Amendments

F108 Words in s. 751 heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 461(2)**

F109 Words in s. 751 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 461(3)**

F110 S. 751(da) inserted (with effect in accordance with Sch. 10 para. 9(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 10 para. 8**

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Changes to legislation:

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