



Income Tax Act 2007

2007 CHAPTER 3

PART 14

INCOME TAX LIABILITY: MISCELLANEOUS RULES

[^{F1}CHAPTER A1

REMITTANCE BASIS

Textual Amendments

- F1** Pt. 14 Ch. A1 inserted (21.7.2008 with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 1](#) (with [Sch. 7 paras. 85-89](#))

Modifications etc. (not altering text)

- C1** **No commentary item could be found for this reference key-
b5c85c5c86db98b959e5afcecbd540f6** Pt. 14 Ch. A1 modified by 2003 c. 1, s. 41A(8) (as inserted (with effect in accordance with Sch. 7 para. 80 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 22](#))
- C2** Pt. 14 Ch. A1 modified by [2003 c. 1, s. 41A\(8\)](#) (as inserted (21.7.2008 with effect in accordance with Sch. 7 para. 80 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 22](#))
- C3** Pt. 14 Ch. A1 modified by [1988 c. 1, s. 762ZB\(3\)](#) (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](#))
- C4** Pt. 14 Ch. A1 modified by [1992 c. 12, s. 87B\(3\)](#) (as inserted (21.7.2008 with effect in accordance with Sch. 7 para. 115 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 108](#) (with [Sch. 7 paras. 116-119](#)))

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

Introduction

809A Overview of Chapter

This Chapter provides for an alternative basis of charge in the case of individuals who are not domiciled in the United Kingdom or are not ordinarily UK resident.

Application of remittance basis

809B Claim for remittance basis to apply

- (1) This section applies to an individual for a tax year if the individual—
 - (a) is UK resident in that year,
 - (b) is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year, and
 - (c) makes a claim under this section for that year.
- (2) The claim must contain one or both of the following statements—
 - (a) that the individual is not domiciled in the United Kingdom in that year;
 - (b) that the individual is not ordinarily UK resident in that year.
- (3) Sections 42 and 43 of TMA 1970 (procedure and time limit for making claims), except section 42(1A) of that Act, apply in relation to a claim under this section as they apply in relation to a claim for relief.

Modifications etc. (not altering text)

C5 S. 809B applied by 2003 c. 1, s. 41C(7) (as inserted (21.7.2008 with effect in accordance with Sch. 7 para. 80 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 22](#))

809C Claim for remittance basis by long-term UK resident: nomination of foreign income and gains to which section 809H(2) is to apply

- (1) This section applies to an individual for a tax year if the individual—
 - (a) is aged 18 or over in that year, and
 - (b) has been UK resident in at least 7 of the 9 tax years immediately preceding that year.
- (2) A claim under section 809B by the individual for that year must contain a nomination of the income or chargeable gains of the individual for that year to which section 809H(2) is to apply.
- (3) The income or chargeable gains nominated must be part (or all) of the individual's foreign income and gains for that year.
- (4) The income and chargeable gains nominated must be such that the relevant tax increase does not exceed £30,000.
- (5) “The relevant tax increase” is—
 - (a) the total amount of income tax and capital gains tax payable by the individual for that year, minus

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- (b) the total amount of income tax and capital gains tax that would be payable by the individual for that year apart from section 809H(2).

[The references to income tax in subsection (5) do not include income tax under ^{F2}(5A) section 424 (gift aid).]

- (6) See section 809Z7 for the meaning of an individual's foreign income and gains for a tax year.

Textual Amendments

- F2** S. 809C(5A) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 2](#)

809D Application of remittance basis without claim where unremitted foreign income and gains under £2,000

- (1) This section applies to an individual for a tax year if—
- the individual is UK resident in that year,
 - the individual is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year, and
 - the amount of the individual's unremitted foreign income and gains for that year is less than £2,000.

[^{F3}unless condition A or condition B is met.]

[Condition A is that the individual is not domiciled in the United Kingdom in that year ^{F4}(1A) and conditions A to F in section 828B are met.

(1B) Condition B is that the individual gives notice in a return under section 8 of TMA 1970 that this section is not to apply in relation to the individual for that year.]

- (2) The amount of an individual's “unremitted” foreign income and gains for a tax year is—
- the total amount of what would (if this section applied) be the individual's foreign income and gains for that year, minus
 - the total amount of those income and gains that are remitted to the United Kingdom in that year.

Textual Amendments

- F3** Words in s. 809D(1) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 3\(2\)](#)
- F4** S. 809D(1A)(1B) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 3\(3\)](#)

809E Application of remittance basis without claim: other cases

- (1) This section applies to an individual for a tax year if—
- the individual is UK resident in that year,
 - the individual is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year,

Status: Point in time view as at 21/07/2009.

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- [^{F5}(c) for that year the individual either has no UK income or gains or has no UK income and gains other than taxed investment income not exceeding £100.]
- (d) no relevant income or gains are remitted to the United Kingdom in that year, and
- (e) either—
- (i) the individual has been UK resident in not more than 6 of the 9 tax years immediately preceding that year, or
 - (ii) the individual is under 18 throughout that year
- [^{F6}unless the individual gives notice in a return under section 8 of TMA 1970 that this section is not to apply in relation to the individual for that year.]
- (2) For the purposes of subsection (1)(c) the individual's UK income and gains for the tax year are the individual's income and chargeable gains for that year other than what would (if this section applied) be the individual's foreign income and gains for that year.
- [For the purposes of subsection (1)(c) “taxed investment income” means UK income ^{F7}(2A) or gains consisting of payments within section 946 from which a sum representing income tax has been deducted.]
- (3) For the purposes of subsection (1)(d) relevant income and gains are—
- (a) what would (if this section applied) be the individual's foreign income and gains for the tax year mentioned in subsection (1), and
 - (b) the individual's foreign income and gains for every other tax year for which section 809B or 809D or this section applies to the individual.

Textual Amendments

- F5** S. 809E(1)(c) substituted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 4\(2\)](#)
- F6** Words in s. 809E(1) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 4\(3\)](#)
- F7** S. 809E(2A) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 4\(4\)](#)

Effect of section 809B, 809D or 809E applying

809F Effect on what is chargeable

- (1) This section applies if section 809B, 809D or 809E applies to an individual for a tax year.
- (2) The individual's relevant foreign earnings for that year are charged in accordance with section 22 or 26 of ITEPA 2003.
- (3) The individual's relevant foreign income for that year is charged in accordance with section 832 of ITTOIA 2005.
- (4) If the individual is not domiciled in the United Kingdom in that year, the individual's foreign chargeable gains for that year are charged in accordance with section 12 of TCGA 1992.

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (5) For the effect on amounts which count as employment income of the individual under certain provisions of Part 7 of ITEPA 2003 (employment-related securities), see Chapter 5A of Part 2 of that Act.
- (6) Nothing in this section applies in relation to nominated income or chargeable gains (see section 809H).

809G Claim for remittance basis: effect on allowances etc

- (1) This section applies if section 809B (claim for remittance basis to apply) applies to an individual for a tax year.
- (2) For that year, the individual is not entitled to—
 - (a) any allowance under Chapter 2 of Part 3 (personal allowance and blind person's allowance),
 - (b) any tax reduction under Chapter 3 of that Part (tax reductions for married couples and civil partners), or
 - (c) any relief under section 457, 458 or 459 (payments for life insurance etc).
- (3) See also section 3(1A) of TCGA 1992 (no annual exempt amount for chargeable gains).

809H Claim for remittance basis by long-term UK resident: charge

- (1) This section applies if—
 - (a) section 809B (claim for remittance basis to apply) applies to an individual for a tax year (“the relevant tax year”),
 - (b) the individual is aged 18 or over in the relevant tax year, and
 - (c) the individual has been UK resident in at least 7 of the 9 tax years immediately preceding the relevant tax year.
- (2) Income tax is charged on nominated income, and capital gains tax is charged on nominated chargeable gains, as if section 809B did not apply to the individual for the relevant tax year (and neither did section 809D).
- (3) “Nominated” income or chargeable gains means income or chargeable gains nominated under section 809C in the individual's claim under section 809B for the relevant tax year.
- (4) If the relevant tax increase would otherwise be less than £30,000, subsection (2) has effect as if—
 - (a) in addition to the income and gains actually nominated under section 809C in the individual's claim under section 809B for the relevant tax year, an amount of income had been nominated so as to make the relevant tax increase equal to £30,000, and
 - (b) the individual's income for that year were such that such a nomination could have been made (if that is not the case).
- (5) “The relevant tax increase” is—
 - (a) the total amount of income tax and capital gains tax payable by the individual for the relevant tax year, minus

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- (b) the total amount of income tax and capital gains tax that would be payable by the individual for the relevant tax year apart from subsection (2).

[The references to income tax in subsection (5) do not include income tax under ^{F8}(5A) section 424 (gift aid).]

- (6) Nothing in subsection (4) affects what is regarded, for the purposes of section 809I or 809J, as nominated under section 809C.

Textual Amendments

F8 S. 809H(5A) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 5](#)

809I Remittance basis charge: income and gains treated as remitted

- (1) This section applies if—
- (a) any of an individual's nominated income and gains is remitted to the United Kingdom in a tax year, and
 - (b) any of the individual's remittance basis income and gains has not been remitted to the United Kingdom in or before that year.
- (2) Income tax and capital gains tax are charged, for that year and subsequent tax years, as if the income and chargeable gains treated under section 809J as remitted to the United Kingdom by the individual in that tax year had been so remitted (and income and chargeable gains of the individual that were actually remitted in that year had not been).
- (3) An individual's “nominated income and gains” are the total income and chargeable gains nominated by the individual under section 809C for the tax year mentioned in subsection (1)(a) or any earlier tax year.
- (4) An individual's “remittance basis income and gains” are the foreign income and gains of the individual for all the tax years (up to and including the tax year mentioned in subsection (1)(a)) for which section 809B, 809D or 809E applies to the individual, apart from the individual's nominated income and gains.

809J Section 809I: order of remittances

- (1) If section 809I applies, the following steps are to be taken for the purpose of determining the income or gains treated in a tax year (“the relevant tax year”) as remitted to the United Kingdom by the individual.

Step 1

Find the total amount of—

- (a) the individual's nominated income and gains, and
- (b) the individual's remittance basis income and gains,

that have been remitted to the United Kingdom in the relevant tax year.

This amount is “the relevant amount”.

Step 2

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

Find the amount of foreign income and gains of the individual for the relevant tax year (other than income or chargeable gains nominated under section 809C) that is within each of the categories of income and gains in paragraphs (a) to (h) of subsection (2).

If none of sections 809B, 809D and 809E apply to the individual for that year, treat those amounts as nil (and accordingly go to step 6).

Step 3

Find the earliest paragraph for which the amount determined under step 2 is not nil.

If that amount does not exceed the relevant amount, treat the individual as having remitted the income or gains within that paragraph (and for that tax year).

Otherwise, treat the individual as having remitted the relevant proportion of each kind of income or gains within that paragraph (and for that tax year).

“The relevant proportion” is the relevant amount divided by the amount determined under step 2 for that paragraph.

Step 4

Reduce the relevant amount by the amount taken into account under step 3.

Step 5

If the relevant amount (as reduced under step 4) is not nil, start again at step 3.

In step 3, read the reference to the earliest paragraph of the kind mentioned there as a reference to the earliest such paragraph which has not previously been taken into account under that step.

Step 6

If the relevant amount (as reduced) is not nil once steps 3 to 5 have been undertaken in relation to all paragraphs of subsection (2) for which the amount determined under step 2 is not nil, start again at step 2.

In step 2, read the reference to the foreign income and gains of the individual for the relevant tax year as a reference to such of the foreign income and gains of the individual for the appropriate tax year as had not been remitted by the beginning of the relevant tax year.

“The appropriate tax year” is the latest tax year which is—

- (a) before the last tax year for which step 2 has been undertaken, and
- (b) a tax year for which section 809B, 809D or 809E applies to the individual.

(2) The kinds of income and gains are—

- (a) relevant foreign earnings (other than those subject to a foreign tax),
- (b) foreign specific employment income (other than income subject to a foreign tax),
- (c) relevant foreign income (other than income subject to a foreign tax),
- (d) foreign chargeable gains (other than gains subject to a foreign tax),
- (e) relevant foreign earnings subject to a foreign tax,
- (f) foreign specific employment income subject to a foreign tax,
- (g) relevant foreign income subject to a foreign tax, and

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (h) foreign chargeable gains subject to a foreign tax.
- (3) In this section the individual's "nominated income and gains" are the total income and chargeable gains nominated by the individual under section 809C for the relevant tax year or any earlier tax year.
- (4) In step 1 of subsection (1) the individual's "remittance basis income and gains" are the foreign income and gains of the individual for all the tax years (up to and including the relevant tax year) for which section 809B, 809D or 809E applies to the individual, apart from the individual's nominated income and gains.
- (5) In step 6 of subsection (1) the reference to income or gains being remitted is—
 - (a) as respects any tax year before section 809I applies, to income or gains being remitted to the United Kingdom, and
 - (b) as respects any tax year in relation to which that section applies, to income or gains treated under this section as so remitted.
- (6) In subsection (2) "foreign tax" means any tax chargeable under the law of a territory outside the United Kingdom.

Remittance of income and gains: introduction

809K Sections 809L to 809Z6: introduction

- (1) Sections 809L to 809Z6 apply for the purposes of—
 - (a) this Chapter,
 - (b) sections 22 and 26 of ITEPA 2003 (relevant foreign earnings charged on remittance basis),
 - (c) section 41A of that Act (specific employment income from securities etc charged on remittance basis),
 - (d) section 832 of ITTOIA 2005 (relevant foreign income charged on remittance basis), and
 - (e) section 12 of TCGA 1992 (foreign chargeable gains charged on remittance basis).
- (2) Those sections—
 - (a) explain what is meant by income or chargeable gains being "remitted to the United Kingdom" (sections 809L to 809O),
 - (b) provide for the calculation of the amount remitted (section 809P),
 - (c) contain rules for attributing transfers from mixed funds to particular kinds of income and capital (sections 809Q to 809S),
 - (d) contain supplementary provision for certain cases (sections 809T and 809U), and
 - (e) treat income or chargeable gains as not remitted to the United Kingdom in certain cases (sections 809V to 809Z6).

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Remittance of income and gains: meaning of “remitted to the United Kingdom”

809L Meaning of “remitted to the United Kingdom”

- (1) An individual's income is, or chargeable gains are, “remitted to the United Kingdom” if—
 - (a) conditions A and B are met,
 - (b) condition C is met, or
 - (c) condition D is met.
- (2) Condition A is that—
 - (a) money or other property is brought to, or received or used in, the United Kingdom by or for the benefit of a relevant person, or
 - (b) a service is provided in the United Kingdom to or for the benefit of a relevant person.
- (3) Condition B is that—
 - (a) the property, service or consideration for the service is (wholly or in part) the income or chargeable gains,
 - (b) the property, service or consideration—
 - (i) derives (wholly or in part, and directly or indirectly) from the income or chargeable gains, and
 - (ii) in the case of property or consideration, is property of or consideration given by a relevant person,
 - (c) the income or chargeable gains are used outside the United Kingdom (directly or indirectly) in respect of a relevant debt, or
 - (d) anything deriving (wholly or in part, and directly or indirectly) from the income or chargeable gains is used as mentioned in paragraph (c).
- (4) Condition C is that qualifying property of a gift recipient—
 - (a) is brought to, or received or used in, the United Kingdom, and is enjoyed by a relevant person,
 - (b) is consideration for a service that is enjoyed in the United Kingdom by a relevant person, or
 - (c) is used outside the United Kingdom (directly or indirectly) in respect of a relevant debt.
- (5) Condition D is that property of a person other than a relevant person (apart from qualifying property of a gift recipient)—
 - (a) is brought to, or received or used in, the United Kingdom, and is enjoyed by a relevant person,
 - (b) is consideration for a service that is enjoyed in the United Kingdom by a relevant person, or
 - (c) is used outside the United Kingdom (directly or indirectly) in respect of a relevant debt,

in circumstances where there is a connected operation.
- (6) In a case where subsection (4)(a) or (b) or (5)(a) or (b) applies to the importation or use of property, the income or chargeable gains are taken to be remitted at the time the property or service is first enjoyed by a relevant person by virtue of that importation or use.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (7) In this section “relevant debt” means a debt that relates (wholly or in part, and directly or indirectly) to—
- (a) property falling within subsection (2)(a),
 - (b) a service falling within subsection (2)(b),
 - (c) qualifying property dealt with as mentioned in subsection (4)(a),
 - (d) a service falling within subsection (4)(b),
 - (e) qualifying property dealt with as mentioned in subsection (5)(a), or
 - (f) a service falling within subsection (5)(b).
- ^{F9}(8)
- (9) The cases in which [^{F10}property (including income or chargeable gains) is used in respect of a debt include cases where the property is] used to pay interest on the debt.
- (10) This section is subject to sections 809V to 809Z6 (property treated as not remitted to the United Kingdom).

Textual Amendments

- F9** S. 809L(8) omitted (retrospective to 22.4.2009) by virtue of [Finance Act 2009 \(c. 10\), Sch. 27 paras. 6\(2\), 15\(2\)](#)
- F10** Words in s. 809L(9) substituted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\), Sch. 27 paras. 6\(3\), 15\(2\)](#)

809M Meaning of “relevant person”

- (1) This section applies for the purposes of sections 809L, 809N and 809O.
- (2) A “relevant person” is—
- (a) the individual,
 - (b) the individual's husband or wife,
 - (c) the individual's civil partner,
 - (d) a child or grandchild of a person falling within any of paragraphs (a) to (c), if the child or grandchild has not reached the age of 18,
 - (e) a close company in which a person falling within any other paragraph of this subsection is a participator [^{F11}or a company which is a 51% subsidiary of such a close company],
 - (f) a company in which a person falling within any other paragraph of this subsection is a participator, and which would be a close company if it were resident in the United Kingdom,
 - (g) the trustees of a settlement of which a person falling within any other paragraph of this subsection is a beneficiary, or
 - (h) a body connected with such a settlement.
- (3) For that purpose—
- (a) a man and woman living together as husband and wife are treated as if they were husband and wife,
 - (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,

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (c) “close company” has the same meaning as in the Corporation Tax Acts (see sections 414 and 415 of ICTA),
- ^{F12}(ca) [“participator”, in relation to a close company, means a person who is a participator in relation to the company for the purposes of section 419 of ICTA (see sections 417(1) and 419(7) of that Act),
- (cb) “51% subsidiary” has the same meaning as in the Corporation Tax Acts (see section 838 of ICTA),]
- (d) “settlement” and “settlor” have the same meaning as in Chapter 2 of Part 9,
- (e) “beneficiary”, in relation to a settlement, means any person who receives, or may receive, any benefit under or by virtue of the settlement,
- (f) “trustee” has the same meaning as in section 993 (see, in particular, section 994(3)), and
- (g) a body is “connected with” a settlement if the body falls within section 993(3) (c), (d), (e) or (f) as regards the settlement.

Textual Amendments

- F11** Words in s. 809M(2)(e) inserted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 7\(2\), 15\(2\)](#)
- F12** S. 809M(3)(ca)(cb) inserted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 7\(3\), 15\(2\)](#)

809N Section 809L: gift recipients, qualifying property and enjoyment

- (1) This section applies for the purposes of determining whether or not income or chargeable gains of an individual are remitted to the United Kingdom by virtue of condition C in section 809L.
- (2) A “gift recipient” means a person, other than a relevant person, to whom the individual makes a gift of money or other property that—
 - (a) is income or chargeable gains of the individual, or
 - (b) derives (wholly or in part, and directly or indirectly) from income or chargeable gains of the individual.
- (3) The question of whether or not a person is a relevant person is to be determined by reference to the time when a gift is made.
- (4) But, if a person to whom a gift is made subsequently becomes a relevant person, the person ceases to be a gift recipient.
- (5) The individual “makes a gift of” property if the individual disposes of the property—
 - (a) for no consideration, or
 - (b) for consideration less than the full consideration in money or money's worth that would be given if the disposal were by way of a bargain made at arm's length;but, in a case falling in paragraph (b), the individual is to be taken to make a gift of only so much of the property as exceeds the consideration actually given.
- (6) A reference to the individual making a gift of property includes a case where—
 - (a) the individual retains an interest in the property, or

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (b) an interest, right or arrangement enables or entitles the individual to benefit from the property.
- (7) “Qualifying property”, in relation to a gift recipient, is—
- (a) the property that the individual gave to the gift recipient,
 - (b) anything that derives (wholly or in part, and directly or indirectly) from that property, or
 - (c) any other property, but only if it is dealt with as mentioned in section 809L(4) (a), (b) or (c) by virtue of an operation which is effected—
 - (i) with reference to the gift of the property to the gift recipient, or
 - (ii) with a view to enabling or facilitating the gift of the property to the gift recipient to be made.
- (8) In subsection (7)—
- (a) the reference in paragraph (b) to anything deriving from property, and
 - (b) the reference in paragraph (c) to other property,
- includes a thing, or property, that does not belong to the individual but which the individual is enabled or entitled to benefit from by virtue of any interest, right or arrangement.
- (9) Enjoyment by a relevant person of property or a service is to be disregarded in any of these cases—
- (a) if the property or service is enjoyed virtually to the entire exclusion of all relevant persons,
 - (b) if full consideration in money or money's worth is given by a relevant person for the enjoyment, or
 - (c) if the property or service is enjoyed by relevant persons in the same way, and on the same terms, as it may be enjoyed by the general public or by a section of the general public.

809O Section 809L: dealings where there is a connected operation

- (1) This section applies for the purposes of determining whether or not income or chargeable gains of an individual are remitted to the United Kingdom by virtue of condition D in section 809L.
- (2) For the purposes of section 809L(5), the question of whether or not the person whose property is dealt with as mentioned in paragraph (a), (b) or (c) of section 809L(5) is a relevant person is to be determined by reference to the time when the property is so dealt with.
- (3) A “connected operation”, in relation to property dealt with as mentioned in section 809L(5)(a), (b) or (c), means an operation which is effected—
 - (a) with reference to a qualifying disposition, or
 - (b) with a view to enabling or facilitating a qualifying disposition.
- (4) A “qualifying disposition” is a disposition that—
 - (a) is made by a relevant person,
 - (b) is made to, or for the benefit of, the person whose property is dealt with as mentioned in section 809L(5)(a), (b) or (c), and
 - (c) is a disposition of money or other property that is, or derives (wholly or in part, and directly or indirectly) from, income or chargeable gains of the individual.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (5) But a disposition of property is not a qualifying disposition if the disposition is, or is part of, the giving of full consideration in money or money's worth for the dealing that falls within section 809L(5)(a), (b) or (c).
- (6) Enjoyment by a relevant person of property or a service is to be disregarded in any of these cases—
 - (a) if the property or service is enjoyed virtually to the entire exclusion of all relevant persons,
 - (b) if full consideration in money or money's worth is given by a relevant person for the enjoyment, or
 - (c) if the property or service is enjoyed by relevant persons in the same way, and on the same terms, as it may be enjoyed by the general public or by a section of the general public.

Remittance of income and gains: amount remitted

809P Section 809L: amount remitted

- (1) The amount of income or chargeable gains remitted to the United Kingdom is to be determined as follows.
- (2) If the property, service or consideration is the income or chargeable gains, the amount remitted is equal to the amount of the income or chargeable gains.
- (3) If the property, service or consideration derives from the income or chargeable gains, the amount remitted is equal to the amount of income or chargeable gains from which the property, service or consideration derives.
- (4) If the income or chargeable gains are used as mentioned in section 809L(3)(c), the amount remitted is equal to the amount of income or chargeable gains used; but this is subject to subsection (10).
- (5) If anything deriving from the income or chargeable gains is used as mentioned in section 809L(3)(c), the amount remitted is equal to the amount of income or chargeable gains from which what is used derives; but this is subject to subsection (10).
- (6) In a case falling within section 809L(4)(a) or (b), the amount remitted is equal to the amount of the relevant income or chargeable gains.
- (7) In a case falling within section 809L(4)(c), the amount remitted is equal to the amount of the relevant income or chargeable gains; but this is subject to subsection (10).
- (8) In a case falling within section 809L(5)(a) or (b), the amount remitted is equal to the amount of the income or chargeable gains referred to in section 809O(4)(c).
- (9) In a case falling within section 809L(5)(c), the amount remitted is equal to the amount of the income or chargeable gains referred to in section 809O(4)(c); but this is subject to subsection (10).
- (10) If the debt is only partly in respect of the property or service, the amount remitted is (if it would otherwise be greater) limited to the amount the debt would be if it were wholly in respect of the property or service.
- (11) In subsections (6) and (7) “relevant income or chargeable gains” means—

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (a) if the qualifying property falls within section 809N(7)(a), the income or gains—
 - (i) of which the qualifying property consists, or
 - (ii) from which the qualifying property derives;
 - (b) if the qualifying property falls within section 809N(7)(b), the income or gains—
 - (i) of which the property given to the gift recipient consisted, or
 - (ii) from which that property derived;
 - (c) if the qualifying property falls within section 809N(7)(c), the income or gains—
 - (i) of which the property given to the gift recipient consists, or
 - (ii) from which that property derives.
- (12) If the amount remitted (taken together with any amount previously remitted) would otherwise exceed the amount of the income or chargeable gains, the amount remitted is limited to the amount which (when taken together with any amount previously remitted) is equal to the amount of the income or chargeable gains.
- [If the property forms part of a set only part of which is in the United Kingdom, the ^{F13}(13) amount remitted is such portion of what it would have been had the complete set been brought to, or received or used in, the United Kingdom when the part was as is just and reasonable (having regard to the part of the set which is there).]

Textual Amendments

F13 S. 809P(13) inserted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 8, 15\(2\)](#)

Remittance of income and gains: transfers from mixed funds

809Q Sections 809L and 809P: transfers from mixed funds

- (1) This section applies for the purposes mentioned in subsection (2) where condition A in section 809L is met and—
- (a) the property or consideration for the service is (wholly or in part), or derives (wholly or in part, and directly or indirectly) from, a transfer from a mixed fund, or
 - (b) a transfer from a mixed fund, or anything deriving (wholly or in part, and directly or indirectly) from such a transfer, is used as mentioned in section 809L(3)(c).
- (2) The purposes referred to in subsection (1) are—
- (a) determining whether condition B in section 809L is met, and
 - (b) if it is met, determining (under section 809P) the amount of income or chargeable gains remitted.
- (3) The extent to which the transfer is of the individual's income or chargeable gains is to be determined as follows.

Step 1

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

For each of the categories of income and capital in paragraphs (a) to (i) of subsection (4), find (applying section 809R) the amount of income or capital of the individual for the relevant tax year in the mixed fund immediately before the transfer.

“The relevant tax year” is the tax year in which the transfer occurs.

Step 2

Find the earliest paragraph for which the amount determined under step 1 is not nil.

If that amount does not exceed the amount of the transfer, treat the transfer as containing the income or capital within that paragraph (and for that tax year).

Otherwise, treat the transfer as containing the relevant proportion of each kind of income or capital within that paragraph (and for that tax year).

“The relevant proportion” is the amount of the transfer divided by the amount determined under step 1 for that paragraph.

Step 3

Treat the amount of the transfer as reduced by the amount taken into account under step 2.

Step 4

If the amount of the transfer (as reduced under step 3) is not nil, start again at step 2.

In step 2, read the reference to the earliest paragraph of the kind mentioned there as a reference to the earliest such paragraph which has not previously been taken into account under that step in relation to the transfer.

Step 5

If the amount of the transfer (as reduced under step 3) is not nil once steps 2 and 3 have been undertaken in relation to all paragraphs of subsection (4) for which the amount determined under step 1 is not nil, start again at step 1.

In step 1, read the reference to the relevant tax year as a reference to the tax year immediately before the last tax year for which step 1 has been undertaken in relation to the transfer.

- (4) The kinds of income and capital are—
- (a) employment income (other than income within paragraph (b), (c) or (f)),
 - (b) relevant foreign earnings (other than income within paragraph (f)),
 - (c) foreign specific employment income (other than income within paragraph (f)),
 - (d) relevant foreign income (other than income within paragraph (g)),
 - (e) foreign chargeable gains (other than chargeable gains within paragraph (h)),
 - (f) employment income subject to a foreign tax,
 - (g) relevant foreign income subject to a foreign tax,
 - (h) foreign chargeable gains subject to a foreign tax, and
 - (i) income or capital not within another paragraph of this subsection.
- (5) In subsection (4) “foreign tax” means any tax chargeable under the law of a territory outside the United Kingdom.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (6) In this section “mixed fund” means money or other property which, immediately before the transfer, contains or derives from—
- (a) more than one of the kinds of income and capital mentioned in subsection (4), or
 - (b) income or capital for more than one tax year.
- (7) References in this section to the amount of the transfer include the market value of it.
- (8) References in this section and section 809R to anything deriving from income or capital within paragraph (i) of subsection (4) do not include—
- (a) income or gains within any of paragraphs (a) to (h) of that subsection, or
 - (b) anything deriving from such income or gains.

809R Section 809Q: composition of mixed fund

- (1) This section applies for the purposes of step 1 of section 809Q(3) (composition of mixed fund).
- (2) Treat property which derives wholly or in part (and directly or indirectly) from an individual's income or capital for a tax year as consisting of or containing that income or capital.
- (3) If a debt relating (wholly or in part, and directly or indirectly) to property is at any time satisfied (wholly or in part) by—
 - (a) an individual's income or capital for a tax year, or
 - (b) anything deriving (directly or indirectly) from such income or capital,
 from that time treat the property as consisting of or containing the income or capital if and to the extent that it is just and reasonable to do so.
- (4) Treat an offshore transfer from a mixed fund as containing the appropriate proportion of each kind of income or capital in the fund immediately before the transfer.

“The appropriate proportion” means the amount (or market value) of the transfer divided by the market value of the mixed fund immediately before the transfer.
- (5) A transfer from a mixed fund is an “offshore transfer” for the purposes of subsection (4) if and to the extent that section 809Q does not apply in relation to it.
- (6) Treat a transfer from a mixed fund as an “offshore transfer” (and section 809Q as not applying in relation to it, if it otherwise would do) if and to the extent that, at the end of a tax year in which it is made—
 - (a) section 809Q does not apply in relation to it, and
 - (b) on the basis of the best estimate that can reasonably be made at that time, section 809Q will not apply in relation to it.
- (7) In this section ‘mixed fund’ means money or other property containing or deriving from—
 - (a) more than one of the kinds of income and capital mentioned in section 809Q(4), or
 - (b) income or capital for more than one tax year.
- (8) If section 809Q applies in relation to part of a transfer, apply that section in relation to that part before applying subsection (4) in relation to the rest of the transfer.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (9) If section 809Q applies in relation to more than one transfer from a mixed fund, when undertaking step 1 in relation to the second or any subsequent transfer take into account the effect of step 2 of section 809Q(3) (composition of transfer) as it applied in relation to each earlier transfer.

809S Section 809Q: anti-avoidance

- (1) This section applies if, by reason of an arrangement the main purpose (or one of the main purposes) of which is to secure an income tax advantage or capital gains tax advantage, a mixed fund would otherwise be regarded as containing income or capital within any of paragraphs (f) to (i) of section 809Q(4).
- (2) Treat the mixed fund as containing so much (if any) of the income or capital as is just and reasonable.
- (3) “Arrangement” includes any scheme, understanding, transaction or series or transactions (whether or not enforceable).
- (4) “Income tax advantage” has the meaning given by section 683.
- (5) “Capital gains tax advantage” means—
- a relief from capital gains tax or increased relief from capital gains tax,
 - a repayment of capital gains tax or increased repayment of capital gains tax,
 - the avoidance or reduction of a charge to capital gains tax or an assessment to capital gains tax, or
 - the avoidance of a possible assessment to capital gains tax.

Remittance of income and gains: supplementary

809T Foreign chargeable gains accruing on disposal made [^{F14}otherwise] than for full consideration

- (1) This section applies if—
- foreign chargeable gains accrue to an individual on the disposal of an asset, and
 - the individual does not receive consideration for the disposal of an amount [^{F15}at least] equal to the market value of the asset.
- (2) For the purposes of this Chapter treat the asset as deriving from the chargeable gains.

Textual Amendments

F14 Word in s. 809T heading substituted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 9\(3\), 15\(2\)](#)

F15 Words in s. 809T(1)(b) inserted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 9\(2\), 15\(2\)](#)

809U Deemed income or gains not to be regarded as remitted before time when they are treated as arising or accruing

Where—

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (a) income or foreign chargeable gains are treated as arising or accruing, and
 - (b) by virtue of anything done in relation to anything regarded as deriving from the income or chargeable gains, the income or chargeable gains would otherwise be regarded as remitted to the United Kingdom before the time when they are treated as arising or accruing,
- treat the income or chargeable gains as remitted to the United Kingdom at that time.

Remittance of income and gains: property treated as not remitted

809V Money paid to the Commissioners

- (1) Money that is brought to the United Kingdom by way of one or more direct payments to the Commissioners is to be treated as not remitted to the United Kingdom—
 - (a) if the payments are made in relation to a tax year to which section 809H applies, and
 - (b) if, or to the extent that, the payments do not exceed £30,000.
- (2) Subsection (1) does not apply to a payment if, or to the extent that, it is repaid by the Commissioners.

809W Consideration for certain services

- (1) This section applies to income or chargeable gains if—
 - (a) the income or gains would (but for subsection (2)) be regarded as remitted to the United Kingdom because conditions A and B in section 809L are met,
 - (b) condition A in section 809L is met because a service is provided in the United Kingdom (“the relevant UK service”), and
 - (c) condition B in section 809L is met because section 809L(3)(a) or (b) applies to the consideration for the relevant UK service (“the relevant consideration”).
- (2) The income or chargeable gains are to be treated as not remitted to the United Kingdom if the following conditions are met; but this is subject to subsection (5).
- (3) Condition A is that the relevant UK service relates wholly or mainly to property situated outside the United Kingdom.
- (4) Condition B is that the whole of the relevant consideration is given by way of one or more payments to one or more bank accounts held outside the United Kingdom by or on behalf of the person who provides the relevant UK service.
- (5) Subsection (2) does not apply if the relevant UK service relates (to any extent) to the provision in the United Kingdom of—
 - (a) a benefit that is treated as deriving from the income by virtue of section 735, or
 - (b) a relevant benefit within the meaning of section 87B of TCGA 1992 that is treated as deriving from the chargeable gains by virtue of that section.
- (6) Sections 275 to 275C of TCGA 1992 (location of assets) apply for the purposes of subsection (3) as they apply for the purposes of TCGA 1992.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

809X Exempt property

- (1) Exempt property which is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies is to be treated as not remitted to the United Kingdom.
- (2) Subsections (3) to (5) set out the cases in which property is exempt property.
- (3) Property is exempt property if it meets the public access rule (see sections 809Z and 809Z1).
- (4) Clothing, footwear, jewellery and watches ^{F16}... are exempt property if they meet the personal use rule (see section 809Z2).
- (5) Property ^{F17}... is exempt property if—
 - (a) the property meets the repair rule (see section 809Z3),
 - (b) the property meets the temporary importation rule (see section 809Z4), or
 - (c) the notional remitted amount (see section 809Z5) is less than £1,000.

Textual Amendments

F16 Words in s. 809X(4) omitted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 10\(2\)](#)

F17 Words in s. 809X(5) omitted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 10\(3\)](#)

809Y Property that ceases to be exempt property treated as remitted

- (1) Property that ceases to be exempt property is to be treated as having been remitted to the United Kingdom at the time it ceases to be exempt property.
- (2) Property ceases to be exempt property in either of the following cases.
- (3) The first case is where the whole or part of the exempt property is sold, or otherwise converted into money, whilst it is in the United Kingdom.
- (4) The second case is where the property—
 - (a) is exempt property only because it meets one or more of the relevant rules,
 - (b) ceases to meet that rule, or all of those rules, whilst it is in the United Kingdom, and
 - (c) does not meet any other relevant rule.
- (5) In this section—

“money” includes—

 - (a) a traveller's cheque,
 - (b) a promissory note,
 - (c) a bill of exchange, and
 - (d) any other—
 - (i) instrument that is evidence of a debt, or
 - (ii) voucher, stamp or similar token or document which is capable of being exchanged for money, goods or services, and

“relevant rule” means—

Status: Point in time view as at 21/07/2009.

*Changes to legislation: There are currently no known outstanding effects
for the Income Tax Act 2007, Part 14. (See end of Document for details)*

- (a) the public access rule,
- (b) the personal use rule,
- (c) the repair rule, and
- (d) the temporary importation rule.

809Z Public access rule: general

- (1) Property meets the public access rule if conditions A to D are met.
- (2) Condition A is that the property is—
 - (a) a work of art,
 - (b) a collectors' item, or
 - (c) an antique,within the meaning of Council Directive [2006/112/EC](#) (see, in particular, Annex IX to that Directive).
- (3) Condition B is that—
 - (a) the property is available for public access at an approved establishment,
 - (b) the property is to be available for public access at an approved establishment and, in connection with its being so available, is in transit to, or in storage at, public access rule premises, or
 - (c) the property has been available for public access at an approved establishment and, in connection with its having been so available, is in transit from, or in storage at, public access rule premises.
- (4) Property is “available for public access” at an approved establishment if the property is—
 - (a) on public display at the establishment,
 - (b) held by the establishment and made available to the public on request for viewing or for educational use, or
 - (c) held by the establishment for public exhibition in connection with the sale of the property.
- (5) An “approved establishment” is—
 - (a) an approved museum, gallery or other institution within the meaning of Group 9 of Schedule 2 to the Value Added Tax (Imported Goods) Relief Order 1984, or
 - (b) any other person, premises or institution designated (or of a description designated) by the Commissioners.
- (6) “Public access rule premises” are—
 - (a) premises in the United Kingdom at which the property is to be, or has been, available for public access, or
 - (b) other commercial premises in the United Kingdom used by the approved establishment for the storage of property in advance of its being, or after its having been, available for public access at the approved establishment.
- (7) Condition C is that, during the relevant period, the property meets condition B for no more than—
 - (a) two years, or
 - (b) such longer period as the Commissioners may specify.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (8) “The relevant period” means the period—
 - (a) beginning with the importation of the property, and
 - (b) ending when it ceases to be in the United Kingdom after that importation.
- (9) “Importation” means the property being brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies.
- (10) Condition D is that the property attracts a relevant VAT relief (see section 809Z1).

809Z1 Public access rule: relevant VAT relief

- (1) Property “attracts a relevant VAT relief” if any of conditions 1 to 4 is met.
- (2) Condition 1 is that article 5(1) of the Value Added Tax (Imported Goods) Relief Order 1984 applies in relation to the importation of the property by virtue of Group 9 of Schedule 2 to that Order (importation of works of art or collectors' pieces by museums etc).
- (3) Condition 2 is that article 5(1) would so apply if the following requirements were disregarded—
 - (a) the requirement that the importation be from a third country, and
 - (b) the requirement that the purpose of the importation be a purpose other than sale.
- (4) Condition 3 is that article 576(3)(a) of Commission Regulation ([EEC](#)) No 2454/93 (relief from import duties for works of art etc imported for the purposes of exhibition, with a view to possible sale) applies in relation to the importation of the property.
- (5) Condition 4 is that article 576(3)(a) would so apply if the requirement that the importation be from a third country were disregarded.
- (6) Where the property does not meet condition B in section 809Z at the time of its importation it is to be assumed for the purposes of this section that the property was imported on the day during the relevant period when the property first meets that condition.
- (7) “The relevant period” and “importation” have the same meaning as in section 809Z and “imported” is to be read accordingly.

809Z2 Personal use rule

- (1) Clothing, footwear, jewellery or watches meet the personal use rule if they—
 - (a) are property of a relevant person, and
 - (b) are for the personal use of a relevant individual.
- (2) In this section—
 - (a) “relevant person” has the meaning given by section 809M, and
 - (b) “relevant individual” means an individual who is a relevant person by virtue of section 809M(2)(a), (b), (c) or (d) (the individual with income or gains, or a husband, wife, civil partner, child or grandchild).

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

809Z3 Repair rule

- (1) Property meets the repair rule for the whole of the relevant period if, during the whole of that period, the property meets the repair conditions.
- (2) Property meets the repair rule for a part of the relevant period if—
 - (a) during the whole of that part of that period, the property meets the repair conditions, and
 - (b) during the whole of the other part of that period, or the whole of each other part of that period, the property meets the repair conditions or the public access rule.
- (3) Property meets the repair conditions if the property—
 - (a) is under repair or restoration,
 - (b) is in transit from a place outside the United Kingdom to repair rule premises, in transit between such premises, or in storage at such premises, in advance of repair or restoration, or
 - (c) is in storage at such premises, in transit between such premises, or in transit from such premises to a place outside the United Kingdom, following repair or restoration.
- (4) “Repair rule premises” means—
 - (a) premises in the United Kingdom that are to be used, or have been used, for the repair or restoration referred to in subsection (3)(b) or (c), or
 - (b) other commercial premises in the United Kingdom used by the restorer for the storage of property in advance of, or following, repair or restoration of property by the restorer.
- (5) “Restorer” means the person who is to carry out, or has carried out, the repair or restoration referred to in subsection (3)(b) or (c).
- (6) Property meets the repair conditions, or the public access rule, during the whole of a period, or the whole of part of a period, if the property meets those conditions or that rule—
 - (a) on the whole of, or on part of, the first day of that period or part period,
 - (b) on the whole of, or on part of, the last day of that period or part period, and
 - (c) on the whole of each other day of that period or part period.
- (7) “The relevant period” has the same meaning as in section 809Z.

809Z4 Temporary importation rule

- (1) Property meets the temporary importation rule if the total number of countable days is 275 or fewer.
- (2) A “countable day” is a day on which, or on part of which, the property is in the United Kingdom by virtue of being brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies (whether the current case, or a past case, when the property was so brought, received or used).
- (3) A day is not a countable day if, on that day or any part of that day—
 - (a) the property meets the personal use rule,
 - (b) the property meets the repair rule, or

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (c) the notional remitted amount in relation to the property is less than £1,000.
- (4) A day on which, or on part of which, the property meets the public access rule (the “relevant day”) is not a countable day if any of conditions A to C is met.
- (5) Condition A is that the property meets the public access rule during the whole of the period of importation in which the relevant day falls.
- (6) Condition B is that—
 - (a) the property does not meet the public access rule during the whole of the period of importation in which the relevant day falls, and
 - (b) that period of importation—
 - (i) begins with a period of no public access, and
 - (ii) ends with a period of public access which immediately follows that period of no public access.
- (7) Condition C is that—
 - (a) the property does not meet the public access rule during the whole of the period of importation in which the relevant day falls, and
 - (b) during the parts, or each of the parts of the period of importation during which the property does not meet the public access rule it meets the repair conditions.
- (8) Section 809Z3(6) applies for the purposes of this section.
- (9) “Period of importation” means a period that—
 - (a) begins when property is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies, and
 - (b) ends when the property ceases to be in the United Kingdom after having been so brought, received or used.
- (10) “Period of no public access” means a period which is not a period of public access and “period of public access” means a period during the whole of which property meets the public access rule.

809Z5 Notional remitted amount

- (1) The “notional remitted amount”, in relation to property, is the amount ^{F18}... that would be taken to be remitted to the United Kingdom in relation to the property (if section 809X did not apply in relation to the property).

^{F19}(2)

^{F19}(3)

Textual Amendments

F18 Words in s. 809Z5(1) omitted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 11\(2\)](#)

F19 S. 809Z5(2)(3) omitted (21.7.2009 retrospective) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 11\(3\), 15\(2\)](#)

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

809Z6 Exempt property: other interpretation

- (1) This section applies for the purposes of sections 809X to 809Z5.
- (2) “Property” does not include money.
- (3) In subsection (2) “money” includes—
 - (a) a traveller's cheque,
 - (b) a promissory note,
 - (c) a bill of exchange, and
 - (d) any other—
 - (i) instrument that is evidence of a debt, or
 - (ii) voucher, stamp or similar token or document which is capable of being exchanged for money, goods or services.
- (4) References to property being in the United Kingdom are references to the property—
 - (a) being in the United Kingdom after being brought to, or received in, the United Kingdom in circumstances in which section 809L(2)(a) applies, or
 - (b) being used in the United Kingdom in circumstances in which section 809L(2)(a) applies.

Interpretation of Chapter

809Z7 Interpretation of Chapter

- (1) This section applies for the purposes of this Chapter.
- (2) An individual's “foreign income and gains” for a tax year are—
 - (a) the individual's relevant foreign earnings for that year,
 - (b) the individual's foreign specific employment income for that year,
 - (c) the individual's relevant foreign income for that year, and
 - (d) if the individual is not domiciled in the United Kingdom in that year, the individual's foreign chargeable gains for that year.
- (3) An individual's “relevant foreign earnings” for a tax year are—
 - (a) if the individual is ordinarily UK resident in that year, the individual's chargeable overseas earnings for that year, and
 - (b) otherwise, the individual's general earnings within section 26(1) of ITEPA 2003 for that year (non-UK earnings).
- (4) An individual's “foreign specific employment income” for a tax year is such of the individual's specific employment income for that year as is foreign securities income for the purposes of section 41A of ITEPA 2003.
- (5) An individual's “foreign chargeable gains” for a tax year are the foreign chargeable gains (within the meaning of section 12(4) of TCGA 1992) accruing to the individual in that year.
- (6) In subsection (3)(a) “chargeable overseas earnings” has the same meaning as in section 22 of ITEPA 2003 (see section 23 of that Act).
- (7) “The Commissioners” means the Commissioners for Her Majesty's Revenue and Customs.]

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

CHAPTER 1

LIMITS ON LIABILITY TO INCOME TAX OF NON-UK RESIDENTS

Introduction

810 Overview of Chapter

- (1) This Chapter provides for limits on the liability to income tax of non-UK residents.
- (2) See sections 811 to 814 in the cases of—
 - (a) a non-UK resident, other than a company, and
 - (b) a non-UK resident company liable as a trustee.
- (3) See sections 815 and 816 in the case of a non-UK resident company which is liable otherwise than as a trustee.

Limit for non-UK resident individuals, trustees etc

811 Limit on liability to income tax of non-UK residents

- (1) This section applies to income tax to which—
 - (a) a non-UK resident, other than a company, is liable, or
 - (b) a non-UK resident company is liable as a trustee.
- (2) Subsection (1) is subject to section 812 (case where limit not to apply).
- (3) The non-UK resident's liability to income tax for a tax year is limited to the sum of amounts A and B.
- (4) Amount A is the sum of—
 - (a) any sums representing income tax deducted from the non-UK resident's disregarded income for the tax year (see section 813),
 - (b) any sums representing income tax that are treated as deducted from or paid in respect of that income, and
 - (c) any tax credits in respect of that income.
- (5) Amount B is the amount that, apart from this section, would be the non-UK resident's liability to income tax for the tax year, if the following were left out of account—
 - (a) the non-UK resident's disregarded income for the tax year, and
 - (b) any relief mentioned in subsection (6) to which the non-UK resident is entitled for the tax year as a result of—
 - (i) section 56(3) or 460(3) of this Act ^{F20}... (residence etc of claimants), or
 - (ii) double taxation arrangements.
- (6) The reliefs referred to in subsection (5) are—
 - (a) an allowance under Chapter 2 of Part 3 of this Act ^{F21}... (personal allowance and blind person's allowance),
 - (b) a tax reduction under Chapter 3 of Part 3 of this Act ^{F21}... (tax reductions for married couples and civil partners),

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (c) relief under section 457 or 458 of this Act (payments to trade unions and police organisations),
- (d) a tax reduction under section 459 of this Act ^{F21}... (payments for benefit of family members), and
- (e) relief under section 266 of ICTA (life assurance premiums).

Textual Amendments

- F20** Words in s. 811(5) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(o\)\(iv\)](#)
- F21** Words in s. 811(6) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(o\)\(iv\)](#)

812 Case where limit not to apply

- (1) Section 811 does not apply to income tax to which non-UK resident trustees are liable for a tax year, if there is a beneficiary of the trust who is—
 - (a) an individual who is ordinarily UK resident, or
 - (b) a UK resident company.
- (2) For the purposes of subsection (1) a person is a beneficiary of the trust if—
 - (a) the person is an actual or potential beneficiary of the trust, and
 - (b) condition A or B is met in relation to the person.
- (3) Condition A is that the person is, or will or may become, entitled under the trust to receive some or all of any income under the trust.
- (4) Condition B is that some or all of any income under the trust may be paid to or used for the benefit of the person in the exercise of a discretion conferred by the trust.
- (5) The references in subsections (3) and (4) to any income under the trust include a reference to any capital under the trust so far as it represents amounts originally received by the trustees as income.

813 Meaning of “disregarded income”

- (1) For the purposes of this Chapter income arising to a non-UK resident is “disregarded income” if it is—
 - (a) disregarded savings and investment income (see section 825),
 - (b) disregarded annual payments (see section 826),
 - (c) disregarded pension income,
 - (d) disregarded social security income,
 - (e) disregarded transaction income (see section 814), or
 - (f) income of such other description as the Treasury may by regulations designate for the purposes of this section.
- (2) But income in relation to which the non-UK resident has a UK representative for the purposes of section 126 of, and Schedule 23 to, FA 1995 (UK representatives of non-UK residents) is not disregarded income.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (3) Income is “disregarded pension income” if it is chargeable under Part 9 of ITEPA 2003 (pension income) because any of the following provisions of that Act applies to it—
 - section 577 (UK social security pensions),
 - section 579A (pensions under registered pension schemes) (but see subsection (4) below),
 - section 609 (annuities for the benefit of dependants),
 - section 610 (annuities under non-registered occupational pension schemes), or
 - section 611 (annuities in recognition of another's services).
- (4) Income chargeable under Part 9 of ITEPA 2003 because section 579A of that Act applies to it is disregarded pension income only if the registered pension scheme in question—
 - (a) falls within paragraph 1(1)(f) of Schedule 36 to FA 2004, and
 - (b) was, immediately before 6 April 2006, a retirement annuity contract to which section 605 of ITEPA 2003 applied.
- (5) Income is “disregarded social security income” if—
 - (a) it is a taxable benefit listed in Table A in section 660 of ITEPA 2003, other than income support or jobseeker's allowance, and
 - (b) it is chargeable under Part 10 of that Act (social security income).

814 Meaning of “disregarded transaction income”

- (1) Subsection (2) applies if a non-UK resident carries on (alone or in partnership) a business through a broker in the United Kingdom.
- (2) Income is “disregarded transaction income”, subject to subsection (6), if—
 - (a) it is transaction income, and
 - (b) the independent broker conditions are met in relation to the transaction in question.
- (3) Subsection (4) applies if a non-UK resident carries on (alone or in partnership) a business through an investment manager in the United Kingdom.
- (4) Income is “disregarded transaction income”, subject to subsection (6), if—
 - (a) it is transaction income, and
 - (b) the independent investment manager conditions are met in relation to the transaction in question.
- (5) In this Chapter “transaction income”, in relation to a transaction carried out through a broker or investment manager in the United Kingdom on behalf of a non-UK resident, means income which arises to the non-UK resident from—
 - (a) so much of the non-UK resident's business carried on (alone or in partnership) through the broker or investment manager as relates to the transaction, or
 - (b) property or rights which, as a result of the transaction, are used by, or held by or for, the broker or investment manager on behalf of the non-UK resident.
- (6) Income is not disregarded transaction income if it is chargeable to income tax in accordance with section 171(2) of FA 1993 (profits of the underwriting business of a member of Lloyd's).
- (7) This section needs to be read with—

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

section 817 (the independent broker conditions),
sections 818 to 824 (the independent investment manager conditions),
section 827 (meaning of “investment manager” and “investment transaction”),
and
section 828 (transactions through brokers and investment managers).

Limit for non-UK resident companies

815 Limit on liability to income tax of non-UK resident companies

- (1) This section applies to income tax to which a non-UK resident company is liable, otherwise than as a trustee.
- (2) The non-UK resident company's liability to income tax for a tax year is limited to the sum of amounts A and B.
- (3) Amount A is the sum of—
 - (a) any amounts representing income tax deducted from the non-UK resident company's disregarded company income for the tax year,
 - (b) any amounts representing income tax that are treated as deducted from or paid in respect of that income, and
 - (c) any tax credits in respect of that income.
- (4) Amount B is the amount that, apart from this section, would be the non-UK resident company's liability to income tax for the tax year if the non-UK resident company's disregarded company income for the tax year were left out of account.

816 Meaning of “disregarded company income”

- (1) For the purposes of this Chapter income arising to a non-UK resident company is “disregarded company income” if it is—
 - (a) disregarded savings and investment income (see section 825),
 - (b) disregarded annual payments (see section 826),
 - [^{F22}(c) income arising from a transaction carried out through a broker in the United Kingdom acting as an agent of independent status in the ordinary course of the broker's business,]
 - [^{F22}(d) income arising from a transaction carried out through an investment manager in the United Kingdom acting as an agent of independent status in the ordinary course of the investment manager's business, or]
 - (e) income of such other description as the Treasury may by regulations designate for the purposes of this section.
- [^{F23}(2) A broker is regarded for the purposes of subsection (1)(c) as an agent of independent status acting in the ordinary course of the broker's business in relation to a transaction carried out on behalf of a non-UK resident company in the course of that company's trade if, and only if, the independent broker conditions are met in relation to the transaction (see section 817).
- (3) An investment manager is regarded for the purposes of subsection (1)(d) as an agent of independent status acting in the ordinary course of the investment manager's business in relation to an investment transaction carried out on behalf of a non-UK resident company in the course of that company's trade if, and only if, the independent

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

investment manager conditions are met in relation to the investment transaction (see sections 818 to 824).

- (4) This section needs to be read with—
section 827 (meaning of “investment manager” and “investment transaction”), and
section 828 (transactions through brokers and investment managers).]

Textual Amendments

- F22** S. 816(1)(c)(d) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [Income Tax Act 2007 \(Amendment\) \(No.3\) Order 2007 \(S.I. 2007/3506\)](#), arts. 1(1), **3(4)(a)**
- F23** S. 816(2)-(4) substituted for s. 816(2) (with effect in accordance with art. 1(2) of the amending S.I.) by [Income Tax Act 2007 \(Amendment\) \(No.3\) Order 2007 \(S.I. 2007/3506\)](#), arts. 1(1), **3(4)(b)**

The independent broker conditions

817 The independent broker conditions

- (1) The independent broker conditions are met in relation to a transaction carried out on behalf of a non-UK resident by a broker in the United Kingdom if—
- (a) conditions A to D are met, if this section applies for the purposes of section 813, or
 - (b) conditions A to C and E are met, if this section applies for the purposes of section 816.
- (2) Condition A is that at the time of the transaction the broker is carrying on the business of a broker.
- (3) Condition B is that the transaction is carried out by the broker in the ordinary course of that business.
- (4) Condition C is that the remuneration which the broker receives in respect of the transaction for the provision of the services of a broker to the non-UK resident is not less than is customary for that class of business.
- (5) Condition D is that the broker does not fall for the purposes of section 126 of, and Schedule 23 to, FA 1995 to be treated as a UK representative of the non-UK resident in relation to any other income which is chargeable to income tax, or amounts which are chargeable to capital gains tax, for the same tax year as the transaction income.
- (6) Condition E is that the broker does not fall to be treated as a permanent establishment of the non-UK resident company in relation to any other transaction of any kind carried out in the same accounting period of the non-UK resident company as the transaction in question.

The independent investment manager conditions

818 The independent investment manager conditions

- (1) The independent investment manager conditions are met in relation to an investment transaction carried out on behalf of a non-UK resident by an investment manager in the United Kingdom [^{F24}if conditions A to E are met.]

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (2) Condition A is that at the time of the transaction the investment manager is carrying on a business of providing investment management services.
- (3) Condition B is that the transaction is carried out in the ordinary course of that business.
- (4) Condition C is that, when the investment manager acts on behalf of the non-UK resident in relation to the transaction, the relationship between them, having regard to its legal, financial and commercial characteristics, is a relationship between persons carrying on independent businesses dealing with each other at arm's length.
- (5) Condition D is that the requirements of the 20% rule are met (see section 819).
- (6) Condition E is that the remuneration which the investment manager receives in respect of the transaction for the provision of investment management services to the non-UK resident is not less than is customary for that class of business.

F25(7)

F26(8)

Textual Amendments

- F24** Words in s. 818(1) substituted (21.7.2008 with effect in accordance with Sch. 16 para. 11(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 16 para. 10(2)**
- F25** S. 818(7) omitted (21.7.2008 with effect in accordance with Sch. 16 para. 11(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 16 para. 10(3)**
- F26** S. 818(8) omitted (21.7.2008 with effect in accordance with Sch. 16 para. 11(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 16 para. 10(3)**

819 Investment managers: the 20% rule

- (1) The requirements of the 20% rule are met if conditions A and B are met.
- (2) Condition A is that in relation to a qualifying period it has been or is the intention of the investment manager and the persons connected with the investment manager that at least 80% of the non-UK resident's relevant disregarded income should consist of amounts to which none of them has a beneficial entitlement.
- (3) Condition B is that, so far as there is a failure to fulfil that intention, that failure—
 - (a) is attributable (directly or indirectly) to matters outside the control of the investment manager and persons connected with the investment manager, and
 - (b) does not result from a failure by any of them to take such steps as may be reasonable for mitigating the effect of those matters in relation to the fulfilment of that intention.
- (4) This section needs to be read with—
 - section 820 (meaning of “qualifying period”),
 - section 821 (meaning of “relevant disregarded income”), and
 - section 822 (meaning of “beneficial entitlement”).

820 Meaning of “qualifying period”

- (1) This section applies for the purposes of this Chapter.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (2) If section 819 applies for the purposes of section 813, a “qualifying period” means—
 - (a) the tax year in which the transaction income is chargeable to income tax, or
 - (b) a period of not more than 5 years comprising two or more tax years including that one.
- (3) If section 819 applies for the purposes of section 816, a “qualifying period” means—
 - (a) the accounting period of the non-UK resident company in which the transaction in question is carried out, or
 - (b) a period of not more than 5 years comprising two or more complete accounting periods including that one.

821 Meaning of “relevant disregarded income”

- (1) This section applies for the purposes of this Chapter.
- (2) If section 819 applies for the purposes of section 813, the “relevant disregarded income” of the non-UK resident for the qualifying period is the total of the non-UK resident's income for the tax years comprised in the qualifying period which derives from the transactions mentioned in subsection (4).
- (3) If section 819 applies for the purposes of section 816, the “relevant disregarded income” of the non-UK resident company for the qualifying period is the total of the non-UK resident company's income for the accounting periods comprised in the qualifying period which derives from the transactions mentioned in ^{F27}subsection (5)
- (4) The transactions referred to in ^{F28}subsection (2)] are investment transactions—
 - (a) carried out by the investment manager on the non-UK resident's behalf, and
 - (b) in relation to which the independent investment manager conditions are met, ignoring the requirements of the 20% rule.
- ^{F29}(5) The transactions referred to in subsection (3) are transactions—
 - (a) carried out by the investment manager on the non-UK resident company's behalf, and
 - (b) in relation to which the investment manager does not fall to be treated as a permanent establishment of the non-UK resident company, ignoring the requirements of the 20% rule.]

Textual Amendments

- F27** Words in s. 821(3) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax Act 2007 \(Amendment\) Order 2009 \(S.I. 2009/23\)](#), arts. 1(1), **5(3)(a)**
- F28** Words in s. 821(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax Act 2007 \(Amendment\) Order 2009 \(S.I. 2009/23\)](#), arts. 1(1), **5(3)(b)**
- F29** S. 821(5) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax Act 2007 \(Amendment\) Order 2009 \(S.I. 2009/23\)](#), arts. 1(1), **5(3)(c)**

822 Meaning of “beneficial entitlement”

- (1) This section applies for the purposes of this Chapter.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (2) A person has a “beneficial entitlement” to relevant disregarded income if the person has or may acquire a beneficial entitlement that is, or would be, attributable to the relevant disregarded income as a result of having an interest or other rights mentioned in subsection (3).
- (3) The interests and rights referred to in subsection (2) are—
 - (a) an interest (whether or not an interest giving a right to an immediate payment of a share in the profits or gains) in property in which the whole or any part of the relevant disregarded income is represented, or
 - (b) an interest in, or other rights in relation to, the non-UK resident.

823 Treatment of transactions where requirements of 20% rule not met

- (1) This section applies in the case of an investment transaction in relation to which the independent investment manager conditions are met, except for the requirements of the 20% rule.
- (2) This Chapter has effect as if the requirements of that rule were met in relation to the transaction but only in relation to—
 - (a) so much of the transaction income of the non-UK resident as falls within subsection (3), if this section applies for the purposes of section 813, or
 - (b) so much of the income of the non-UK resident company deriving from the transaction as falls within subsection (3), if this section applies for the purposes of section 816.
- (3) Income falls within this subsection if it does not represent income—
 - (a) which is relevant disregarded income of the non-UK resident, and
 - (b) to which the investment manager or a person connected with the investment manager has or has had any beneficial entitlement.

824 Application of 20% rule to collective investment schemes

- (1) This section applies if amounts arise or accrue to the non-UK resident as a participant in a collective investment scheme.
- (2) It applies for the purposes of determining whether the requirements of the 20% rule are met in relation to a transaction carried out for the purposes of the scheme.
- (3) In applying this section make the following assumptions—
 - (a) that all the transactions carried out for the purposes of the scheme are carried out on behalf of a company (“the assumed company”) which is—
 - (i) constituted for the purposes of the scheme, and
 - (ii) non-UK resident, and
 - (b) that the participants do not have any rights in respect of the amounts arising or accruing in respect of those transactions, other than the rights which, if they held shares in the assumed company, would be their rights as shareholders.
- (4) If the scheme is such that the assumed company would not be regarded for tax purposes as carrying on a trade in the United Kingdom in relation to the appropriate relevant period, the requirements of the 20% rule are treated as met in relation to a transaction carried out for the purposes of the scheme.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (5) If the scheme is such that the assumed company would be so regarded for tax purposes, sections 819 to 823 have effect in relation to a transaction carried out for the purposes of the scheme with the modifications in subsection (6).
- (6) The modifications are—
- (a) for references to the non-UK resident substitute references to the assumed company, and
 - (b) for references to the non-UK resident's relevant disregarded income for a qualifying period substitute references to the sum of the amounts that would, for relevant periods comprised in the qualifying period, be chargeable to tax on the assumed company as profits deriving from the transactions—
 - (i) carried out by the investment manager, and
 - (ii) assumed to be carried out on behalf of the company.
- (7) In this section—
- “the appropriate relevant period” is—
- (a) the tax year in which the transaction income is chargeable to income tax, if this section applies for the purposes of section 813, or
 - (b) the accounting period in which the transaction is carried out, if this section applies for the purposes of section 816,
- “collective investment scheme” has the meaning given by section 235 of FISMA 2000,
- “participant”, in relation to a collective investment scheme, is construed in accordance with that section, and
- “relevant period” means—
- (a) a tax year, if this section applies for the purposes of section 813, or
 - (b) an accounting period, if this section applies for the purposes of section 816.

Supplementary

825 Meaning of “disregarded savings and investment income”

- (1) For the purposes of this Chapter income is “disregarded savings and investment income” if—
- (a) it is chargeable under Chapter 3 or 5 of Part 4 of ITTOIA 2005 (dividends etc from UK resident companies and stock dividends from UK resident companies), or
 - (b) it is within subsection (2) and is not relevant foreign income.
- (2) Income is within this subsection if it is chargeable under—
- (a) Chapter 2 of Part 4 of ITTOIA 2005 (interest),
 - (b) Chapter 7 of that Part (purchased life annuity payments),
 - (c) Chapter 8 of that Part (profits from deeply discounted securities),
 - (d) Chapter 10 of that Part (distributions from unauthorised unit trusts), or
 - (e) Chapter 11 of that Part (transactions in deposits).

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

826 Meaning of “disregarded annual payments”

For the purposes of this Chapter income is “disregarded annual payments” if it is not relevant foreign income and is chargeable under—

- (a) section 579 of ITTOIA 2005, so far as it relates to annual payments (royalties etc from intellectual property),
- (b) Chapter 4 of Part 5 of that Act, so far as it relates to annual payments (certain telecommunication rights: non-trading income), or
- (c) Chapter 7 of Part 5 of that Act (annual payments not otherwise charged).

827 Meaning of “investment manager” and “investment transaction”

(1) In this Chapter “investment manager” means a person who provides investment management services.

[^{F30}(2) In this section “investment transaction” means any transaction of a description specified for the purposes of this section in regulations made by the Commissioners for Her Majesty's Revenue and Customs.

(3) Provision made in regulations under subsection (2) may, in particular, have effect in relation to the tax year current on the day on which the regulations are made.]

Textual Amendments

F30 S. 827(2)(3) substituted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 16 paras. 5\(2\), 11\(4\)](#) (with [Sch. 16 para. 11\(5\)\(6\)](#))

828 Transactions through brokers and investment managers

(1) For the purposes of this Chapter a person is regarded as carrying out a transaction on behalf of another if the person—

- (a) undertakes the transaction, whether on behalf of or to the account of the other, or
- (b) gives instructions for it to be so carried out by another.

(2) In the case of a person who acts as a broker or investment manager as part only of a business, this Chapter has effect as if that part were a separate business.

[^{F31}CHAPTER 1A

EXEMPTION FOR PERSONS NOT DOMICILED IN UNITED KINGDOM

Textual Amendments

F31 Pt. 14 Ch. 1A inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [s. 52\(1\)](#)

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

828A Introduction

This Chapter provides for an exemption from liability to income tax for an individual for a tax year if—

- (a) the individual is UK resident in the tax year but not domiciled in the United Kingdom in the tax year,
- (b) section 809B does not apply to the individual for the tax year, and
- (c) conditions A to F in section 828B are met.

828B Conditions to be met

- (1) Condition A is that in the tax year the individual has income from an employment the duties of which are performed wholly or partly in the United Kingdom.
- (2) Condition B is that, if the individual's income for the tax year consists of or includes relevant foreign earnings—
 - (a) the amount of the relevant foreign earnings does not exceed £10,000, and
 - (b) all of that amount is subject to a foreign tax.
- (3) Condition C is that, if the individual's income for the tax year consists of or includes income that is relevant foreign income by virtue of section 830(2)(e) of ITTOIA 2005—
 - (a) the amount of that income does not exceed £100, and
 - (b) all of that amount is subject to a foreign tax.
- (4) Condition D is that the individual has no other foreign income and gains for the tax year.
- (5) Condition E is that the individual would not for the tax year be liable to income tax at a rate other than the basic rate or the starting rate for savings if this Chapter did not apply to the individual for the tax year.
- (6) Condition F is that the individual does not make a return under section 8 of TMA 1970 for the tax year.

828C The exemption

- (1) The exemption is given by deducting the relevant amount from what would otherwise be the amount of the individual's liability to income tax for the tax year under section 23.
- (2) “The relevant amount” is so much of the amount of the individual's liability to income tax as is attributable to the individual's foreign income or gains for the tax year.
- (3) But if for the tax year the individual's total income is reduced by any deductions which fall to be made at Step 3 of the calculation in section 23 from the individual's foreign income or gains for the tax year, subsection (2) has effect as if the individual's foreign income or gains for the tax year were reduced by the amount of the deductions.
- (4) And if the individual is entitled under—
 - (a) section 788 of ICTA (double taxation arrangements: relief by agreement), or
 - (b) section 790(1) of that Act (relief for foreign tax where no double taxation arrangements),

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

to a tax reduction in respect of the individual's foreign income or gains for the tax year, what would otherwise be the relevant amount is reduced by the amount of that reduction.

828D Interpretation of Chapter

- (1) This section applies for the purposes of this Chapter.
- (2) “Employed” and “employment” have the same meaning as in the employment income Parts of ITEPA 2003: see Chapter 1 of Part 2 of that Act.
- (3) “Foreign income and gains”, in relation to an individual, means what would be the individual's foreign income and gains for the purposes of Chapter A1 of this Part if section 809B applied to the individual (see section 809Z7(2)).
- (4) “Foreign tax” means any tax chargeable under the law of a territory outside the United Kingdom.
- (5) “Relevant foreign earnings”, in relation to an individual, means what would be the individual's relevant foreign earnings for the purposes of Chapter A1 of this Part if section 809B applied to the individual (see section 809Z7(3)).]

CHAPTER 2

RESIDENCE

829 Residence of individuals temporarily abroad

- (1) This section applies if—
 - (a) an individual has left the United Kingdom for the purpose only of occasional residence abroad, and
 - (b) at the time of leaving the individual was both UK resident and ordinarily UK resident.
- (2) Treat the individual as UK resident for the purpose of determining the individual's liability for income tax for any tax year during the whole or a part of which the individual remains outside the United Kingdom for the purpose only of occasional residence abroad.

830 Residence of individuals working abroad

- (1) This section applies for income tax purposes if an individual works full-time in one or both of—
 - (a) a foreign trade, and
 - (b) a foreign employment.
- (2) In determining whether the individual is UK resident ignore any living accommodation available in the United Kingdom for the individual's use.
- (3) A trade is foreign if no part of it is carried on in the United Kingdom.
- (4) An employment is foreign if all of its duties are performed outside the United Kingdom.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (5) An employment is also foreign if in the tax year in question—
- (a) the duties of the employment are in substance performed outside the United Kingdom, and
 - (b) the only duties of the employment performed in the United Kingdom are duties which are merely incidental to the duties of the employment performed outside the United Kingdom in the year.
- (6) In this section—
- “employment” includes an office, and
 - “trade” includes profession and vocation.

831 Foreign income of individuals in the United Kingdom for temporary purpose

- (1) Subsection (2) applies in relation to an individual if—
- (a) the individual is in the United Kingdom for some temporary purpose only and with no view to establishing the individual's residence in the United Kingdom, and
 - [^{F32}(b) during the tax year in question the individual spends (in total) less than 183 days in the United Kingdom.]

In determining whether an individual is within paragraph (a) ignore any living accommodation available in the United Kingdom for the individual's use.

[^{F33}(1A) In determining whether an individual is within subsection (1)(b) treat a day as a day spent by the individual in the United Kingdom if (and only if) the individual is present in the United Kingdom at the end of the day.

- (1B) But in determining that issue do not treat as a day spent by the individual in the United Kingdom any day on which the individual arrives in the United Kingdom as a passenger if—
- (a) the individual departs from the United Kingdom on the next day, and
 - (b) during the time between arrival and departure the individual does not engage in activities that are to a substantial extent unrelated to the individual's passage through the United Kingdom.]

- (2) Apply the following rules in determining the individual's liability for income tax.

Rule 1

In relation to pension or social security income arising from a source outside the United Kingdom, treat the individual as non-UK resident for the purposes of the following—

- (a) Chapter 4 of Part 9 of ITEPA 2003 (tax on foreign pensions),
- (b) Chapter 5A of that Part (tax on pensions under registered pension schemes) but only if the income is an annuity under a registered pension scheme within paragraph 1(1)(f) of Schedule 36 to FA 2004,
- (c) Chapter 10 of that Part (tax on employment-related annuities),
- (d) Chapter 15 of that Part (tax on voluntary annual payments),
- (e) section 647 of ITEPA 2003 (meaning of “foreign residence condition”) but only in its application for the purposes of section 651 of that Act (which provides an exemption for tax under Chapter 14 of Part 9 of that Act), and
- (f) Chapter 6 of Part 10 of ITEPA 2003 (taxable foreign benefits).

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

See sections 566 and 657 of ITEPA 2003 for the definitions of “pension income” and “social security income”.

Rule 2

In relation to income arising from a source outside the United Kingdom, treat the individual as non-UK resident for the purposes of any charge under a provision mentioned in section 830(2) of ITTOIA 2005 (which contains a list of provisions under which relevant foreign income is charged).

In this rule “income” does not include income chargeable as a result of section 844 of ITTOIA 2005 (unremittable income: income charged on withdrawal of relief after source ceases).

- (3) Paragraph (e) of Rule 1 in subsection (2) applies only if—
- (a) the individual makes a claim as mentioned in section 647(3)(a) of ITEPA 2003, and
 - (b) the Commissioners are satisfied that subsection (2) of this section applies in relation to the individual.
- (4) Subsection (5) applies in relation to an individual if subsection (2) would have applied in relation to the individual but for subsection (1)(b).
- (5) Apply the rules set out in subsection (2) in determining the individual's liability for income tax.

But—

- (a) instead of treating the individual as non-UK resident in relation to the income and for the purposes mentioned in those rules, treat the individual as UK resident, and
- (b) ignore subsection (3).

Textual Amendments

F32 S. 831(1)(b) substituted (21.7.2008 with effect in accordance with s. 24(8) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 24\(2\)](#)

F33 S. 831(1A)(1B) inserted (21.7.2008 with effect in accordance with s. 24(8) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 24\(3\)](#)

832 Employment income of individuals in the United Kingdom for temporary purpose

- (1) Subsection (2) applies in relation to an individual if—
- (a) the individual is in the United Kingdom for some temporary purpose only and with no intention of establishing the individual's residence in the United Kingdom, and
 - (b) during the tax year in question the individual spends (in total) less than 183 days in the United Kingdom.

In determining whether an individual is within paragraph (a) ignore any living accommodation available in the United Kingdom for the individual's use.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- [^{F34}(1A) In determining whether an individual is within subsection (1)(b) treat a day as a day spent by the individual in the United Kingdom if (and only if) the individual is present in the United Kingdom at the end of the day.
- (1B) But in determining that issue do not treat as a day spent by the individual in the United Kingdom any day on which the individual arrives in the United Kingdom as a passenger if—
- (a) the individual departs from the United Kingdom on the next day, and
 - (b) during the time between arrival and departure the individual does not engage in activities that are to a substantial extent unrelated to the individual's passage through the United Kingdom.]
- (2) Treat the individual as non-UK resident for the purposes of Chapters 4 and 5 of Part 2 of ITEPA 2003 (which set out rules for determining taxable earnings from employment).
- (3) Subsection (4) applies in relation to an individual if subsection (2) would have applied in relation to the individual but for subsection (1)(b).
- (4) Treat the individual as UK resident for the purposes of the provisions mentioned in subsection (2).

Textual Amendments

F34 S. 832(1A)(1B) inserted (21.7.2008 with effect in accordance with s. 24(8) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 24\(4\)](#)

833 Visiting forces and staff of designated allied headquarters

- (1) This section applies to an individual who—
- (a) is a member of a visiting force of a designated country or of a civilian component of such a force,
 - (b) is in the United Kingdom, but only because of being a member of the force or the civilian component, and
 - (c) is not a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen.
- (2) For the purposes of subsection (1)—
- (a) members of the armed forces of a designated country who are attached to a designated allied headquarters are treated as a visiting force of that country, and
 - (b) whether an individual is a member of a civilian component of such a force is to be determined accordingly.
- (3) This section also applies to an individual who—
- (a) is of a category for the time being agreed between Her Majesty's Government in the United Kingdom and the other members of the North Atlantic Council,
 - (b) is employed by a designated allied headquarters,
 - (c) is in the United Kingdom, but only because of being employed by the designated allied headquarters, and

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (d) is not a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen.
- (4) If this section applies to an individual throughout a period, the period is not treated for income tax purposes as—
- (a) a period of residence in the United Kingdom, or
 - (b) creating a change of the individual's residence or domicile.
- (5) Subsection (4) does not affect the operation of section 56 or 460 of this Act ^{F35}... (residence etc of claimants) in relation to an individual for any tax year.
- (6) Subsections (1) to (3) are to be interpreted as if—
- (a) they were in Part 1 of the Visiting Forces Act 1952 (c. 67), and
 - (b) references in that Act to a country to which a provision of that Act applies were references to a designated country.
- (7) In this section—
- “allied headquarters” means an international military headquarters established under the North Atlantic Treaty, and
- “designated” means designated for the purpose in question by or under an Order in Council made for giving effect to an international agreement.

Textual Amendments

F35 Words in s. 833(5) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(o\)\(v\)](#)

834 Residence of personal representatives

- (1) This section applies for income tax purposes if the personal representatives of a deceased person (“D”) include one or more persons who are UK resident and one or more persons who are non-UK resident.
- (2) If the following condition is met, the person or persons who are non-UK resident are treated, in their capacity as personal representatives, as UK resident.
- (3) The condition is that when D died D was UK resident, ordinarily UK resident or domiciled in the United Kingdom.
- (4) If that condition is not met, the person or persons who are UK resident are treated, in their capacity as personal representatives, as non-UK resident.

835 Residence rules for trustees ^{F36}...

- (1) See sections 475 and 476 for rules about the residence of the trustees of a settlement.

^{F37}(2)

Textual Amendments

F36 Words in s. 835 heading omitted (with effect in accordance with s. 1329(1) of the amending Act) by virtue of [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 705\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

F37 S. 835(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 705\(2\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

[^{F38}835A Residence of companies

Chapter 3 of Part 2 of CTA 2009 (rules for determining residence of companies) applies for the purposes of the Income Tax Acts as it applies for the purposes of the Corporation Tax Acts.]

Textual Amendments

F38 S. 835A inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 706](#) (with [Sch. 2 Pts. 1, 2](#))

CHAPTER 3

JOINTLY HELD PROPERTY

836 Jointly held property

- (1) This section applies if income arises from property held in the names of individuals—
 - (a) who are married to, or are civil partners of, each other, and
 - (b) who live together.
- (2) The individuals are treated for income tax purposes as beneficially entitled to the income in equal shares.
- (3) But this treatment does not apply in relation to any income within any of the following exceptions.

Exception A

Income to which neither of the individuals is beneficially entitled.

Exception B

Income in relation to which a declaration by the individuals under section 837 has effect (unequal beneficial interests).

Exception C

Income to which Part 9 of ITTOIA 2005 applies (partnerships).

Exception D

Income arising from a UK property business which consists of, or so far as it includes, the commercial letting of furnished holiday accommodation (within the meaning of Chapter 6 of Part 3 of ITTOIA 2005).

Exception E

Income consisting of a distribution arising from property consisting of—

- (a) shares in or securities of a close company to which one of the individuals is beneficially entitled to the exclusion of the other, or

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (b) such shares or securities to which the individuals are beneficially entitled in equal or unequal shares.

“Shares” and “securities” have the same meaning as in section 254 of ICTA.

Exception F

Income to which one of the individuals is beneficially entitled so far as it is treated as a result of any other provision of the Income Tax Acts as—

- (a) the income of the other individual, or
 (b) the income of a third party.

837 Jointly held property: declarations of unequal beneficial interests

- (1) The individuals may make a joint declaration under this section if—
- (a) one of them is beneficially entitled to the income to the exclusion of the other, or
 (b) they are beneficially entitled to the income in unequal shares, and their beneficial interests in the income correspond to their beneficial interests in the property from which it arises.
- (2) The declaration must state the beneficial interests of the individuals in—
- (a) the income to which the declaration relates, and
 (b) the property from which that income arises.
- (3) The declaration has effect only if notice of it is given to an officer of Revenue and Customs—
- (a) in such form and manner as the Commissioners for Her Majesty's Revenue and Customs may prescribe, and
 (b) within the period of 60 days beginning with the date of the declaration.
- (4) The declaration has effect in relation to income arising on or after the date of the declaration.
- (5) The declaration continues to have effect until such time (if any) as there is a change in the beneficial interests of the individuals in either—
- (a) the income to which the declaration relates, or
 (b) the property from which that income arises.

CHAPTER 4

OTHER MISCELLANEOUS RULES

838 Local authorities and local authority associations

- (1) A local authority in the United Kingdom is not liable to income tax in respect of its income.
- (2) A local authority association in the United Kingdom is not liable to income tax in respect of its income.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (3) Tax is repayable as a result of subsection (1) or (2) only if a claim for repayment is made.

839 Issue departments of the Reserve Bank of India and the State Bank of Pakistan

No liability to income tax arises in respect of the income of the issue department of—

- (a) the Reserve Bank of India constituted under an Act of the Indian legislature called the Reserve Bank of India Act 1934, or
- (b) the State Bank of Pakistan constituted under orders made under section 9 of the Indian Independence Act 1947 (c. 30).

840 Government securities held by non-UK resident central banks

- (1) No liability to income tax arises in respect of income from securities which is—
- (a) income payable out of the public revenue of the United Kingdom, and
 - (b) income of a bank, or the issue department of a bank, to which this section applies for the time being.
- (2) But subsection (1) does not prevent the income from being taken into account in calculating profits, gains or losses of a business carried on in the United Kingdom.
- (3) Her Majesty may by Order in Council direct that this section applies to a bank or its issue department if it appears to Her Majesty that the bank—
- (a) is non-UK resident, and
 - (b) is entrusted by the government of a territory outside the United Kingdom with the custody of the territory's principal foreign exchange reserves.
- (4) No recommendation may be made to Her Majesty in Council to make an order under this section unless a draft of the order has been laid before and approved by a resolution of the House of Commons.

841 Official agents of Commonwealth countries etc

- (1) This section applies if an individual is employed in the United Kingdom as an official agent for—
- (a) a country mentioned in Schedule 3 to the British Nationality Act 1981 (c. 61) (which contains a list of Commonwealth countries) or the Republic of Ireland, or
 - (b) a state or province of a country within paragraph (a).
- (2) If conditions A and B are met, the individual is entitled to the same immunity from income tax as that to which a member of the staff of a mission is entitled under the Diplomatic Privileges Act 1964 (c. 81).
- (3) Condition A is that the individual has been certified—
- (a) to be ordinarily resident outside the United Kingdom, and
 - (b) to be UK resident solely for the purposes of the individual's functions as an official agent.
- (4) The certification must have been done by (as the case may be)—
- (a) the High Commissioner of the country for which the individual is an official agent, or

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (b) the Agent-General of the state or province for which the individual is an official agent.
- (5) In subsection (4)(a) “High Commissioner” includes the head of the mission of the country in question by whatever name called.
- (6) Condition B is that the individual's functions as an official agent are not performed in connection with a trade, business or other undertaking carried on for the purposes of profit.
- (7) In this section “head of the mission” and “a member of the staff of a mission” are to be read in accordance with the Diplomatic Privileges Act 1964.

842 European Economic Interest Groupings

- (1) The following rules about European Economic Interest Groupings apply for the purposes of charging income tax—

Rule 1

A grouping is treated as acting as the agent of its members.

Rule 2

The activities of a grouping are treated as those of its members acting jointly.

Rule 3

Each member of a grouping is treated as having a share of the grouping's property, rights and liabilities.

Rule 4

Any trade or profession carried on by the grouping is treated as carried on in partnership by the members of the grouping.

- (2) For the purposes of Rule 3, a member's share of any property, rights or liabilities of a grouping is determined according to the contract under which the grouping is established.
- (3) If the contract does not provide for this, the member's share is determined by reference to the share of the profits of the grouping to which the member is entitled under the contract.
- (4) If the contract does not provide for this either, the members are treated as having equal shares of the property, rights and liabilities of the grouping.
- (5) “European Economic Interest Grouping” means a European Economic Interest Grouping formed under Council Regulation ([EEC](#)) No 2137/85 of 25 July 1985, whether registered in Great Britain, Northern Ireland or elsewhere.

843 Restriction of deductions for annual payments

In calculating a person's income from any source, no deduction is allowed for an annual payment to which section 904 applies (annual payments for dividends or non-taxable consideration).

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 14. (See end of Document for details)

844 Letters patent etc: exempting provisions

- (1) No provision in letters patent granted by the Crown is to be construed as conferring exemption from income tax.
- (2) Subsection (1) applies whether the letters patent are granted before or after the date on which this Act is passed.
- (3) Any provision of the letters patent purporting to override the effect of subsection (1) is void.

845 Extra return to be treated as interest etc

- (1) This section applies if—
 - (a) securities (“old securities”) of a particular kind are issued by way of an original issue of securities of that kind,
 - (b) on a later occasion securities (“new securities”) of the same kind are issued,
 - (c) a sum (“the extra return”) is payable in respect of the new securities by the issuer of them to reflect the fact that interest is accruing on the old securities,
 - (d) the issue price of the new securities includes an element (whether or not separately identified) representing payment for the extra return, and
 - (e) the extra return is equal to the amount of interest mentioned in subsection (2).
- (2) The amount of interest referred to in subsection (1)(e) is—
 - (a) the amount of interest payable for the relevant period on so many old securities as there are new, or
 - (b) if there are more new securities than old, the amount of interest which would be so payable if there were as many old securities as new.
- (3) A sum paid or payable by way of the extra return is treated for income tax purposes as if it were paid or payable as interest (so far as it would not be treated in that way apart from this subsection).
- (4) No relief for the extra return is to be given to the issuer of the new securities.

846 Interpretation of section 845

- (1) This section applies for the purposes of section 845.
- (2) Securities are of the same kind if they—
 - (a) are treated as being of the same kind by the practice of a recognised stock exchange, or
 - (b) would be so treated if dealt in on a recognised stock exchange.
- (3) “The relevant period” is the period—
 - (a) beginning with the day mentioned in subsection (4), and
 - (b) ending with the day (“the new issue day”) on which the new securities are issued.
- (4) The day referred to in subsection (3)(a) is the day after—
 - (a) the last (or only) interest payment day before the new issue day, or
 - (b) if there is no interest payment day before the new issue day, the day on which the old securities are issued.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects
for the Income Tax Act 2007, Part 14. (See end of Document for details)

- (5) In subsection (4) “interest payment day” means a day on which interest is payable under the old securities.
- (6) “Relief” means relief by way of deduction in calculating amounts of income charged to income tax or in calculating net income.

Status:

Point in time view as at 21/07/2009.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax Act 2007, Part 14.