



Income Tax Act 2007

2007 CHAPTER 3

PART 14

INCOME TAX LIABILITY: MISCELLANEOUS RULES

CHAPTER 1

LIMITS ON LIABILITY TO INCOME TAX OF NON-UK RESIDENTS

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

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- (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 ^{F1}... (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 ^{F2}... (personal allowance and blind person's allowance),
 - (b) a tax reduction under Chapter 3 of Part 3 of this Act ^{F2}... (tax reductions for married couples and civil partners),
 - (c) relief under section 457 or 458 of this Act (payments to trade unions and police organisations),
 - (d) ^{F3} and
 - (e) relief under section 266 of ICTA (life assurance premiums).

Textual Amendments

- F1** 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\(o\)\(iv\)](#)
- F2** 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\(o\)\(iv\)](#)
- F3** S. 811(6)(d) omitted (17.7.2012) (with effect in accordance with Sch. 39 para. 32(6) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 32\(2\)\(e\)](#)

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 ^{F4}... 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.

Textual Amendments

- F4** Word in s. 812(1)(a) omitted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 66](#)

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[^{F5}812A Temporary non-residents

- (1) This section applies if—
 - (a) an individual is temporarily non-resident,
 - (b) the individual's liability to income tax for a tax year is limited under section 811,
 - (c) that tax year (“the non-resident year”) falls within the temporary period of non-residence, and
 - (d) the individual's income for that tax year includes relevant investment income.
- (2) The total income (see Step 1 of the calculation in section 23) on which the individual is charged to income tax for the year of return is to be increased by an amount equal to the amount of that relevant investment income.
- (3) But the notional UK tax on that relevant investment income is to be allowed as a credit against the individual's liability to income tax for the year of return under Step 6 of the calculation in section 23.
- (4) Income is “relevant 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),
 - (b) the distributing company is a close company, and
 - (c) the income arises or is treated as arising to the individual because the individual was at a relevant time—
 - (i) a material participator in that company, or
 - (ii) an associate of a material participator in the company.
- (5) But income within subsection (4) in the form of a cash or stock dividend is not “relevant investment income” to the extent that the dividend is paid, or the share capital is issued, in respect of post-departure trade profits.
- (6) “Post-departure trade profits” are—
 - (a) trade profits of the distributing company arising in an accounting period that begins after the start of the temporary period of non-residence, and
 - (b) so much of any trade profits of the distributing company arising in an accounting period that straddles the start of that temporary period as is attributable (on a just and reasonable basis) to a time after the start of that temporary period.
- (7) The “notional UK tax” on relevant investment income is—
 - (a) the total of any sums in respect of that income that were included within amount A in determining the limit under section 811, less
 - (b) any credit for foreign tax paid in respect of that income that was allowed under Chapter 2 of Part 2 of TIOPA 2010 against the individual's liability to income tax for the non-resident year.
- (8) The following matters are to be determined on a just and reasonable basis—
 - (a) the extent to which a dividend is paid, or share capital is issued, in respect of post-departure trade profits, and
 - (b) the extent to which a sum included within amount A is a sum in respect of relevant investment income.

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- (9) Nothing in any double taxation arrangements is to be read as preventing the individual from being chargeable to income tax by virtue of this section (or as preventing a charge to that tax from arising as a result).
- (10) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—
- (a) when an individual is to be regarded as “temporarily non-resident”, and
 - (b) what “the temporary period of non-residence”, “the year of departure” and “the period of return” mean.
- (11) In this section—
- “associate” and “participator” have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454);
- “the distributing company” means the UK resident company mentioned in section 383(1) or, as the case may be, 410(1) of ITTOIA 2005;
- “material participator” means a participator who has a material interest in the company, as defined in section 457 of CTA 2010;
- “relevant time” means—
- (a) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or
 - (b) any time in one or more of the 3 tax years preceding that year;
- “trade profits of the distributing company” means the profits of any trade carried on by the distributing company, as calculated in accordance with Part 3 of CTA 2009 (trading income);
- “year of return” means the tax year consisting of or including the period of return.]

Textual Amendments

- F5** S. 812A inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 138](#)

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 [F6Chapter 2B] is not disregarded income.
- (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),

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- 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).

Textual Amendments

- F6** Words in s. 813(2) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 282](#) (with [Sch. 9 paras. 1-9, 22](#))

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.

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- (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—
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).

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