

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, Cross Heading: Transfers to HMRC under Agreement. (See end of Document for details)

SCHEDULES

SCHEDULE 36

AGREEMENT BETWEEN UK AND SWITZERLAND

Modifications etc. (not altering text)

- C1** Sch. 36 applied (with modifications) (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), regs. 1, 6

PART 5

GENERAL PROVISIONS

F¹Transfers to HMRC under Agreement

Textual Amendments

- F1** Sch. 36 paras. 26A, 26B and cross-heading inserted (retrospective to 1.1.2013) by [Finance Act 2013 \(c. 29\)](#), s. 221(1)(2)

- 26A (1) Income or chargeable gains of a person are to be treated as not remitted to the United Kingdom if conditions A to D are met.
- (2) Condition A is that (but for sub-paragraph (1)) the income or gains would be regarded as remitted to the United Kingdom by virtue of the bringing of money to the United Kingdom.
- (3) Condition B is that the money is brought to the United Kingdom pursuant to a transfer made to HMRC in accordance with the Agreement.
- (4) Condition C (which applies only if the money brought to the United Kingdom is a sum levied under Article 19(2)(b)) is that the sum was levied within the period of 45 days beginning with the day on which the amount derived from the income or gain in question was remitted as mentioned in Article 19(2)(b).
- (5) Condition D is that the transfer is made in relation to a tax year in which section 809B, 809D or 809E of ITA 2007 (application of remittance basis) applies to the person.
- (6) Sub-paragraph (1) does not apply in relation to money brought to the United Kingdom if or to the extent that—
- (a) paragraph 18(2), or section 138(4)(a) or 140(5)(a) of TIOPA 2010, is applied in relation to it (set-off against other tax liabilities), or
- (b) it is repaid or refunded by HMRC.]
- 26B (1) This paragraph applies if—

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- (a) but for paragraph 26A(1), income or chargeable gains would have been regarded as remitted to the United Kingdom by virtue of the bringing of money to the United Kingdom, and
 - (b) section 809Q of ITA 2007 (transfers from mixed funds) would have applied in determining the amount that would have been so remitted.
- (2) The bringing of the money to the United Kingdom counts as an offshore transfer for the purposes of section 809R(4) of ITA 2007 (composition of mixed fund).

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