
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Chapter 2A of Part 5 of the Income Tax (Trading and Other Income) Act 2005 (c. 5), concerning offshore receipts in respect of intangible property, which was inserted by section 15 of, and Schedule 3 to, the Finance Act 2019 (c. 1) (“FA 2019”).

The amendments stated in regulation 1(2) have retrospective effect for the tax year from 6 April 2019 by virtue of paragraphs 11 and 12 of Schedule 3 to the FA 2019.

Regulation 2 introduces the amendments to Chapter 2A.

Regulation 3 amends section 608D, concerning the meaning of residence, for the purposes of Chapter 2A.

Regulation 4 amends section 608F. The amendments supplement the definition of “UK sales” in respect of resales and online advertising for the purposes of Chapter 2A.

Regulation 5 inserts a new section 608GA, which provides that certain third party sales are disregarded for the purposes of Chapter 2A where the intangible property makes an insignificant contribution to the UK sales.

Regulation 6 omits section 608I, which provided the application of Chapter 2A to certain partnerships.

Regulation 7 inserts a new section 608JA, which provides an exemption from the charge in section 608A where a company is resident in a “specified territory”. A territory may be specified in regulations made by the Commissioners for Her Majesty’s Revenue and Customs and those regulations may have effect from a date before the date on which they are made.

Regulation 8 amends section 608K, concerning an exemption where business is undertaken within a territory of residence.

Regulation 9 amends section 608L, concerning an exemption where foreign tax is at least half of UK tax.

Regulation 10 inserts a new section 608MA, which provides an exemption for income of an opaque partnership that is taxable in a full treaty territory.

Regulation 11 inserts a new section 608MB, which provides an exemption for certain bodies corporate that are transparent in a full treaty territory.

Regulation 12 inserts a new section 608MC, which provides an exemption for double taxation on amounts within the same control group.

Regulation 13 amends section 608W, concerning anti-avoidance.

Regulation 14 amends section 608Z by inserting new definitions of “designer tax provisions”, “tax” and “tax advantage” for the purposes of Chapter 2A.

Regulation 15 makes a consequential amendment to Part 15 of the Income Tax Act 2007 (c. 3) by inserting a new section 981A into that Act.

A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.