

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Branches and agencies is up to date with all changes known to be in force on or before 14 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### [<sup>F1</sup>PART 7A

#### UK REPRESENTATIVES OF NON-UK RESIDENTS

#### CHAPTER 1

#### TREATMENT OF BRANCH OR AGENCY AS UK REPRESENTATIVE OF NON-UK RESIDENT

#### [<sup>F1</sup>Branches and agencies

#### Textual Amendments

- F1** Pt. 7A inserted (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. 6 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)

#### **271B Branch or agency treated as UK representative**

- (1) This section applies if—
  - (a) a non-UK resident carries on (alone or in partnership) any trade, profession or vocation through a branch or agency in the United Kingdom, and
  - (b) the branch or agency is to be treated under Chapter 2B of Part 14 of ITA 2007 as the UK representative of the non-UK resident in relation to amounts within section 835E(2) of that Act.
- (2) The branch or agency is the UK representative of the non-UK resident in relation to amounts which, by reference to the branch or agency, are chargeable to capital gains tax under section 10 above.
- (3) The following rules are to be applied for the purposes of subsection (2) and Chapter 2 in relation to an amount within that subsection.

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*Rule 1* The UK representative continues to be the UK representative of the non-UK resident in relation to the amount even after ceasing to be a branch or agency through which the non-UK resident carries on the trade, profession or vocation concerned.

*Rule 2* The UK representative is treated in relation to the amount as a distinct and separate person from the non-UK resident (if the representative would not otherwise be so treated).

*Rule 3* If the branch or agency is carried on by persons in partnership, the partnership, as such, is treated in relation to the amount as the UK representative of the non-UK resident.

- (4) For further rules that apply where a trade or profession carried on by a non-UK resident in the United Kingdom is carried on in partnership, see section 271C.

### **271C Trade or profession carried on in partnership**

- (1) Subsection (2) applies if a trade or profession carried on by a non-UK resident through a branch or agency in the United Kingdom is carried on by the non-UK resident in partnership.
- (2) The trade or profession carried on through the branch or agency is, for the purposes of section 271B and Chapter 2, to be treated as including the notional trade or profession.
- (3) Subsection (4) applies (in addition to subsection (2) if that subsection also applies) if—
  - (a) a trade or profession carried on by a non-UK resident in the United Kingdom is carried on by the non-UK resident in partnership, and
  - (b) any member of the partnership is resident in the United Kingdom.
- (4) The notional trade or profession is, for the purposes of section 271B and Chapter 2, to be treated as being a trade carried on in the United Kingdom through the partnership as such.
- (5) In this section “the notional trade or profession” means the notional trade from which the non-UK resident's share in the partnership's profits or losses is treated for the purposes of section 852 of ITTOIA 2005 as deriving.

### **271D Interpretation of Chapter**

In this Chapter—

“branch or agency” means any factorship, agency, receivership, branch or management, and

“non-UK resident” means a person who is not resident in the United Kingdom.]

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