



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART I

#### CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

##### *General*

#### **1 The charge to tax.**

- (1) Tax shall be charged in accordance with this Act in respect of capital gains, that is to say chargeable gains computed in accordance with this Act and accruing to a person on the disposal of assets.
- (2) Companies shall be chargeable to corporation tax in respect of chargeable gains accruing to them in accordance with [<sup>F1</sup>section 2 of CTA 2009] and the other provisions of the Corporation Tax Acts.
- (3) Without prejudice to subsection (2), capital gains tax shall be charged for all years of assessment in accordance with the following provisions of this Act.

#### **Textual Amendments**

- F1** Words in s. 1(2) substituted (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. 359](#) (with [Sch. 2 Pts. 1, 2](#))

##### *Capital gains tax*

#### **2 Persons and gains chargeable to capital gains tax, and allowable losses.**

- (1) Subject to any exceptions provided by this Act, and without prejudice to sections 10 and 276, a person shall be chargeable to capital gains tax in respect of chargeable gains accruing to him in a year of assessment during any part of which he is resident in the United Kingdom, or during which he is ordinarily resident in the United Kingdom.

*Status: Point in time view as at 06/03/2010.*

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- (2) Capital gains tax shall be charged on the total amount of chargeable gains accruing to the person chargeable in the year of assessment, after deducting—
- (a) any allowable losses accruing to that person in that year of assessment, and
  - (b) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous year of assessment, any allowable losses accruing to that person in any previous year of assessment (not earlier than the year 1965-66).
- (3) Except as provided by section 62, an allowable loss accruing in a year of assessment shall not be allowable as a deduction from chargeable gains accruing in any earlier year of assessment, and relief shall not be given under this Act more than once in respect of any loss or part of a loss, and shall not be given under this Act if and so far as relief has been or may be given in respect of it under the Income Tax Acts.
- [<sup>F2</sup>(4) If chargeable gains are treated by virtue of section 87 or 89(2) as accruing to a person in a tax year (“the relevant deemed gains”)—
- (a) subsection (2) has effect as if the relevant deemed gains had not accrued, and
  - (b) the amount on which the person is charged to capital gains tax for that year is the sum of—
    - (i) the amount given by subsection (2) as it has effect by virtue of paragraph (a), and
    - (ii) the amount of the relevant deemed gains.
- (5) In subsection (4) the reference to section 87 or 89(2) is to that section read, where appropriate, with section 10A.]
- [<sup>F3</sup>(7) Where in any year of assessment—
- (a) there are amounts treated as accruing to a person by virtue of section <sup>F4</sup>... 86,
  - (b) two or more of those amounts, or elements of them—
    - (i) relate to different settlements, <sup>F5</sup>...
    - <sup>F5</sup>(ii) .....
  - (c) losses are deductible from the amounts or elements mentioned in paragraph (b) above <sup>F6</sup>... but are not enough to exhaust them all,
- the deduction applicable to each of the <sup>F7</sup>... amounts shall be the appropriate proportion of the aggregate of those losses.
- The “appropriate proportion” is that given by dividing the <sup>F7</sup>... amount in question by the total of the <sup>F7</sup>... amounts.
- <sup>F8</sup>(8) .....

#### Textual Amendments

- F2** S. 2(4)(5) substituted for s. 2(4)-(6) (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 24\(2\)](#)
- F3** S. 2(6)-(8) inserted (with effect in accordance with Sch. 11 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 11 para. 2\(4\)](#)
- F4** Words in s. 2(7)(a) omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 2](#)
- F5** S. 2(7)(b)(ii) and preceding word omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 24\(3\)\(a\)](#)

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- F6** Words in s. 2(7)(c) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 24\(3\)\(b\)](#)
- F7** Words in s. 2(7) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 24\(3\)\(c\)](#)
- F8** S. 2(8) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 24\(4\)](#)

**Modifications etc. (not altering text)**

- C1** S. 2(1) applied (with effect in accordance with art. 1(2)(3), Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), [regs. 1\(1\)](#), [22\(1\)\(a\)](#)
- C2** S. 2(1) extended by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), [reg. 85O](#) (as inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [S.I. 2010/294](#), [regs. 1\(1\)](#), [21](#))

**F<sup>9</sup>2A Taper relief.**

.....

**Textual Amendments**

- F9** S. 2A omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 25](#)

**3 Annual exempt amount.**

- (1) An individual shall not be chargeable to capital gains tax in respect of so much of his taxable amount for any year of assessment as does not exceed the exempt amount for the year.
- [<sup>F10</sup>(1A) Subsection (1) does not apply to an individual for a tax year if section 809B of ITA 2007 (claim for remittance basis to apply) applies to the individual for that year.]
- (2) Subject to subsection (3) below, the exempt amount for any year of assessment shall be £5,500.
- (3) If the retail prices index for the month of [<sup>F11</sup>September] preceding a year of assessment is higher than it was for the previous [<sup>F11</sup>September], then, unless Parliament otherwise determines, subsection (2) above shall have effect for that year as if for the amount specified in that subsection as it applied for the previous year (whether by virtue of this subsection or otherwise) there were substituted an amount arrived at by increasing the amount for the previous year by the same percentage as the percentage increase in the retail prices index and, if the result is not a multiple of £100, rounding it up to the nearest amount which is such a multiple.
- (4) The Treasury shall, before each year of assessment, make an order specifying the amount which by virtue of this section is the exempt amount for that year.
- [<sup>F12</sup>(5) For the purposes of this section an individual's taxable amount for any year of assessment is the amount [<sup>F13</sup>which] is (apart from this section) the amount for that year on which that individual is chargeable to capital gains tax in accordance with section 2.

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- (5A) Where, in the case of any individual, the amount of the adjusted net gains for any year of assessment is equal to or less than the exempt amount for that year, no deduction shall be made for that year in respect of—
- (a) any allowable losses carried forward from a previous year; or
  - (b) any allowable losses carried back from a subsequent year in which the individual dies.
- (5B) Where, in the case of any individual, the amount of the adjusted net gains for any year of assessment exceeds the exempt amount for the year, the deductions made for that year in respect of allowable losses falling within subsection (5A)(a) or (b) above shall not be greater than the excess.
- (5C) In subsections (5A) and (5B) above the references, in relation to any individual’s case, to the adjusted net gains for any year are references to the amount given in his case by—
- (a) taking the amount for that year from which the deductions for which section 2(2)(a) and (b) provides are to be made;
  - <sup>F14</sup>(aa) if section 16ZB (certain chargeable gains charged on remittance basis) applies for that year, deducting the amount of the relevant gains (within the meaning of that section),]
  - (b) deducting [<sup>F15</sup>(from the amount mentioned in paragraph (a), as reduced under paragraph (aa))] only the amounts falling to be deducted in accordance with section 2(2)(a); and
  - (c) [<sup>F16</sup>if section 2(4) applies for that year,], adding whichever is the smaller of the exempt amount for that year and the amount [<sup>F17</sup>mentioned in section 2(4) (b)(ii)].]
- <sup>F18</sup>(6) . . . . .
- (7) For the year of assessment in which an individual dies and for the next 2 following years, [<sup>F19</sup>subsections (1) to (5C)] above shall apply to his personal representatives as they apply to an individual.
- <sup>F20</sup>(7A) As they apply by virtue of subsection (7) above—
- (a) subsection (5A) has effect with the omission of paragraph (b), and
  - (b) subsection (5B) has effect with the omission of the words “or (b)”.]
- (8) Schedule 1 shall have effect as respects the application of this section to trustees.

#### Textual Amendments

- F10** S. 3(1A) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 56\(2\)](#)
- F11** Words in s. 3(3) substituted (27.7.1993 with effect for the years 1994-95 and subsequent years as mentioned in s. 83(2)) by [1993 c. 34, s. 83\(1\)](#)
- F12** S. 3(5)(5A)(5B)(5C) substituted for s. 3(5) (with effect in accordance with s. 121(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 21 para. 3](#)
- F13** Word in s. 3(5) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 26\(2\)](#)
- F14** S. 3(5C)(aa) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 56\(3\)\(a\)](#)
- F15** Words in s. 3(5C)(b) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 56\(3\)\(b\)](#)

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- F16** Words in s. 3(5C)(c) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 26\(3\)\(a\)](#)
- F17** Words in s. 3(5C)(c) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 26\(3\)\(b\)](#)
- F18** S. 3(6) repealed (with application in accordance with Sch. 28 para.7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 3\(2\)](#), [Sch. 43 Pt. 3\(7\)](#)
- F19** Words in s. 3(7) substituted (with application in accordance with Sch. 28 para.7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 3\(3\)](#)
- F20** S. 3(7A) inserted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 3\(4\), 8](#)

**Modifications etc. (not altering text)**

- C3** S. 3 amended (for the year 1993-1994) by [S.I. 1993/760](#), [art. 2](#)  
S. 3 modified (for the year 1993-1994) by [1993 c. 34](#), [s. 82](#)
- C4** S. 3 excluded (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 109\(2\)\(b\)](#)
- C5** S. 3(2) sum amended (for the year 1994-95) by [Finance Act 1994 \(c. 9\)](#), [s. 90](#)
- C6** S. 3(2) sum amended (for the year 1996-97) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 1995 \(S.I. 1995/3033\)](#), [art. 2](#)
- C7** S. 3(2) sum amended (for the year 1997-98) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 1996 \(S.I. 1996/2957\)](#), [art. 2](#)
- C8** S. 3(2) sum amended (for the year 1998-99) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 1998 \(S.I. 1998/757\)](#), [art. 2](#)
- C9** S. 3(2) sum amended (for the year 1999-2000) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 1999 \(S.I. 1999/591\)](#), [art. 2](#)
- C10** S. 3(2) sum amended (for the year 2000-01) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2000 \(S.I. 2000/808\)](#), [art. 2](#)
- C11** S. 3(2) sum amended (for the year 2001-02) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2001 \(S.I. 2001/636\)](#), [art. 2](#)
- C12** S. 3(2) sum amended (for the year 2002-03) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2002 \(S.I. 2002/702\)](#), [art. 2](#)
- C13** S. 3(2) sum amended (for the year 2003-04) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2003 \(S.I. 2003/842\)](#), [art. 2](#)
- C14** S. 3(2) sum amended (for the year 2005-06) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2005 \(S.I. 2005/721\)](#), [art. 2](#)
- C15** S. 3(2) sum amended (for the year 2007-08) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2007 \(S.I. 2007/942\)](#), [art. 2](#)
- C16** S. 3(3) excluded (for the year 1994-95) by [Finance Act 1994 \(c. 9\)](#), [s. 90](#)

**[<sup>F21</sup>3A Reporting limits**

- (1) Where in the case of an individual—
  - (a) the amount of chargeable gains accruing to him in any year of assessment does not exceed the exempt amount for that year, and
  - (b) the aggregate amount or value of the consideration for all chargeable disposals of assets made by him in that year does not exceed four times the exempt amount for that year,a statement to that effect is sufficient compliance with so much of any notice under section 8 of the Management Act as requires information for the purposes of establishing the amount in which he is chargeable to capital gains tax for that year.
- (2) For the purposes of subsection (1)(a) above—
  - <sup>F22</sup>(a) .....

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- (b) the amount of chargeable gains accruing to an individual in a year of assessment for which [<sup>F23</sup>a deduction falls to be made in respect of allowable losses is the amount before the deduction].
- (3) For the purposes of subsection (1)(b) above a “chargeable disposal” is any disposal other than—
- (a) a disposal on which any gain accruing is not a chargeable gain, or
- (b) a disposal the consideration for which is treated by virtue of section 58 [<sup>F24</sup>(spouses and civil partners)] as being such that neither a gain nor a loss would accrue.
- (4) Subsection (1) above applies to personal representatives (for the year of assessment in which the individual in question dies and for the next 2 following years) as it applies to an individual.
- (5) Subsection (1) above applies to the trustees of a settlement in accordance with Schedule 1.
- [ Subsection (1) does not apply to an individual for a tax year if—
- <sup>F25</sup>(5A) (a) section 809B of ITA 2007 (claim for remittance basis to apply), or
- (b) section 16ZB below (certain chargeable gains charged on remittance basis), applies to the individual for that year.]
- (6) In this section “exempt amount” has the meaning given by section 3 (read, where appropriate, with Schedule 1).]

#### **Textual Amendments**

- F21** S. 3A inserted (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 1](#)
- F22** S. 3A(2)(a) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 27\(a\)](#)
- F23** Words in s. 3A(2)(b) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 27\(b\)](#)
- F24** Words in s. 3A(3)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [106](#)
- F25** S. 3A(5A) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 57](#)

#### **[<sup>F26</sup>4 Rate of capital gains tax**

The rate of capital gains tax is 18%.]

#### **Textual Amendments**

- F26** S. 4 substituted (with effect in accordance with s. 8(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), s. [8\(1\)](#)

#### **<sup>F27</sup>5 Accumulation and discretionary settlements.**

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**Textual Amendments**

**F27** S. 5 repealed (with effect in accordance with s. 120(2) of the amending Act) by [Finance Act 1998](#) (c. 36), [Sch. 27 Pt. III\(29\)](#)

**F28 6 Other special cases.**

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**Textual Amendments**

**F28** S. 6 omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of [Finance Act 2008](#) (c. 9), [Sch. 2 para. 3](#)

**F29 7 Time for payment of tax.**

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**Textual Amendments**

**F29** S. 7 repealed (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995](#) (c. 4), s. 115(12), [Sch. 29 Pt. VIII\(14\)](#)

*Corporation tax*

**8 Company’s total profits to include chargeable gains.**

- (1) Subject to the provisions of this section and section 400 of the Taxes Act, the amount to be included in respect of chargeable gains in a company’s total profits for any accounting period shall be the total amount of chargeable gains accruing to the company in the accounting period after deducting—
  - (a) any allowable losses accruing to the company in the period, and
  - (b) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous accounting period, any allowable losses previously accruing to the company while it has been within the charge to corporation tax.
- (2) For the purposes of corporation tax in respect of chargeable gains, “allowable loss” [<sup>F30</sup>does not include a loss accruing to a company in such circumstances that if a gain accrued the company would be exempt from corporation tax in respect of it.]

<sup>F31</sup>(2A) .....

<sup>F31</sup>(2B) .....

<sup>F31</sup>(2C) .....

- (3) Except as otherwise provided by this Act or any other provision of the Corporation Tax Acts, the total amount of the chargeable gains to be included in respect of chargeable gains in a company’s total profits for any accounting period shall for purposes of

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corporation tax be computed in accordance with the principles applying for capital gains tax, all questions—

- (a) as to the amounts which are or are not to be taken into account as chargeable gains or as allowable losses, or in computing gains or losses, or charged to tax as a person's gain; or
  - (b) as to the time when any such amount is to be treated as accruing,
- being determined in accordance with the provisions relating to capital gains tax as if accounting periods were years of assessment.
- (4) Subject to subsection (5) below, where the enactments relating to capital gains tax contain any reference to income tax or to the Income Tax Acts the reference shall, in relation to a company, be construed as a reference to corporation tax or to the Corporation Tax Acts; but—
- (a) this subsection shall not affect the references to income tax in section 39(2); and
  - (b) in so far as those enactments operate by reference to matters of any specified description, account shall for corporation tax be taken of matters of that description which are confined to companies, but not of any which are confined to individuals.
- (5) This Act as it has effect in accordance with this section shall not be affected in its operation by the fact that capital gains tax and corporation tax are distinct taxes but, so far as is consistent with the Corporation Tax Acts, shall apply in relation to capital gains tax and corporation tax on chargeable gains as if they were one tax, so that, in particular, a matter which in a case involving 2 individuals is relevant for both of them in relation to capital gains tax shall in a like case involving an individual and a company be relevant for him in relation to that tax and for it in relation to corporation tax.
- (6) Where assets of a company are vested in a liquidator under section 145 of the <sup>M1</sup>Insolvency Act 1986 or Article 123 of the <sup>M2</sup>Insolvency (Northern Ireland) Order 1989 or otherwise, this section and the enactments applied by this section shall apply as if the assets were vested in, and the acts of the liquidator in relation to the assets were the acts of, the company (acquisitions from or disposals to him by the company being disregarded accordingly).

#### **Textual Amendments**

- F30** Words in s. 8(2) substituted (with effect in accordance with s. 27(6) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 27\(2\)\(a\)](#)
- F31** S. 8(2A)-(2C) repealed (with effect in accordance with s. 27(6) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 27\(2\)\(b\)](#), [Sch. 27 Pt. 2\(2\)](#)

#### **Modifications etc. (not altering text)**

- C17** S. 8(1) modified (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 133\(3\)](#)

#### **Marginal Citations**

- M1** [1986 c. 45.](#)
- M2** [S.I.1989/2405 \(N.I.19\).](#)



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*Residence etc.*

**9 Residence, including temporary residence.**

- (1) In this Act “resident” and “ordinarily resident” have the same meanings as in the Income Tax Acts.
- <sup>F32</sup>(2) . . . . .
- (3) Subject to [<sup>F33</sup>sections 10(1) and 10A], an individual who is in the United Kingdom for some temporary purpose only and not with any view or intent to establish his residence in the United Kingdom shall be charged to capital gains tax on chargeable gains accruing in any year of assessment if and only if [<sup>F34</sup>the individual spends (in total) at least 183 days in the United Kingdom.]
- [<sup>F35</sup>(4) The question whether for the purposes of subsection (3) above an individual is in the United Kingdom for some temporary purpose only and not with any view or intent to establish his residence there shall be decided without regard to any living accommodation available in the United Kingdom for his use.]
- [<sup>F36</sup>(5) In determining for the purposes of subsection (3) above whether an individual spends (in total) at least 183 days in the United Kingdom 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.
- (6) But in determining that issue for those purposes 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.]

**Textual Amendments**

- F32** S. 9(2) omitted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), Sch. 7 para. 58](#)
- F33** Words in s. 9(3) substituted (with effect in accordance with s. 127(4) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 127\(2\)](#)
- F34** Words in s. 9(3) substituted (with effect in accordance with s. 24(8) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 24\(6\)](#)
- F35** S. 9(4) inserted (27.7.1993 with effect for the year 1993-94 and subsequent years of assessment as mentioned in s. 208(4)) by [1993 c. 34, s. 208\(2\)\(4\)](#)
- F36** S. 9(5)(6) inserted (with effect in accordance with s. 24(8) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 24\(7\)](#)

**10 Non-resident with United Kingdom branch or agency.**

- (1) Subject to any exceptions provided by this Act, a person shall be chargeable to capital gains tax in respect of chargeable gains accruing to him in a year of assessment in which he is not resident and not ordinarily resident in the United Kingdom but is carrying on a trade in the United Kingdom through a branch or agency, and shall be so chargeable on chargeable gains accruing on the disposal—

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- (a) of assets situated in the United Kingdom and used in or for the purposes of the trade at or before the time when the capital gain accrued, or
  - (b) of assets situated in the United Kingdom and used or held for the purposes of the branch or agency at or before that time, or assets acquired for use by or for the purposes of the branch or agency.
- (2) Subsection (1) above does not apply unless the disposal is made at a time when the person is carrying on the trade in the United Kingdom through a branch or agency.
- <sup>F37</sup>(3) .....
- (4) This section shall not apply to a person who, by virtue of Part XVIII of the Taxes Act (double taxation relief agreements), is exempt from income tax <sup>F38</sup>... chargeable for the chargeable period in respect of the profits or gains of the branch or agency.
- (5) This section shall apply as if references in subsections (1) and (2) above to a trade included references to a profession or vocation, but subsection (1) shall not apply in respect of chargeable gains accruing on the disposal of assets only used in or for the purposes of the profession or vocation before 14th March 1989 or only used or held for the purposes of the branch or agency before that date.
- (6) In this Act, unless the context otherwise requires, “branch or agency” means any factorship, agency, receivership, branch or management, but does not include any person within the exemptions in section 82 of the Management Act (general agents and brokers).

#### Textual Amendments

**F37** S. 10(3) repealed (with effect in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 2\(2\)\(a\)](#), [Sch. 43 Pt. 3\(6\)](#)

**F38** Words in s. 10(4) repealed (with effect in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 2\(2\)\(b\)](#), [Sch. 43 Pt. 3\(6\)](#)

#### Modifications etc. (not altering text)

**C18** S. 10 extended (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 15 para. 79\(5\)](#)

**C19** S. 10 applied (with modifications) (with effect in accordance with art. 1(2)(3), Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), [regs. 1\(1\)](#), [22\(1\)\(b\)\(3\)](#)

**C20** S. 10 extended by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), [reg. 85O](#) (as inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [S.I. 2010/294](#), [regs. 1\(1\)](#), [21](#))

### <sup>F39</sup>10A Temporary non-residents.

- (1) This section applies in the case of any individual (“the taxpayer”) if—
- (a) he satisfies the residence requirements for any year of assessment (“the year of return”);
  - (b) he did not satisfy those requirements for one or more years of assessment immediately preceding the year of return but there are years of assessment before that year for which he did satisfy those requirements;
  - (c) there are fewer than five years of assessment falling between the year of departure and the year of return; and

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- (d) four out of the seven years of assessment immediately preceding the year of departure are also years of assessment for each of which he satisfied those requirements.
- (2) Subject to the following provisions of this section and section 86A, the taxpayer shall be chargeable to capital gains tax as if—
- (a) all the chargeable gains and losses which (apart from this subsection) would have accrued to him in an intervening year,
  - (b) all the chargeable gains which under section 13 or 86 would be treated as having accrued to him in an intervening year if he had been resident in the United Kingdom throughout that intervening year, and
  - (c) any losses which by virtue of section 13(8) would have been allowable in his case in any intervening year if he had been resident in the United Kingdom throughout that intervening year,
- were gains or, as the case may be, losses accruing to the taxpayer in the year of return.
- (3) Subject to subsection (4) below, the gains and losses which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return shall not include any gain or loss accruing on the disposal by the taxpayer of any asset if—
- (a) that asset was acquired by the taxpayer at a time in the year of departure or any intervening year when
    - [ he was neither resident nor ordinarily resident in the United Kingdom,<sup>F40</sup>(i) or
    - (ii) he was resident or ordinarily resident in the United Kingdom but was Treaty non-resident;]
  - (b) that asset was so acquired otherwise than by means of a relevant disposal which by virtue of section 58, 73 or 258(4) is treated as having been a disposal on which neither a gain nor a loss accrued;
  - (c) that asset is not an interest created by or arising under a settlement; and
  - (d) the amount or value of the consideration for the acquisition of that asset by the taxpayer does not fall, by reference to any relevant disposal, to be treated as reduced under section 23(4)(b) or (5)(b), 152(1)(b)<sup>F41</sup>, 153(1)(b)], 162(3)(b) or 247(2)(b) or (3)(b).
- (4) Where—
- (a) any chargeable gain that has accrued or would have accrued on the disposal of any asset (“the first asset”) is a gain falling (apart from this section) to be treated by virtue of section 116(10) or (11), 134 or 154(2) or (4) as accruing on the disposal of the whole or any part of another asset, and
  - (b) the other asset is an asset falling within paragraphs (a) to (d) of subsection (3) above but the first asset is not,
- subsection (3) above shall not exclude that gain from the gains which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return.
- (5) The gains and losses which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return shall not include any chargeable gain or allowable loss accruing to the taxpayer in an intervening year which, in the taxpayer’s case, has fallen to be brought into account for that year by virtue of section 10 or 16(3).
- (6) The reference in subsection (2)(c) above to losses allowable in an individual’s case in an intervening year is a reference to only so much of the aggregate of the losses that would have been available in accordance with subsection (8) of section 13 for

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reducing gains accruing by virtue of that section to that individual in that year as does not exceed the amount of the gains that would have accrued to him in that year if it had been a year throughout which he was resident in the United Kingdom.

(7) Where this section applies in the case of any individual, nothing in any enactment imposing any limit on the time within which an assessment to capital gains tax may be made shall prevent any such assessment for the year of departure from being made in the taxpayer’s case at any time before the end of two years after the 31st January next following the year of return.

(8) In this section—

“intervening year” means any year of assessment which, in a case where the conditions in paragraphs (a) to (d) of subsection (1) above are satisfied, falls between the year of departure and the year of return;

“relevant disposal”, means a disposal of an asset acquired by the person making the disposal at a time when that person was resident or ordinarily resident in the United Kingdom [<sup>F42</sup>and was not Treaty non-resident]; and

“the year of departure” means the last year of assessment before the year of return for which the taxpayer satisfied the residence requirements.

[<sup>F43</sup>(9) For the purposes of this section an individual satisfies the residence requirements for a year of assessment—

- (a) if, during any part of that year of assessment, he is resident in the United Kingdom and not Treaty non-resident, or
- (b) if he is ordinarily resident in the United Kingdom during that year of assessment, unless he is Treaty non-resident during that year of assessment.

[<sup>F44</sup>(9ZA) If—

- (a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the taxpayer for the year of return, and
  - (b) the taxpayer is not domiciled in the United Kingdom in that year,
- any foreign chargeable gains falling within subsection (2)(a) which were remitted in an intervening year are treated as remitted in the year of return.

For this purpose “foreign chargeable gains” has the meaning given by section 12(4).]

[<sup>F45</sup>(9A) . . . . .]

(9B) Where this section applies in the case of any individual in circumstances in which one or more intervening years would, but for his being Treaty non-resident during some or all of that year or those years, not be an intervening year, this section shall have effect in the taxpayer's case—

- (a) as if subsection (2)(a) above did not apply in the case of any amount treated by virtue of section 87 or 89(2) as an amount of chargeable gains accruing to the taxpayer in any such intervening year, and
- (b) as if any such intervening year were not an intervening year for the purposes of subsections (2)(b) and (c) and (6) above.]

[ Nothing in any double taxation relief arrangements shall be read as preventing the [<sup>F46</sup>(9C) taxpayer from being chargeable to capital gains tax in respect of any of the chargeable gains treated by virtue of subsection (2)(a) above as accruing to the taxpayer in the year of return (or as preventing a charge to that tax from arising as a result).]

[<sup>F47</sup>(10) . . . . . ]

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### Textual Amendments

- F39** S. 10A inserted (with effect in accordance with s. 127(4) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 127\(1\)](#)
- F40** Words in s. 10A(3)(a) substituted (with effect in accordance with s. 32(7) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 32\(2\)\(a\)](#)
- F41** Word in s. 10A(3)(d) inserted (with effect in accordance with s. 32(8) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 32\(2\)\(b\)](#)
- F42** Words in s. 10A(8) inserted (with effect in accordance with s. 32(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 32\(3\)](#)
- F43** S. 10A(9)(9A)(9B) substituted for s. 10A(9) (with effect in accordance with s. 32(7) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 32\(4\)](#)
- F44** S. 10A(9ZA) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 7 para. 59](#) (with [Sch. 7 para. 84\(1\)\(3\)](#))
- F45** S. 10A(9A) repealed (with effect in accordance with s. 74(6) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 74\(4\)\(a\), Sch. 26 Pt. 3\(11\)](#)
- F46** S. 10A(9C) inserted (with effect in accordance with s. 32(7) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 32\(5\)](#)
- F47** S. 10A(10) repealed (with effect in accordance with s. 32(7) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 32\(6\), Sch. 11 Pt. 2\(4\)](#)

### Modifications etc. (not altering text)

- C21** S. 10A applied (with modifications) (with effect in accordance with art. 1(2)(3), Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\), regs. 1\(1\), 23](#)
- C22** S. 10A applied (with modifications) by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\), reg. 85P](#) (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2010/294, regs. 1\(1\), 21](#))

## [<sup>F48</sup>10B Non-resident company with United Kingdom permanent establishment

- (1) Subject to any exceptions provided by this Act, the chargeable profits for the purposes of corporation tax of a company not resident in the United Kingdom but carrying on a trade in the United Kingdom through a permanent establishment there include chargeable gains accruing to the company on the disposal of—
  - (a) assets situated in the United Kingdom and used in or for the purposes of the trade at or before the time the gain accrued, or
  - (b) assets situated in the United Kingdom and used or held for the purposes of the permanent establishment at or before the time the gain accrued or acquired for use by or for the purposes of the permanent establishment.
- (2) Subsection (1) does not apply unless the disposal is made at a time when the company is carrying on a trade in the United Kingdom through a permanent establishment there.
- (3) This section does not apply to a company that, by virtue of Part 18 of the Taxes Act (double taxation relief arrangements), is exempt from corporation tax for the chargeable period in respect of the profits of the permanent establishment.

[<sup>F49</sup>(4) In this section—

- (a) references to a trade include an office, and
- (b) references to carrying on a trade include holding an office.]]

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#### Textual Amendments

- F48** S. 10B inserted (with effect in accordance with s. 149(6) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 149\(4\)](#)
- F49** S. 10B(4) substituted (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. 360](#) (with [Sch. 2 Pts. 1, 2](#))

#### Modifications etc. (not altering text)

- C23** S. 10B applied (with modifications) (with effect in accordance with art. 1(2)(3), Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\), regs. 1\(1\), 22\(1\)\(c\)\(4\)](#)
- C24** S. 10B extended by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\), reg. 85O](#) (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2010/294, regs. 1\(1\), 21](#))

### [<sup>F50</sup>11 Visiting forces and official agents

- (1) If section 833 of ITA 2007 (visiting forces and staff of designated allied headquarters) applies to an individual throughout a period, the period is not treated for capital gains tax purposes as—
  - (a) a period of residence in the United Kingdom, or
  - (b) creating a change of the individual's residence or domicile.
- (2) If an individual is entitled to immunity from income tax by virtue of section 841 of ITA 2007 (which provides immunity from income tax for official agents of Commonwealth countries or the Republic of Ireland etc), the individual is entitled to the same immunity from capital gains tax as that to which a member of the staff of a mission is entitled under the Diplomatic Privileges Act 1964.
- (3) “A member of the staff of a mission” is to be read in accordance with the Diplomatic Privileges Act 1964.]

#### Textual Amendments

- F50** S. 11 substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 297](#) (with [Sch. 2](#))

### [<sup>F51</sup>12 Non-UK domiciled individuals to whom remittance basis applies

- (1) This section applies to foreign chargeable gains accruing to an individual in a tax year (“the foreign chargeable gains”) if—
  - (a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year, and
  - (b) the individual is not domiciled in the United Kingdom in that year.
- (2) Chargeable gains are treated as accruing to the individual in any tax year in which any of the foreign chargeable gains are remitted to the United Kingdom.
- (3) The amount of chargeable gains treated as accruing is equal to the full amount of the foreign chargeable gains so remitted in that year.
- (4) In this section “foreign chargeable gains” means chargeable gains accruing from the disposal of an asset which is situated outside the United Kingdom.

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- (5) See Chapter A1 of Part 14 of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.]

#### Textual Amendments

**F51** S. 12 substituted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 60](#) (with [Sch. 7 para. 84\(1\)\(2\)](#))

#### Modifications etc. (not altering text)

**C25** S. 12 applied by [Income Tax Act 2007 \(c. 3\)](#), [s. 809F\(4\)\(6\)](#) (as inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 1](#))

**C26** S. 12 applied (with modifications) (with effect in accordance with art. 1(2)(3), Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), [regs. 1\(1\)](#), [20\(3\)](#)

### 13 Attribution of gains to members of non-resident companies.

- (1) This section applies as respects chargeable gains accruing to a company—
- which is not resident in the United Kingdom, and
  - which would be a close company if it were resident in the United Kingdom.

(2) Subject to this section, every person who at the time when the chargeable gain accrues to the company is resident or ordinarily resident in the United Kingdom [<sup>F52</sup>and]<sup>F53</sup> is a participator] in the company, shall be treated for the purposes of this Act as if a part of the chargeable gain had accrued to him.

[<sup>F54</sup>(3) That part shall be equal to the proportion of the gain that corresponds to the extent of the participator’s interest as a participator in the company.

(4) Subsection (2) above shall not apply in the case of any participator in the company to which the gain accrues where the aggregate amount falling under that subsection to be apportioned to him and to persons connected with him does not exceed [<sup>F55</sup>one tenth] of the gain.]

(5) This section shall not apply in relation to—

<sup>F56</sup>(a) .....

[<sup>F57</sup>(b) a chargeable gain accruing on the disposal of an asset used, and used only—

- for the purposes of a trade carried on by the company wholly outside the United Kingdom, or
- for the purposes of the part carried on outside the United Kingdom of a trade carried on by the company partly within and partly outside the United Kingdom,]

(c) a chargeable gain accruing on the disposal of currency or of a debt within section 252(1), where the currency or debt is or represents money in use for the purposes of a trade carried on by the company wholly outside the United Kingdom, or

(d) to a chargeable gain in respect of which the company is chargeable to tax by virtue of section [<sup>F58</sup>10B].

[<sup>F59</sup>(5A) Where—

- an amount of tax is paid by a person in pursuance of subsection (2) above, and

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- (b) an amount in respect of the chargeable gain is distributed (either by way of dividend or distribution of capital or on the dissolution of the company) before the end of the period specified in subsection (5B) below,

the amount of tax (so far as neither reimbursed by the company nor applied as a deduction under subsection (7) below) shall be applied for reducing or extinguishing any liability of that person to income tax, capital gains tax or corporation tax in respect of the distribution.

(5B) The period referred to in subsection (5A)(b) above is the period of three years from—

- (a) the end of the period of account of the company in which the chargeable gain accrued, or
- (b) the end of the period of twelve months beginning with the date on which the chargeable gain accrued,

whichever is earlier.

<sup>F60</sup> .....

<sup>F61</sup>(6) .....

- (7) The amount of capital gains tax paid by a person in pursuance of subsection (2) above (so far as [<sup>F62</sup>neither reimbursed by the company nor applied under subsection (5A) above for reducing any liability to tax]) shall be allowable as a deduction in the computation under this Act of a gain accruing on the disposal by him of [<sup>F63</sup>any asset representing his interest as a participator in the company].

[<sup>F64</sup>(7A) In ascertaining for the purposes of subsection (5A) or (7) above the amount of capital gains tax or income tax chargeable on any person for any year on or in respect of any chargeable gain or distribution—

- (a) any such distribution as is mentioned in subsection (5A)(b) above and falls to be treated as income of that person for that year shall be regarded as forming the highest part of the income on which he is chargeable to tax for the year;

<sup>F65</sup>(b) .....

<sup>F65</sup>(c) .....

<sup>F65</sup>(d) .....

- (8) So far as it would go to reduce or extinguish chargeable gains accruing by virtue of this section to a person in a year of assessment this section shall apply in relation to a loss accruing to the company on the disposal of an asset in that year of assessment as it would apply if a gain instead of a loss had accrued to the company on the disposal, but shall only so apply in relation to that person; and subject to the preceding provisions of this subsection this section shall not apply in relation to a loss accruing to the company.

- (9) If [<sup>F66</sup>a person who is a participator in the company] at the time when the chargeable gain accrues to the company is itself a company which is not resident in the United Kingdom but which would be a close company if it were resident in the United Kingdom, an amount equal to the amount apportioned under subsection (3) above out of the chargeable gain [<sup>F67</sup>to the participating company's interest as a participator in the company to which the gain accrues shall be further apportioned among the participators in the participating company according to the extent of their respective interests as participators, and subsection (2) above shall apply to them accordingly in relation to the amounts further apportioned, and so on through any number of companies].



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(10) The persons treated by this section as if a part of a chargeable gain accruing to a company had accrued to them shall include [<sup>F68</sup>the trustees of a settlement who are participators][<sup>F69</sup>in the company, or in any company amongst the participators in which the gain is apportioned under subsection (9) above,] if when the gain accrues to the company the trustees are neither resident nor ordinarily resident in the United Kingdom.

<sup>F70</sup>(10A) .....

[<sup>F71</sup>(10B) A chargeable gain that would be treated as accruing to a person under subsection (2) above shall not be so treated if—

- (a) it would be so treated only if assets that are assets of a pension scheme were taken into account in ascertaining that person's interest as a participator in the company, and
- (b) at the time the gain accrues a gain arising on a disposal of those assets would be exempt from tax by virtue of [<sup>F72</sup>section 271(1)(c) or (1A)].

In paragraph (a) above “assets of a pension scheme” means assets held for the purposes of a fund or scheme to which any of the provisions mentioned in paragraph (b) above applies.]

(11) If any tax payable by any person by virtue of subsection (2) above is paid by the company to which the chargeable gain accrues, or in a case under subsection (9) above is paid by any such other company, the amount so paid shall not for the purposes of income tax, capital gains tax or corporation tax be regarded as a payment to the person by whom the tax was originally payable.

[<sup>F73</sup>(11A) For the purposes of this section the amount of the gain or loss accruing at any time to a company that is not resident in the United Kingdom shall be computed (where it is not the case) as if that company were within the charge to corporation tax on capital gains.]

[<sup>F74</sup>(12) In this section “participator”, in relation to a company, has the meaning given by section 417(1) of the Taxes Act for the purposes of Part XI of that Act (close companies).

(13) In this section—

- (a) references to a person's interest as a participator in a company are references to the interest in the company which is represented by all the factors by reference to which he falls to be treated as such a participator; and
- (b) references to the extent of such an interest are references to the proportion of the interests as participators of all the participators in the company (including any who are not resident or ordinarily resident in the United Kingdom) which on a just and reasonable apportionment is represented by that interest.

(14) For the purposes of this section, where—

- (a) the interest of any person in a company is wholly or partly represented by an interest which he has under any settlement (“his beneficial interest”), and
- (b) his beneficial interest is the factor, or one of the factors, by reference to which that person would be treated (apart from this subsection) as having an interest as a participator in that company,

the interest as a participator in that company which would be that person's shall be deemed, to the extent that it is represented by his beneficial interest, to be an interest of the trustees of the settlement (and not of that person), and references in this section, in relation to a company, to a participator shall be construed accordingly.

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F75(15) . . . . . ]

### Textual Amendments

- F52** Word in s. 13(2) substituted (with effect in accordance with Sch. 7 para. 105 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 7 para. 103**
- F53** Words in s. 13(2) substituted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 174(2)**
- F54** S. 13(3)(4) substituted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 174(3)**
- F55** Words in s. 13(4) substituted (with application in accordance with s. 80(6) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), **s. 80(2)** (with Sch. 3)
- F56** S. 13(5)(a) repealed (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 174(4), **Sch. 41 Pt. V(30)**
- F57** S. 13(5)(b) substituted (with application in accordance with s. 80(6) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), **s. 80(3)** (with Sch. 3)
- F58** Word in s. 13(5)(d) substituted (with effect in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 27 para. 2(3)**
- F59** S. 13(5A)(5B) substituted for s. 13(5A) (with application in accordance with s. 80(6) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), **s. 80(4)** (with Sch. 3)
- F60** Words in s. 13(5B) repealed (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 40 Pt. 3(16)**
- F61** S. 13(6) repealed (with effect in accordance with Sch. 41 Pt. 5(30) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 41 Pt. V(30)**
- F62** Words in s. 13(7) substituted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 174(5)(a)**
- F63** Words in s. 13(7) substituted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 174(5)(b)**
- F64** S. 13(7A) inserted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 174(6)**
- F65** S. 13(7A)(b)-(d) omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 4**
- F66** Words in s. 13(9) substituted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 174(7)(a)**
- F67** Words in s. 13(9) substituted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 174(7)(b)**
- F68** Words in s. 13(10) substituted (with effect in accordance with Sch. 12 para. 8(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 12 para. 8(1)**
- F69** Words in s. 13(10) substituted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 174(8)**
- F70** S. 13(10A) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 28**
- F71** S. 13(10B) inserted (with application in accordance with s. 80(6) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), **s. 80(5)** (with Sch. 3)
- F72** Words in s. 13(10B)(b) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), **Sch. 35 para. 39** (with Sch. 36)
- F73** S. 13(11A) inserted (with effect in accordance with s. 122(6)(7) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **s. 122(4)**
- F74** S. 13(12)-(15) inserted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 174(9)**
- F75** S. 13(15) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 178**

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#### Modifications etc. (not altering text)

**C27** S. 13 applied (with modifications) (with effect in accordance with art. 1(2)(3), Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), regs. 1(1), **24**

## 14 Non-resident groups of companies.

(1) This section has effect for the purposes of section 13.

[<sup>F76</sup>(2) The following provisions—

- (a) section 41(8),
- (b) section 171 (except subsections (1)(b) and (1A)),
- (c) section 173 (with the omission of the words “to which this section applies” in subsections (1)(a) and (2)(a) and “such” in subsections (1)(c) and (2)(c) and with the omission of subsection (3)),
- (d) section 174(4) (with the substitution of “ at a time when both were members of the group” for “in a transfer to which section 171(1) applied”), and
- (e) section 175(1) (with the omission of the words “to which this section applies”),

shall apply in relation to non-resident companies which are members of a non-resident group of companies as they apply in relation to companies which are members of a group of companies.]

(3) [<sup>F77</sup>Section 179 (except subsections (1)(b) and (1A))] shall apply for the purposes of section 13 as if for any reference therein to a group of companies there were substituted a reference to a non-resident group of companies, and as if references to companies were references to companies not resident in the United Kingdom.

(4) For the purposes of this section —

- (a) a “non-resident group” of companies—
  - (i) in the case of a group, none of the members of which are resident in the United Kingdom, means that group, and
  - (ii) in the case of a group, 2 or more members of which are not resident in the United Kingdom, means the members which are not resident in the United Kingdom;
- (b) “group” shall be construed in accordance with section 170 <sup>F78</sup>... .

#### Textual Amendments

- F76** S. 14(2) substituted (with effect in accordance with Sch. 29 para. 16(5) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 16\(2\)](#) (with [Sch. 29 para. 46\(5\)](#))
- F77** Words in s. 14(3) substituted (with effect in accordance with Sch. 29 para. 16(5) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 16\(3\)](#) (with [Sch. 29 para. 46\(5\)](#))
- F78** Words in s. 14(4)(b) repealed (with effect in accordance with Sch. 29 para. 16(5), Sch. 40 Pt. 2(12) Note 2 of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 16\(4\)](#), [Sch. 40 Pt. II\(12\)](#) (with [Sch. 29 para. 46\(5\)](#))

## [<sup>F79</sup>14A Section 13: non-UK domiciled individuals

(1) This section applies if—

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- (a) by virtue of section 13, part of a chargeable gain that accrues to a company on the disposal of an asset is treated as accruing to an individual in a tax year, and
  - (b) the individual is not domiciled in the United Kingdom in that year.
- (2) The part of the chargeable gain treated as accruing to the individual (“the deemed chargeable gain”) is a foreign chargeable gain within the meaning of section 12 if (and only if) the asset is situated outside the United Kingdom.
- (3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis)—
- (a) treat any consideration obtained by the company on the disposal of the asset as deriving from the deemed chargeable gain, and
  - (b) unless the consideration so obtained is of an amount [<sup>F80</sup>at least] equal to the market value of the asset, treat the asset as deriving from the deemed chargeable gain.
- (4) If—
- (a) the deemed chargeable gain is a foreign chargeable gain (within the meaning of section 12),
  - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the year mentioned in subsection (1), and
  - (c) any of the deemed chargeable gain is remitted to the United Kingdom in a tax year after that year,

the chargeable gain treated under section 12(2) as accruing may not be reduced or extinguished under section 13(8).]

#### **Textual Amendments**

**F79** S. 14A inserted (with effect in accordance with Sch. 7 para. 105 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 104](#)

**F80** Words in s. 14A(3)(b) inserted (with effect in accordance with Sch. 27 para. 15(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 12](#)

**Status:**

Point in time view as at 06/03/2010.

**Changes to legislation:**

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