



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART I **U.K.**

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

##### *Residence etc.*

#### 9 **Residence, including temporary residence. U.K.**

- (1) In this Act “resident” and “ordinarily resident” have the same meanings as in the Income Tax Acts.
- <sup>F1</sup>(2) .....
- (3) Subject to <sup>F2</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>F3</sup>the individual spends (in total) at least 183 days in the United Kingdom.]
- <sup>F4</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>F5</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

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- (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

- F1** 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](#)
- F2** 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\(2\)](#)
- F3** 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\(6\)](#)
- F4** 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\(2\)\(4\)](#)
- F5** 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. **U.K.**

- (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—
- (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>F6</sup>(3) .....

- (4) This section shall not apply to a person who, by virtue of [<sup>F7</sup>Part 2 of TIOPA 2010 (double taxation relief)], is exempt from income tax <sup>F8</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).

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#### Textual Amendments

- F6** 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\(6\)](#)
- F7** Words in s. 10(4) 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. 41 \(with Sch. 9 paras. 1-9, 22\)](#)
- F8** 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)

- C1** 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\(5\)](#)
- C2** 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\(1\)\(b\)\(3\)](#)
- C3** 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>F9</sup>10A Temporary non-residents. **U.K.**

- (1) This section applies in the case of any individual (“the taxpayer”) if—
- he satisfies the residence requirements for any year of assessment (“the year of return”);
  - 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;
  - there are fewer than five years of assessment falling between the year of departure and the year of return; and
  - 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—
- all the chargeable gains and losses which (apart from this subsection) would have accrued to him in an intervening year,
  - 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
  - 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—
- that asset was acquired by the taxpayer at a time in the year of departure or any intervening year when

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- [ he was neither resident nor ordinarily resident in the United Kingdom,  
<sup>F10</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>F11</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 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>F12</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>F13</sup>(9) For the purposes of this section an individual satisfies the residence requirements for a year of assessment—

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- (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>F14</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>F15</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>F16</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>F17</sup>(10) . . . . . ]

#### Textual Amendments

- F9** S. 10A inserted (with effect in accordance with s. 127(4) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 127\(1\)](#)
- F10** 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\(2\)\(a\)](#)
- F11** 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\(2\)\(b\)](#)
- F12** 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\(3\)](#)
- F13** 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\(4\)](#)
- F14** 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\(1\)\(3\)](#))
- F15** 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\(11\)](#)
- F16** 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\(5\)](#)
- F17** 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\(4\)](#)

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

- C4** 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**
- C5** 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>F18</sup>10B Non-resident company with United Kingdom permanent establishment U.K.**

- (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 [<sup>F19</sup>Part 2 of TIOPA 2010 (double taxation relief)], is exempt from corporation tax for the chargeable period in respect of the profits of the permanent establishment.
- [<sup>F20</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.]]

**Textual Amendments**

- F18** S. 10B inserted (with effect in accordance with s. 149(6) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), s. **149(4)**
- F19** Words in s. 10B(3) 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. 42** (with Sch. 9 paras. 1-9, 22)
- F20** 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)**

- C6** 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)**
- C7** 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**)

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## [<sup>F21</sup>11 Visiting forces and official agents **U.K.**

- (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

**F21** S. 11 substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 297](#) (with [Sch. 2](#))

## [<sup>F22</sup>12 Non-UK domiciled individuals to whom remittance basis applies **U.K.**

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

### Textual Amendments

**F22** 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)

- C8** 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](#))
- C9** 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\(3\)](#)

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

- (1) This section applies as respects chargeable gains accruing to a company—
- (a) which is not resident in the United Kingdom, and
  - (b) 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>F23</sup>and][<sup>F24</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>F25</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>F26</sup>one tenth] of the gain.]
- (5) This section shall not apply in relation to—
- <sup>F27</sup>(a) . . . . .
  - [<sup>F28</sup>(b) a chargeable gain accruing on the disposal of an asset used, and used only—
    - (i) for the purposes of a trade carried on by the company wholly outside the United Kingdom, or
    - (ii) 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>F29</sup>10B].
- [<sup>F30</sup>(5A) Where—
- (a) an amount of tax is paid by a person in pursuance of subsection (2) above, and
  - (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>F31</sup> . . . . . ]



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<sup>F32</sup>(6) .....

(7) The amount of capital gains tax paid by a person in pursuance of subsection (2) above (so far as [<sup>F33</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>F34</sup>any asset representing his interest as a participator in the company].

[<sup>F35</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>F36</sup>(b) .....

<sup>F36</sup>(c) .....

<sup>F36</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>F37</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>F38</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].

(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>F39</sup>the trustees of a settlement who are participators][<sup>F40</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>F41</sup>(10A) .....

[<sup>F42</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>F43</sup>section 271(1)(c) or (1A)].

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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>F44</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>F45</sup>(12) In this section “participator”, in relation to a company, has the meaning given by [<sup>F46</sup>section 454 of CTA 2010].

(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.

[<sup>F47</sup>(15) . . . . . ]

#### Textual Amendments

- F23** 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**
- F24** 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)**
- F25** 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)**
- F26** 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](#))
- F27** 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)**
- F28** 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](#))

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- F29** 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\(3\)](#)
- F30** 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)
- F31** Words in s. 13(5B) repealed (24.7.2002) by [Finance Act 2002 \(c. 23\), Sch. 40 Pt. 3\(16\)](#)
- F32** 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\(30\)](#)
- F33** 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\(5\)\(a\)](#)
- F34** 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\(5\)\(b\)](#)
- F35** S. 13(7A) inserted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 174\(6\)](#)
- F36** 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](#)
- F37** 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\(7\)\(a\)](#)
- F38** 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\(7\)\(b\)](#)
- F39** 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\(1\)](#)
- F40** 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\(8\)](#)
- F41** 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](#)
- F42** 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)
- F43** 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)
- F44** 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\(4\)](#)
- F45** 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\(9\)](#)
- F46** Words in s. 13(12) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 227](#) (with Sch. 2)
- F47** 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](#)

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

- C10** 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. U.K.**

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

[<sup>F48</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)),

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- (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>F49</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>F50</sup> ... .

#### Textual Amendments

- F48** 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\(5\)](#))
- F49** 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\(5\)](#))
- F50** 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>F51</sup>14A Section 13: non-UK domiciled individuals **U.K.**

- (1) This section applies if—
  - (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>F52</sup>at least] equal to the market value of the asset, treat the asset as deriving from the deemed chargeable gain.
- (4) If—

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- (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**

- F51** 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](#)
- F52** 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](#)

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