



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART I

CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

Residence etc.

^{F1}9 **Residence, including temporary residence.**

.....

Textual Amendments

F1 S. 9 omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 148\(2\)](#)

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 [^{F2}if the residence condition is not met (see section 2(1A)) but the person] 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.

^{F3}(3)

Status: Point in time view as at 16/11/2017.

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- (4) This section shall not apply to a person who, by virtue of [^{F4}Part 2 of TIOPA 2010 (double taxation relief)], is exempt from income tax ^{F5}... 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

- F2** Words in s. 10(1) substituted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 76](#)
- F3** 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\(6\)](#)
- F4** 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](#))
- F5** 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. 850 (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2010/294](#), [regs. 1\(1\), 21](#))

[^{F6}10A Temporary non-residents.

- (1) This section applies if an individual (“the taxpayer”) is temporarily non-resident.
- (2) The taxpayer is chargeable to capital gains tax as if gains and losses within subsection (3) were chargeable gains or, as the case may be, losses accruing to the taxpayer in the period of return.
- (3) The gains and losses within this subsection are—
- (a) chargeable gains and losses that accrued to the taxpayer in the temporary period of non-residence,
 - (b) chargeable gains that would be treated under section 13 as having accrued to the taxpayer in that period if the residence assumption were made,
 - (c) losses that would be allowable in the taxpayer's case under section 13(8) in that period if that assumption were made, and

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- (d) chargeable gains that would be treated under section 86 as having accrued to the taxpayer in a tax year falling wholly in that period if the taxpayer had been resident in the United Kingdom for that year.
- (4) The residence assumption is—
 - (a) that the taxpayer had been resident in the United Kingdom for the tax year in which the gain or loss accrued to the company, or
 - (b) if that tax year was a split year as respects the taxpayer, that the gain or loss had accrued to the company in the UK part of it.
- (5) But—
 - (a) a gain is not within subsection (3) if, ignoring this section, the taxpayer is chargeable to capital gains tax in respect of it (and could not cease to be so chargeable by making a claim under section 6 of TIOPA 2010), and
 - (b) a loss is not within subsection (3) if the test in paragraph (a) would be met if it were a gain.
- (6) Subsection (2) is subject to sections 10AA and 86A.
- (7) To determine the losses mentioned in subsection (3)(c)—
 - (a) calculate separately, for each tax year falling wholly or partly in the temporary period of non-residence, the portion of sum A that does not exceed sum B, and
 - (b) add up all those portions.
- (8) For the purposes of subsection (7)—
 - “sum A” is the aggregate of the losses that were not available in accordance with section 13(8) for reducing gains accruing to the taxpayer by virtue of section 13 in the relevant tax year, but would have been available if the residence assumption had been made, and
 - “sum B” is the amount of the gains that did not accrue to the taxpayer by virtue of section 13 in that tax year but would have so accrued if that assumption had been made.
- (9) If section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the taxpayer for the year of return, any foreign chargeable gains falling within subsection (3) by virtue of paragraph (a) of that subsection that were remitted to the United Kingdom at any time in the temporary period of non-residence are to be treated as remitted to the United Kingdom in the period of return.
- (10) Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance) explains—
 - (a) when an individual is to be regarded as “temporarily non-resident”, and
 - (b) what “the temporary period of non-residence” and “the period of return” mean.
- (11) In this section—
 - “foreign chargeable gains” has the meaning given by section 12(4);
 - “remitted to the United Kingdom” has the same meaning as in Chapter A1 of Part 14 of ITA 2007;
 - “the year of return” means the tax year that consists of or includes the period of return.

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Textual Amendments

- F6** Ss. 10A, 10AA substituted for s. 10A (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 45 para. 119**

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**)
- C6** S. 10A (as it has effect where the year of departure as defined in Finance Act 2013 (c. 29), Sch. 45 Pt. 4 is the tax year 2012-13 or an earlier tax year) amended (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), **Sch. 7 para. 9**

10AA Section 10A: supplementary

- (1) Section 10A(2) does not apply to a gain or loss accruing on the disposal by the taxpayer of an asset if—
 - (a) the asset was acquired by the taxpayer in the temporary period of non-residence,
 - (b) it was so acquired otherwise than by means of a relevant disposal that 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) the 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 the 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), 153(1)(b), 162(3)(b) or 247(2)(b) or (3)(b).
- (2) “Relevant disposal” means a disposal of an asset acquired by the person making the disposal at a time when that person was resident in the United Kingdom and was not Treaty non-resident.
- (3) Subsection (1) does not apply if—
 - (a) the gain is one that (ignoring section 10A) would fall 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 part of another asset, and
 - (b) that other asset meets the requirements of paragraphs (a) to (d) of subsection (1), but the asset in respect of which the gain actually accrued or would actually accrue does not.
- (4) Nothing in any double taxation relief arrangements is to be read as preventing the taxpayer from being chargeable to capital gains tax in respect of any chargeable gains treated under section 10A as accruing to the taxpayer in the period of return (or as preventing a charge to that tax from arising as a result).
- (5) Nothing in any enactment imposing any limit on the time within which an assessment to capital gains tax may be made prevents any assessment for the year of departure from being made in the taxpayer's case at any time before the end of the second anniversary of the 31 January next following the year of return (as defined in section 10A).]

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Textual Amendments

- F6** Ss. 10A, 10AA substituted for s. 10A (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 119](#)

[^{F7}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—
- 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
 - 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 [^{F8}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.

[This section applies to an overseas life insurance company in the case of its long-term ^{F9}(3A) business with the omission from subsection (1)(b) of the words “situated in the United Kingdom and”.]

[^{F10}(4) In this section—

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

Textual Amendments

- F7** S. 10B inserted (with effect in accordance with s. 149(6) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 149\(4\)](#)
- F8** 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)
- F9** S. 10B(3A) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 73](#)
- F10** 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)

- C7** 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\(1\)\(c\)\(4\)](#)
- C8** S. 10B extended by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), [reg. 850](#) (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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[^{F11}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

F11 S. 11 substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 297](#) (with [Sch. 2](#))

[^{F12}12 Non-UK domiciled individuals to whom remittance basis applies

- [^{F13}(1) This section applies to foreign chargeable gains accruing to an individual in a tax year (“the foreign chargeable gains”) if section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year.]
- [^{F14}(1A) But it does not apply to foreign chargeable gains accruing to an individual in the overseas part of a split year as respects that individual, regardless of the part of the year (the overseas part or the UK part) in which the foreign chargeable gains are remitted.]
 - (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.
- [^{F15}(2A) If that tax year is a split year as respects the individual, the chargeable gains are treated as accruing to the individual in the part of the year (the overseas part or the UK part) in which the foreign chargeable gains are so remitted.]
 - (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 [^{F16}or, where applicable, that part of the 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

F12 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\(1\)\(2\)](#))

F13 S. 12(1) substituted (with effect in accordance with [Sch. 46 para. 25](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 17](#) (with [Sch. 46 para. 26](#))

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F14 S. 12(1A) inserted (with effect in accordance with s. 59(3) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 59\(2\)](#)

F15 S. 12(2A) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 45 para. 95\(2\)](#)

F16 Words in s. 12(3) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 45 para. 95\(3\)](#)

Modifications etc. (not altering text)

C9 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](#))

C10 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—
- (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.

[^{F17}(1A) But this section does not apply if the gain is

- [^{F18}(a) an ATED-related gain chargeable to capital gains tax by virtue of section 2B (capital gains tax on ATED-related gains), ^{F19} ...
- (b) an NRCGT gain chargeable to capital gains tax by virtue of section 14D or 188D (capital gains tax on NRCGT gains)] [^{F20}, or
- (c) a chargeable gain treated as accruing under section 103KA(2) or (3) (carried interest gains)].]

(2) Subject to this section, every person who at the time when the chargeable gain accrues to the company is resident ^{F21}... in the United Kingdom [^{F22}and] [^{F23}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.

[^{F24}(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.

[^{F25}(3A) Subsection (2) does not apply in the case of a participator who is an individual if—

- (a) the tax year in which the chargeable gain accrues to the company is a split year as respects the participator, and
- (b) the chargeable gain accrues to the company in the overseas part of that year.]

(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 [^{F26}one quarter] of the gain.]

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

- ^{F27}(a)
- [^{F28}(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

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(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,] or

^{F29}(c)

[^{F30}(ca) a chargeable gain accruing on the disposal of an asset used, and used only, for the purposes of economically significant activities carried on by the company wholly or mainly outside the United Kingdom, or

(cb) a chargeable gain accruing to the company on a disposal of an asset where it is shown that neither—

(i) the disposal of the asset by the company, nor

(ii) the acquisition or holding of the asset by the company,

formed part of a scheme or arrangements of which the main purpose, or one of the main purposes, was avoidance of liability to capital gains tax or corporation tax, or]

(d) to a chargeable gain in respect of which the company is chargeable to tax by virtue of section [^{F31}10B].

[^{F32}(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.

^{F33}

^{F34}(6)

(7) The amount of capital gains tax paid by a person in pursuance of subsection (2) above (so far as [^{F35}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 [^{F36}any asset representing his interest as a participator in the company].

[^{F37}(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;

^{F38}(b)

^{F38}(c)

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^{F38}(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 [^{F39}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 [^{F40}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 [^{F41}the trustees of a settlement who are participators][^{F42}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 [^{F43}not resident] in the United Kingdom.

^{F44}(10A)

[^{F45}(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 [^{F46}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.

[^{F47}(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.]

[^{F48}(12) In this section “participator”, in relation to a company, has the meaning given by [^{F49}section 454 of CTA 2010].

(13) In this section—

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- (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 ^{F50} ... 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.

^{F51}(15)]

Textual Amendments

- F17** S. 13(1A) inserted (with effect in accordance with Sch. 25 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 25 para. 7**
- F18** Words in s. 13(1A) substituted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), **Sch. 7 para. 10**
- F19** Word in s. 13(1A)(a) omitted (with effect in accordance with s. 32(5) of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **s. 32(2)(a)**
- F20** S. 13(1A)(c) and preceding word inserted (with effect in accordance with s. 32(5) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **s. 32(2)(b)**
- F21** Words in s. 13(2) omitted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 46 para. 77(2)**
- F22** 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**
- F23** 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)**
- F24** 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)**
- F25** S. 13(3A) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 45 para. 96**
- F26** Words in s. 13(4) substituted (with effect in accordance with s. 62(5)-(7) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **s. 62(2)**
- 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)
- F29** S. 13(5)(c) omitted (with effect in accordance with s. 34(6) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), **s. 35(2)**
- F30** S. 13(5)(ca)(cb) inserted (with effect in accordance with s. 62(5)-(7) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **s. 62(3)**

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- F31** 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\(3\)](#)
- F32** 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)
- F33** Words in s. 13(5B) repealed (24.7.2002) by [Finance Act 2002 \(c. 23\), Sch. 40 Pt. 3\(16\)](#)
- F34** 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\(30\)](#)
- F35** 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\(5\)\(a\)](#)
- F36** 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\(5\)\(b\)](#)
- F37** S. 13(7A) inserted (with effect in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 174\(6\)](#)
- F38** 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](#)
- F39** 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\(7\)\(a\)](#)
- F40** 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\(7\)\(b\)](#)
- F41** 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\(1\)](#)
- F42** 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\(8\)](#)
- F43** Words in s. 13(10) substituted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 46 para. 77\(3\)](#)
- F44** 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](#)
- F45** 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)
- F46** 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)
- F47** 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\(4\)](#)
- F48** 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\(9\)](#)
- F49** 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)
- F50** Words in s. 13(13)(b) omitted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\), Sch. 46 para. 77\(4\)](#)
- F51** 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)

- C11** 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](#)

[^{F52}13A Section 13(5): interpretation

- (1) For the purposes of section 13(5)(b) a disposal of an asset is to be regarded as a disposal of an asset used for the purposes of a trade carried on wholly outside the United Kingdom by a company if—

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- (a) the asset is accommodation, or an interest or right in accommodation, which is situated outside the United Kingdom, and
 - (b) the accommodation has for each relevant period been furnished holiday accommodation of which a person has made a commercial letting.
- (2) For the purposes of subsection (1)(b) each of the following is “a relevant period”—
- (a) the period of 12 months ending with the date of the disposal and each of the two preceding periods of 12 months, or
 - (b) if the company has been the beneficial owner of the accommodation (or interest or right) for a period longer than 36 months, the period of 12 months ending with the date of the disposal and each of the preceding periods of 12 months throughout which the company has been the beneficial owner of the accommodation (or interest or right).
- (3) The reference in subsection (1)(b) to the commercial letting of furnished holiday accommodation is to be read in accordance with Chapter 6 of Part 4 of CTA 2009, but—
- (a) as if sections 266, 268 and 268A were omitted, and
 - (b) as if, in section 267(1), the reference to an accounting period were a reference to a relevant period as defined by subsection (2) above.
- (4) For the purposes of section 13(5)(ca) activities carried on by a company are “economically significant activities” if they are activities which consist of the provision by the company of goods or services to others on a commercial basis and involve—
- (a) the use of staff in numbers, and with competence and authority,
 - (b) the use of premises and equipment, and
 - (c) the addition of economic value, by the company, to those to whom the goods or services are provided,
- commensurate with the size and nature of those activities.
- (5) In subsection (4) “staff” means employees, agents or contractors of the company.]

Textual Amendments

F52 S. 13A inserted (with effect in accordance with s. 62(5)-(7) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 62\(4\)](#)

14 Non-resident groups of companies.

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

[^{F53}(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

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- (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) [^{F54}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 ^{F55}

Textual Amendments

- F53** 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\(5\)](#))
- F54** 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\(5\)](#))
- F55** 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\(5\)](#))

[^{F56}14A Section 13: non-UK domiciled individuals

- (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 [^{F57}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),

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- (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

- F56** 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](#)
- F57** 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 16/11/2017.

Changes to legislation:

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