



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART I

CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

Residence etc.

[^{F1}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
 - (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—

Status: Point in time view as at 26/03/2015. This version of this provision has been superseded.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 10A is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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.]

Textual Amendments

- F1** 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)

- C1** 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](#)
- C2** 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](#))

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- C3** 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](#)

Status:

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