



Income Tax Act 2007

2007 CHAPTER 3

PART 14

INCOME TAX LIABILITY: MISCELLANEOUS RULES

[^{F1}CHAPTER A1

REMITTANCE BASIS

Textual Amendments

- F1** Pt. 14 Ch. A1 inserted (21.7.2008 with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 1](#) (with [Sch. 7 paras. 85-89](#))

Modifications etc. (not altering text)

- C1** **No commentary item could be found for this reference key-
b5c85c5c86db98b959e5afcecbd540f6** Pt. 14 Ch. A1 modified by 2003 c. 1, s. 41A(8) (as inserted (with effect in accordance with Sch. 7 para. 80 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 22](#))
- C2** Pt. 14 Ch. A1 modified by 2003 c. 1, s. 41A(8) (as inserted (21.7.2008 with effect in accordance with Sch. 7 para. 80 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 22](#))
- C3** Pt. 14 Ch. A1 modified by 1988 c. 1, s. 762ZB(3) (as inserted (21.7.2008 with effect in accordance with Sch. 7 para. 98 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 94](#))
- C4** Pt. 14 Ch. A1 modified by 1992 c. 12, s. 87B(3) (as inserted (21.7.2008 with effect in accordance with Sch. 7 para. 115 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 108](#) (with [Sch. 7 paras. 116-119](#)))
- C5** Pt. 14 Ch. A1 modified (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), [19\(3\)](#)

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

Introduction

809A Overview of Chapter

This Chapter provides for an alternative basis of charge in the case of individuals who are not domiciled in the United Kingdom or are not ordinarily UK resident.

Application of remittance basis

809B Claim for remittance basis to apply

- (1) This section applies to an individual for a tax year if the individual—
 - (a) is UK resident in that year,
 - (b) is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year, and
 - (c) makes a claim under this section for that year.
- (2) The claim must contain one or both of the following statements—
 - (a) that the individual is not domiciled in the United Kingdom in that year;
 - (b) that the individual is not ordinarily UK resident in that year.
- (3) Sections 42 and 43 of TMA 1970 (procedure and time limit for making claims), except section 42(1A) of that Act, apply in relation to a claim under this section as they apply in relation to a claim for relief.

Modifications etc. (not altering text)

C6 S. 809B applied by 2003 c. 1, s. 41C(7) (as inserted (21.7.2008 with effect in accordance with Sch. 7 para. 80 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 22](#))

809C Claim for remittance basis by long-term UK resident: nomination of foreign income and gains to which section 809H(2) is to apply

- (1) This section applies to an individual for a tax year if the individual—
 - (a) is aged 18 or over in that year, and
 - [^{F2}(b) meets the 12-year residence test or the 7-year residence test for that year.]

[An individual meets the 12-year residence test for a tax year if the individual has been ^{F3}(1A) UK resident in at least 12 of the 14 tax years immediately preceding that year.
- (1B) An individual meets the 7-year residence test for a tax year if the individual—
 - (a) does not meet the 12-year residence test for that year, but
 - (b) has been UK resident in at least 7 of the 9 tax years immediately preceding that year.]
- (2) A claim under section 809B by the individual for that year must contain a nomination of the income or chargeable gains of the individual for that year to which section 809H(2) is to apply.
- (3) The income or chargeable gains nominated must be part (or all) of the individual's foreign income and gains for that year.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (4) The income and chargeable gains nominated must be such that the relevant tax increase does not exceed ^{F4}—
- (a) for an individual who meets the 12-year residence test for that year, £50,000;
 - (b) for an individual who meets the 7-year residence test for that year, £30,000.]
- (5) “The relevant tax increase” is—
- (a) the total amount of income tax and capital gains tax payable by the individual for that year, minus
 - (b) the total amount of income tax and capital gains tax that would be payable by the individual for that year apart from section 809H(2).

[The references to income tax in subsection (5) do not include income tax under ^{F5}(5A) section 424 (gift aid).]

- (6) See section 809Z7 for the meaning of an individual's foreign income and gains for a tax year.

Textual Amendments

- F2** S. 809C(1)(b) substituted (17.7.2012) (with effect in accordance with Sch. 12 para. 5 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 2\(2\)](#)
- F3** S. 809C(1A)(1B) inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 5 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 2\(3\)](#)
- F4** Words in s. 809C(4) substituted (17.7.2012) (with effect in accordance with Sch. 12 para. 5 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 2\(4\)](#)
- F5** S. 809C(5A) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 2](#)

809D Application of remittance basis without claim where unremitted foreign income and gains under £2,000

- (1) This section applies to an individual for a tax year if—
- (a) the individual is UK resident in that year,
 - (b) the individual is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year, and
 - (c) the amount of the individual's unremitted foreign income and gains for that year is less than £2,000.

[^{F6}unless condition A or condition B is met.]

[Condition A is that the individual is not domiciled in the United Kingdom in that year ^{F7}(1A) and conditions A to F in section 828B are met.

(1B) Condition B is that the individual gives notice in a return under section 8 of TMA 1970 that this section is not to apply in relation to the individual for that year.]

- (2) The amount of an individual's “unremitted” foreign income and gains for a tax year is—
- (a) the total amount of what would (if this section applied) be the individual's foreign income and gains for that year, minus
 - (b) the total amount of those income and gains that are remitted to the United Kingdom in that year.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

Textual Amendments

- F6** Words in s. 809D(1) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 3\(2\)](#)
- F7** S. 809D(1A)(1B) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 3\(3\)](#)

809E Application of remittance basis without claim: other cases

- (1) This section applies to an individual for a tax year if—
- (a) the individual is UK resident in that year,
 - (b) the individual is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year,
 - ^{F8}(c) for that year the individual either has no UK income or gains or has no UK income and gains other than taxed investment income not exceeding £100.]
 - (d) no relevant income or gains are remitted to the United Kingdom in that year, and
 - (e) either—
 - (i) the individual has been UK resident in not more than 6 of the 9 tax years immediately preceding that year, or
 - (ii) the individual is under 18 throughout that year

^{F9}unless the individual gives notice in a return under section 8 of TMA 1970 that this section is not to apply in relation to the individual for that year.]

- (2) For the purposes of subsection (1)(c) the individual's UK income and gains for the tax year are the individual's income and chargeable gains for that year other than what would (if this section applied) be the individual's foreign income and gains for that year.

^{F10}[For the purposes of subsection (1)(c) “taxed investment income” means UK income (2A) or gains consisting of payments within section 946 from which a sum representing income tax has been deducted.]

- (3) For the purposes of subsection (1)(d) relevant income and gains are—
- (a) what would (if this section applied) be the individual's foreign income and gains for the tax year mentioned in subsection (1), and
 - (b) the individual's foreign income and gains for every other tax year for which section 809B or 809D or this section applies to the individual.

Textual Amendments

- F8** S. 809E(1)(c) substituted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 4\(2\)](#)
- F9** Words in s. 809E(1) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 4\(3\)](#)
- F10** S. 809E(2A) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 4\(4\)](#)

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

Effect of section 809B, 809D or 809E applying

809F Effect on what is chargeable

- (1) This section applies if section 809B, 809D or 809E applies to an individual for a tax year.
- (2) The individual's relevant foreign earnings for that year are charged in accordance with section 22 or 26 of ITEPA 2003.
- (3) The individual's relevant foreign income for that year is charged in accordance with section 832 of ITTOIA 2005.
- (4) If the individual is not domiciled in the United Kingdom in that year, the individual's foreign chargeable gains for that year are charged in accordance with section 12 of TCGA 1992.
- (5) For the effect on amounts which count as employment income of the individual under certain provisions of Part 7 of ITEPA 2003 (employment-related securities), see Chapter 5A of Part 2 of that Act.

[For the effect on amounts which count as employment income under Chapter 2 of Part ^{F11}(5A) 7A of ITEPA 2003, see sections 554Z9 to 554Z11 of that Act.]

- (6) Nothing in this section applies in relation to nominated income or chargeable gains (see section 809H).

Textual Amendments

F11 S. 809F(5A) inserted (19.7.2011) (with effect in accordance with Sch. 2 para. 52-59 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 41](#)

809G Claim for remittance basis: effect on allowances etc

- (1) This section applies if section 809B (claim for remittance basis to apply) applies to an individual for a tax year.
- (2) For that year, the individual is not entitled to—
 - (a) any allowance under Chapter 2 of Part 3 (personal allowance and blind person's allowance),
 - (b) any tax reduction under Chapter 3 of that Part (tax reductions for married couples and civil partners), or
 - (c) any relief under section 457 [^{F12}or 458] (payments for life insurance etc).
- (3) See also section 3(1A) of TCGA 1992 (no annual exempt amount for chargeable gains).

Textual Amendments

F12 Words in s. 809G(2)(c) substituted (17.7.2012) (with effect in accordance with Sch. 39 para. 32(6) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 32\(2\)\(d\)](#)

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

809H Claim for remittance basis by long-term UK resident: charge

(1) This section applies if—

- (a) section 809B (claim for remittance basis to apply) applies to an individual for a tax year (“the relevant tax year”),
- (b) the individual is aged 18 or over in the relevant tax year, and
- ^{F13}(c) the individual meets the 12-year residence test or the 7-year residence test for the relevant tax year.]

^{F14}[See section 809C(1A) and (1B) for when an individual meets the 12-year residence (1A) test or the 7-year residence test for a tax year.]

(2) Income tax is charged on nominated income, and capital gains tax is charged on nominated chargeable gains, as if section 809B did not apply to the individual for the relevant tax year (and neither did section 809D).

(3) “Nominated” income or chargeable gains means income or chargeable gains nominated under section 809C in the individual's claim under section 809B for the relevant tax year.

^{F15}[For the purpose of calculating income tax charged under subsection (2), ignore (3A) section 6(2A) to (2C) (special rates of income tax for Scottish taxpayers).]

(4) If the relevant tax increase would otherwise be less than ^{F16}[the applicable amount], subsection (2) has effect as if—

- (a) in addition to the income and gains actually nominated under section 809C in the individual's claim under section 809B for the relevant tax year, an amount of income had been nominated so as to make the relevant tax increase equal to ^{F16}[the applicable amount], and
- (b) the individual's income for that year were such that such a nomination could have been made (if that is not the case).

(5) “The relevant tax increase” is—

- (a) the total amount of income tax and capital gains tax payable by the individual for the relevant tax year, minus
- (b) the total amount of income tax and capital gains tax that would be payable by the individual for the relevant tax year apart from subsection (2).

^{F17}[The references to income tax in subsection (5) do not include income tax under (5A) section 424 (gift aid).]

[The applicable amount” is—

- ^{F18}(5B) (a) if the individual meets the 12-year residence test for the relevant tax year, £50,000;
- (b) if the individual meets the 7-year residence test for the relevant tax year, £30,000.]

(6) Nothing in subsection (4) affects what is regarded, for the purposes of section 809I or 809J, as nominated under section 809C.

Textual Amendments

- F13** S. 809H(1)(c) substituted (17.7.2012) (with effect in accordance with Sch. 12 para. 5 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 12 para. 3(2)**

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- F14** S. 809H(1A) inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 5 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 3\(3\)](#)
- F15** S. 809H(3A) inserted (1.7.2012) (with effect in accordance with s. 26(8) of the amending Act) by [Scotland Act 2012 \(c. 11\)](#), [ss. 26\(5\), 44\(2\)\(3\)\(a\)](#)
- F16** Words in s. 809H(4) substituted (17.7.2012) (with effect in accordance with Sch. 12 para. 5 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 3\(4\)](#)
- F17** S. 809H(5A) inserted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 5](#)
- F18** S. 809H(5B) inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 5 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 3\(5\)](#)

809I Remittance basis charge: income and gains treated as remitted

- (1) This section applies if—
- any of an individual's nominated income and gains is remitted to the United Kingdom in a tax year,^{F19} ...
 - any of the individual's remittance basis income and gains has not been remitted to the United Kingdom in or before that year^{F20}, and
 - the £10 test is met for that year.]
- (2) Income tax and capital gains tax are charged, for that year and subsequent tax years, as if the income and chargeable gains treated under section 809J as remitted to the United Kingdom by the individual in that tax year had been so remitted (and income and chargeable gains of the individual that were actually remitted in that year had not been).
- (3) An individual's “nominated income and gains” are the total income and chargeable gains nominated by the individual under section 809C for the tax year mentioned in subsection (1)(a) or any earlier tax year ^{F21}(each such year for which the individual has made a nomination under that section being referred to as a “nomination year”).
- (4) An individual's “remittance basis income and gains” are the foreign income and gains of the individual for all the tax years (up to and including the tax year mentioned in subsection (1)(a)) for which section 809B, 809D or 809E applies to the individual, apart from the individual's nominated income and gains.
- [The £10 test is met for the tax year mentioned in subsection (1)(a) (“year X”) if,^{F22}
- (5) taking each nomination year separately, the cumulative total as respects at least one nomination year exceeds £10.
- (6) In relation to a nomination year—
- “the cumulative total” means the sum, for all the tax years in aggregate up to and including year X, of the amounts of relevant income and gains remitted to the United Kingdom in those tax years from that nomination year, and
 - “relevant income and gains” means the income and chargeable gains nominated by the individual under section 809C for that nomination year.]

Textual Amendments

- F19** Word in s. 809I(1)(a) omitted (17.7.2012) (with effect in accordance with Sch. 12 para. 21 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 20\(2\)\(a\)](#)
- F20** S. 809I(1)(c) and preceding word inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 21 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 20\(2\)\(b\)](#)

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- F21** Words in s. 809I(3) inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 21 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 20\(3\)](#)
- F22** S. 809I(5)(6) inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 21 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 20\(4\)](#)

809J Section 809I: order of remittances

- (1) If section 809I applies, the following steps are to be taken for the purpose of determining the income or gains treated in a tax year (“the relevant tax year”) as remitted to the United Kingdom by the individual.

Step 1

Find the total amount of—

- (a) the individual's nominated income and gains, and
- (b) the individual's remittance basis income and gains,

that have been remitted to the United Kingdom in the relevant tax year.

This amount is “the relevant amount”.

Step 2

Find the amount of foreign income and gains of the individual for the relevant tax year (other than income or chargeable gains nominated under section 809C) that is within each of the categories of income and gains in paragraphs (a) to (h) of subsection (2).

If none of sections 809B, 809D and 809E apply to the individual for that year, treat those amounts as nil (and accordingly go to step 6).

Step 3

Find the earliest paragraph for which the amount determined under step 2 is not nil.

If that amount does not exceed the relevant amount, treat the individual as having remitted the income or gains within that paragraph (and for that tax year).

Otherwise, treat the individual as having remitted the relevant proportion of each kind of income or gains within that paragraph (and for that tax year).

“The relevant proportion” is the relevant amount divided by the amount determined under step 2 for that paragraph.

Step 4

Reduce the relevant amount by the amount taken into account under step 3.

Step 5

If the relevant amount (as reduced under step 4) is not nil, start again at step 3.

In step 3, read the reference to the earliest paragraph of the kind mentioned there as a reference to the earliest such paragraph which has not previously been taken into account under that step.

Step 6

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

If the relevant amount (as reduced) is not nil once steps 3 to 5 have been undertaken in relation to all paragraphs of subsection (2) for which the amount determined under step 2 is not nil, start again at step 2.

In step 2, read the reference to the foreign income and gains of the individual for the relevant tax year as a reference to such of the foreign income and gains of the individual for the appropriate tax year as had not been remitted by the beginning of the relevant tax year.

“The appropriate tax year” is the latest tax year which is—

- (a) before the last tax year for which step 2 has been undertaken, and
- (b) a tax year for which section 809B, 809D or 809E applies to the individual.

(2) The kinds of income and gains are—

- (a) relevant foreign earnings (other than those subject to a foreign tax),
- (b) foreign specific employment income (other than income subject to a foreign tax),
- (c) relevant foreign income (other than income subject to a foreign tax),
- (d) foreign chargeable gains (other than gains subject to a foreign tax),
- (e) relevant foreign earnings subject to a foreign tax,
- (f) foreign specific employment income subject to a foreign tax,
- (g) relevant foreign income subject to a foreign tax, and
- (h) foreign chargeable gains subject to a foreign tax.

(3) In this section the individual's “nominated income and gains” are the total income and chargeable gains nominated by the individual under section 809C for the relevant tax year or any earlier tax year.

(4) In step 1 of subsection (1) the individual's “remittance basis income and gains” are the foreign income and gains of the individual for all the tax years (up to and including the relevant tax year) for which section 809B, 809D or 809E applies to the individual, apart from the individual's nominated income and gains.

(5) In step 6 of subsection (1) the reference to income or gains being remitted is—

- (a) as respects any tax year before section 809I applies, to income or gains being remitted to the United Kingdom, and
- (b) as respects any tax year in relation to which that section applies, to income or gains treated under this section as so remitted.

(6) In subsection (2) “foreign tax” means any tax chargeable under the law of a territory outside the United Kingdom.

Remittance of income and gains: introduction

809K Sections 809L to 809Z6: introduction

(1) Sections 809L to 809Z6 apply for the purposes of—

- (a) this Chapter,
- (b) sections 22 and 26 of ITEPA 2003 (relevant foreign earnings charged on remittance basis),

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (c) section 41A of that Act (specific employment income from securities etc charged on remittance basis),
 - ^{F23} [(ca) sections 554Z9 to 554Z11 of that Act (employment income provided through third parties charged on remittance basis),]
 - (d) section 832 of ITTOIA 2005 (relevant foreign income charged on remittance basis), and
 - (e) section 12 of TCGA 1992 (foreign chargeable gains charged on remittance basis).
- (2) Those sections—
- (a) explain what is meant by income or chargeable gains being “remitted to the United Kingdom” (sections 809L to 809O),
 - (b) provide for the calculation of the amount remitted (section 809P),
 - (c) contain rules for attributing transfers from mixed funds to particular kinds of income and capital (sections 809Q to 809S),
 - (d) contain supplementary provision for certain cases (sections 809T and 809U), and
 - (e) treat income or chargeable gains as not remitted to the United Kingdom in certain cases (sections 809V to 809Z6).

Textual Amendments

F23 S. 809K(1)(ca) inserted (19.7.2011) (with effect in accordance with Sch . 2 para. 52-59 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 42](#)

Remittance of income and gains: meaning of “remitted to the United Kingdom”

809L Meaning of “remitted to the United Kingdom”

- (1) An individual's income is, or chargeable gains are, “remitted to the United Kingdom” if—
- (a) conditions A and B are met,
 - (b) condition C is met, or
 - (c) condition D is met.
- (2) Condition A is that—
- (a) money or other property is brought to, or received or used in, the United Kingdom by or for the benefit of a relevant person, or
 - (b) a service is provided in the United Kingdom to or for the benefit of a relevant person.
- (3) Condition B is that—
- (a) the property, service or consideration for the service is (wholly or in part) the income or chargeable gains,
 - (b) the property, service or consideration—
 - (i) derives (wholly or in part, and directly or indirectly) from the income or chargeable gains, and
 - (ii) in the case of property or consideration, is property of or consideration given by a relevant person,

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (c) the income or chargeable gains are used outside the United Kingdom (directly or indirectly) in respect of a relevant debt, or
 - (d) anything deriving (wholly or in part, and directly or indirectly) from the income or chargeable gains is used as mentioned in paragraph (c).
- (4) Condition C is that qualifying property of a gift recipient—
- (a) is brought to, or received or used in, the United Kingdom, and is enjoyed by a relevant person,
 - (b) is consideration for a service that is enjoyed in the United Kingdom by a relevant person, or
 - (c) is used outside the United Kingdom (directly or indirectly) in respect of a relevant debt.
- (5) Condition D is that property of a person other than a relevant person (apart from qualifying property of a gift recipient)—
- (a) is brought to, or received or used in, the United Kingdom, and is enjoyed by a relevant person,
 - (b) is consideration for a service that is enjoyed in the United Kingdom by a relevant person, or
 - (c) is used outside the United Kingdom (directly or indirectly) in respect of a relevant debt,
- in circumstances where there is a connected operation.
- (6) In a case where subsection (4)(a) or (b) or (5)(a) or (b) applies to the importation or use of property, the income or chargeable gains are taken to be remitted at the time the property or service is first enjoyed by a relevant person by virtue of that importation or use.
- (7) In this section “relevant debt” means a debt that relates (wholly or in part, and directly or indirectly) to—
- (a) property falling within subsection (2)(a),
 - (b) a service falling within subsection (2)(b),
 - (c) qualifying property dealt with as mentioned in subsection (4)(a),
 - (d) a service falling within subsection (4)(b),
 - (e) qualifying property dealt with as mentioned in subsection (5)(a), or
 - (f) a service falling within subsection (5)(b).
- ^{F24}(8)
- (9) The cases in which [^{F25}property (including income or chargeable gains) is used in respect of a debt include cases where the property is] used to pay interest on the debt.
- (10) This section is subject to sections 809V to 809Z6 (property treated as not remitted to the United Kingdom).

Textual Amendments

- F24** S. 809L(8) omitted (retrospective to 22.4.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 6\(2\), 15\(2\)](#)
- F25** Words in s. 809L(9) substituted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 6\(3\), 15\(2\)](#)

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

809M Meaning of “relevant person”

- (1) This section applies for the purposes of [^{F26}this Chapter].
- (2) A “relevant person” is—
- (a) the individual,
 - (b) the individual's husband or wife,
 - (c) the individual's civil partner,
 - (d) a child or grandchild of a person falling within any of paragraphs (a) to (c), if the child or grandchild has not reached the age of 18,
 - (e) a close company in which a person falling within any other paragraph of this subsection is a participator [^{F27}or a company which is a 51% subsidiary of such a close company],
 - (f) a company in which a person falling within any other paragraph of this subsection is a participator, and which would be a close company if it were resident in the United Kingdom, [^{F28} or a company which is a 51% subsidiary of such a company,]
 - (g) the trustees of a settlement of which a person falling within any other paragraph of this subsection is a beneficiary, or
 - (h) a body connected with such a settlement.
- (3) For that purpose—
- (a) a man and woman living together as husband and wife are treated as if they were husband and wife,
 - (b) two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other,
 - (c) “close company” [^{F29}is to be read in accordance with Chapter 2 of Part 10 of CTA 2010 (see in particular section 439 of that Act)],
 - [^{F30}(ca) “participator”, in relation to a close company, means a person who is a participator in relation to the company for the purposes of [^{F31}section 455 of CTA 2010 (see sections 454 and 455(5) of] that [^{F32}Act) and, in relation to a company that would be a close company if it were resident in the United Kingdom, means a person who would be such a participator if it were a close company,]
 - (cb) “51% subsidiary” has the same meaning as in the Corporation Tax Acts (see [^{F33}Chapter 3 of Part 24 of CTA 2010]),]
 - (d) “settlement” and “settlor” have the same meaning as in Chapter 2 of Part 9,
 - (e) “beneficiary”, in relation to a settlement, means any person who receives, or may receive, any benefit under or by virtue of the settlement,
 - (f) “trustee” has the same meaning as in section 993 (see, in particular, section 994(3)), and
 - (g) a body is “connected with” a settlement if the body falls within section 993(3) (c), (d), (e) or (f) as regards the settlement.

Textual Amendments

- F26** Words in s. 809M(1) substituted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 13](#)
- F27** Words in s. 809M(2)(e) inserted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 7\(2\), 15\(2\)](#)
- F28** Words in s. 809M(2)(f) inserted (retrospective to 6.4.2010) by [Finance Act 2010 \(c. 13\)](#), [s. 33\(2\)\(4\)](#)

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- F29** Words in s. 809M(3)(c) 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. 552(a)** (with Sch. 2)
- F30** S. 809M(3)(ca)(cb) inserted (retrospective to 22.4.2009) by Finance Act 2009 (c. 10), **Sch. 27 paras. 7(3), 15(2)**
- F31** Words in s. 809M(3)(ca) 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. 552(b)** (with Sch. 2)
- F32** Words in s. 809M(3)(ca) substituted (retrospective to 6.4.2010) by Finance Act 2010 (c. 13), **s. 33(3)(4)**
- F33** Words in s. 809M(3)(cb) 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. 552(c)** (with Sch. 2)

809N Section 809L: gift recipients, qualifying property and enjoyment

- (1) This section applies for the purposes of determining whether or not income or chargeable gains of an individual are remitted to the United Kingdom by virtue of condition C in section 809L.
- (2) A “gift recipient” means a person, other than a relevant person, to whom the individual makes a gift of money or other property that—
 - (a) is income or chargeable gains of the individual, or
 - (b) derives (wholly or in part, and directly or indirectly) from income or chargeable gains of the individual.
- (3) The question of whether or not a person is a relevant person is to be determined by reference to the time when a gift is made.
- (4) But, if a person to whom a gift is made subsequently becomes a relevant person, the person ceases to be a gift recipient.
- (5) The individual “makes a gift of” property if the individual disposes of the property—
 - (a) for no consideration, or
 - (b) for consideration less than the full consideration in money or money's worth that would be given if the disposal were by way of a bargain made at arm's length;but, in a case falling in paragraph (b), the individual is to be taken to make a gift of only so much of the property as exceeds the consideration actually given.
- (6) A reference to the individual making a gift of property includes a case where—
 - (a) the individual retains an interest in the property, or
 - (b) an interest, right or arrangement enables or entitles the individual to benefit from the property.
- (7) “Qualifying property”, in relation to a gift recipient, is—
 - (a) the property that the individual gave to the gift recipient,
 - (b) anything that derives (wholly or in part, and directly or indirectly) from that property, or
 - (c) any other property, but only if it is dealt with as mentioned in section 809L(4)
 - (a), (b) or (c) by virtue of an operation which is effected—
 - (i) with reference to the gift of the property to the gift recipient, or
 - (ii) with a view to enabling or facilitating the gift of the property to the gift recipient to be made.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (8) In subsection (7)—
- (a) the reference in paragraph (b) to anything deriving from property, and
 - (b) the reference in paragraph (c) to other property,
- includes a thing, or property, that does not belong to the individual but which the individual is enabled or entitled to benefit from by virtue of any interest, right or arrangement.
- (9) Enjoyment by a relevant person of property or a service is to be disregarded in any of these cases—
- (a) if the property or service is enjoyed virtually to the entire exclusion of all relevant persons,
 - (b) if full consideration in money or money's worth is given by a relevant person for the enjoyment, or
 - (c) if the property or service is enjoyed by relevant persons in the same way, and on the same terms, as it may be enjoyed by the general public or by a section of the general public.

809O Section 809L: dealings where there is a connected operation

- (1) This section applies for the purposes of determining whether or not income or chargeable gains of an individual are remitted to the United Kingdom by virtue of condition D in section 809L.
- (2) For the purposes of section 809L(5), the question of whether or not the person whose property is dealt with as mentioned in paragraph (a), (b) or (c) of section 809L(5) is a relevant person is to be determined by reference to the time when the property is so dealt with.
- (3) A “connected operation”, in relation to property dealt with as mentioned in section 809L(5)(a), (b) or (c), means an operation which is effected—
- (a) with reference to a qualifying disposition, or
 - (b) with a view to enabling or facilitating a qualifying disposition.
- (4) A “qualifying disposition” is a disposition that—
- (a) is made by a relevant person,
 - (b) is made to, or for the benefit of, the person whose property is dealt with as mentioned in section 809L(5)(a), (b) or (c), and
 - (c) is a disposition of money or other property that is, or derives (wholly or in part, and directly or indirectly) from, income or chargeable gains of the individual.
- (5) But a disposition of property is not a qualifying disposition if the disposition is, or is part of, the giving of full consideration in money or money's worth for the dealing that falls within section 809L(5)(a), (b) or (c).
- (6) Enjoyment by a relevant person of property or a service is to be disregarded in any of these cases—
- (a) if the property or service is enjoyed virtually to the entire exclusion of all relevant persons,
 - (b) if full consideration in money or money's worth is given by a relevant person for the enjoyment, or

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (c) if the property or service is enjoyed by relevant persons in the same way, and on the same terms, as it may be enjoyed by the general public or by a section of the general public.

Remittance of income and gains: amount remitted

809P Section 809L: amount remitted

- (1) The amount of income or chargeable gains remitted to the United Kingdom is to be determined as follows.
- (2) If the property, service or consideration is the income or chargeable gains, the amount remitted is equal to the amount of the income or chargeable gains.
- (3) If the property, service or consideration derives from the income or chargeable gains, the amount remitted is equal to the amount of income or chargeable gains from which the property, service or consideration derives.
- (4) If the income or chargeable gains are used as mentioned in section 809L(3)(c), the amount remitted is equal to the amount of income or chargeable gains used; but this is subject to subsection (10).
- (5) If anything deriving from the income or chargeable gains is used as mentioned in section 809L(3)(c), the amount remitted is equal to the amount of income or chargeable gains from which what is used derives; but this is subject to subsection (10).
- (6) In a case falling within section 809L(4)(a) or (b), the amount remitted is equal to the amount of the relevant income or chargeable gains.
- (7) In a case falling within section 809L(4)(c), the amount remitted is equal to the amount of the relevant income or chargeable gains; but this is subject to subsection (10).
- (8) In a case falling within section 809L(5)(a) or (b), the amount remitted is equal to the amount of the income or chargeable gains referred to in section 809O(4)(c).
- (9) In a case falling within section 809L(5)(c), the amount remitted is equal to the amount of the income or chargeable gains referred to in section 809O(4)(c); but this is subject to subsection (10).
- (10) If the debt is only partly in respect of the property or service, the amount remitted is (if it would otherwise be greater) limited to the amount the debt would be if it were wholly in respect of the property or service.
- (11) In subsections (6) and (7) “relevant income or chargeable gains” means—
 - (a) if the qualifying property falls within section 809N(7)(a), the income or gains—
 - (i) of which the qualifying property consists, or
 - (ii) from which the qualifying property derives;
 - (b) if the qualifying property falls within section 809N(7)(b), the income or gains—
 - (i) of which the property given to the gift recipient consisted, or
 - (ii) from which that property derived;
 - (c) if the qualifying property falls within section 809N(7)(c), the income or gains—

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (i) of which the property given to the gift recipient consists, or
 - (ii) from which that property derives.
- (12) If the amount remitted (taken together with any amount previously remitted) would otherwise exceed the amount of the income or chargeable gains, the amount remitted is limited to the amount which (when taken together with any amount previously remitted) is equal to the amount of the income or chargeable gains.
- [If the property forms part of a set only part of which is in the United Kingdom, the
- ^{F34}(13) amount remitted is such portion of what it would have been had the complete set been brought to, or received or used in, the United Kingdom when the part was as is just and reasonable (having regard to the part of the set which is there).]

Textual Amendments

F34 S. 809P(13) inserted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 8, 15\(2\)](#)

Remittance of income and gains: transfers from mixed funds

809Q Sections 809L and 809P: transfers from mixed funds

- (1) This section applies for the purposes mentioned in subsection (2) where condition A in section 809L is met and—
- (a) the property or consideration for the service is (wholly or in part), or derives (wholly or in part, and directly or indirectly) from, a transfer from a mixed fund, or
 - (b) a transfer from a mixed fund, or anything deriving (wholly or in part, and directly or indirectly) from such a transfer, is used as mentioned in section 809L(3)(c).
- (2) The purposes referred to in subsection (1) are—
- (a) determining whether condition B in section 809L is met, and
 - (b) if it is met, determining (under section 809P) the amount of income or chargeable gains remitted.
- (3) The extent to which the transfer is of the individual's income or chargeable gains is to be determined as follows.

Step 1

For each of the categories of income and capital in paragraphs (a) to (i) of subsection (4), find (applying section 809R) the amount of income or capital of the individual for the relevant tax year in the mixed fund immediately before the transfer.

“The relevant tax year” is the tax year in which the transfer occurs.

Step 2

Find the earliest paragraph for which the amount determined under step 1 is not nil.

If that amount does not exceed the amount of the transfer, treat the transfer as containing the income or capital within that paragraph (and for that tax year).

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

Otherwise, treat the transfer as containing the relevant proportion of each kind of income or capital within that paragraph (and for that tax year).

“The relevant proportion” is the amount of the transfer divided by the amount determined under step 1 for that paragraph.

Step 3

Treat the amount of the transfer as reduced by the amount taken into account under step 2.

Step 4

If the amount of the transfer (as reduced under step 3) is not nil, start again at step 2.

In step 2, read the reference to the earliest paragraph of the kind mentioned there as a reference to the earliest such paragraph which has not previously been taken into account under that step in relation to the transfer.

Step 5

If the amount of the transfer (as reduced under step 3) is not nil once steps 2 and 3 have been undertaken in relation to all paragraphs of subsection (4) for which the amount determined under step 1 is not nil, start again at step 1.

In step 1, read the reference to the relevant tax year as a reference to the tax year immediately before the last tax year for which step 1 has been undertaken in relation to the transfer.

- (4) The kinds of income and capital are—
- (a) employment income (other than income within paragraph (b), (c) or (f)),
 - (b) relevant foreign earnings (other than income within paragraph (f)),
 - (c) foreign specific employment income (other than income within paragraph (f)),
 - (d) relevant foreign income (other than income within paragraph (g)),
 - (e) foreign chargeable gains (other than chargeable gains within paragraph (h)),
 - (f) employment income subject to a foreign tax,
 - (g) relevant foreign income subject to a foreign tax,
 - (h) foreign chargeable gains subject to a foreign tax, and
 - (i) income or capital not within another paragraph of this subsection.
- (5) In subsection (4) “foreign tax” means any tax chargeable under the law of a territory outside the United Kingdom.
- (6) In this section “mixed fund” means money or other property which, immediately before the transfer, contains or derives from—
- (a) more than one of the kinds of income and capital mentioned in subsection (4),
or
 - (b) income or capital for more than one tax year.
- (7) References in this section to the amount of the transfer include the market value of it.
- (8) References in this section and section 809R to anything deriving from income or capital within paragraph (i) of subsection (4) do not include—
- (a) income or gains within any of paragraphs (a) to (h) of that subsection, or
 - (b) anything deriving from such income or gains.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

809R Section 809Q: composition of mixed fund

- (1) This section applies for the purposes of step 1 of section 809Q(3) (composition of mixed fund).
- (2) Treat property which derives wholly or in part (and directly or indirectly) from an individual's income or capital for a tax year as consisting of or containing that income or capital.
- (3) If a debt relating (wholly or in part, and directly or indirectly) to property is at any time satisfied (wholly or in part) by—
 - (a) an individual's income or capital for a tax year, or
 - (b) anything deriving (directly or indirectly) from such income or capital,
 from that time treat the property as consisting of or containing the income or capital if and to the extent that it is just and reasonable to do so.
- (4) Treat an offshore transfer from a mixed fund as containing the appropriate proportion of each kind of income or capital in the fund immediately before the transfer.
 “The appropriate proportion” means the amount (or market value) of the transfer divided by the market value of the mixed fund immediately before the transfer.
- (5) A transfer from a mixed fund is an “offshore transfer” for the purposes of subsection (4) if and to the extent that section 809Q does not apply in relation to it.
- (6) Treat a transfer from a mixed fund as an “offshore transfer” (and section 809Q as not applying in relation to it, if it otherwise would do) if and to the extent that, at the end of a tax year in which it is made—
 - (a) section 809Q does not apply in relation to it, and
 - (b) on the basis of the best estimate that can reasonably be made at that time, section 809Q will not apply in relation to it.
- (7) In this section ‘mixed fund’ means money or other property containing or deriving from—
 - (a) more than one of the kinds of income and capital mentioned in section 809Q(4), or
 - (b) income or capital for more than one tax year.
- (8) If section 809Q applies in relation to part of a transfer, apply that section in relation to that part before applying subsection (4) in relation to the rest of the transfer.
- (9) If section 809Q applies in relation to more than one transfer from a mixed fund, when undertaking step 1 in relation to the second or any subsequent transfer take into account the effect of step 2 of section 809Q(3) (composition of transfer) as it applied in relation to each earlier transfer.

809S Section 809Q: anti-avoidance

- (1) This section applies if, by reason of an arrangement the main purpose (or one of the main purposes) of which is to secure an income tax advantage or capital gains tax advantage, a mixed fund would otherwise be regarded as containing income or capital within any of paragraphs (f) to (i) of section 809Q(4).
- (2) Treat the mixed fund as containing so much (if any) of the income or capital as is just and reasonable.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

(3) “Arrangement” includes any scheme, understanding, transaction or series or transactions (whether or not enforceable).

[^{F35}(4) Income tax advantage” means—

- (a) a relief from income tax or increased relief from income tax,
- (b) a repayment of income tax or increased repayment of income tax,
- (c) the avoidance or reduction of a charge to income tax or an assessment to income tax, or
- (d) the avoidance of a possible assessment to income tax;

and for this purpose “relief from income tax” includes a tax credit.

(4A) For the purposes of subsection (4)(c) and (d) it does not matter whether the avoidance or reduction is effected—

- (a) by receipts accruing in such a way that the recipient does not pay or bear income tax on them, or
- (b) by a deduction in calculating profits or gains.]

(5) “Capital gains tax advantage” means—

- (a) a relief from capital gains tax or increased relief from capital gains tax,
- (b) a repayment of capital gains tax or increased repayment of capital gains tax,
- (c) the avoidance or reduction of a charge to capital gains tax or an assessment to capital gains tax, or
- (d) the avoidance of a possible assessment to capital gains tax.

Textual Amendments

F35 S. 809S(4)(4A) substituted (8.4.2010 with effect in accordance with Sch. 12 para. 15(1) of the amending Act) for s. 809S(4) by [Finance Act 2010 \(c. 13\)](#), [Sch. 12 para. 11](#)

Remittance of income and gains: supplementary

809T Foreign chargeable gains accruing on disposal made [^{F36}otherwise] than for full consideration

(1) This section applies if—

- (a) foreign chargeable gains accrue to an individual on the disposal of an asset, and
- (b) the individual does not receive consideration for the disposal of an amount [^{F37}at least] equal to the market value of the asset.

(2) For the purposes of this Chapter treat the asset as deriving from the chargeable gains.

Textual Amendments

F36 Word in s. 809T heading substituted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 9\(3\), 15\(2\)](#)

F37 Words in s. 809T(1)(b) inserted (retrospective to 22.4.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 9\(2\), 15\(2\)](#)

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

809U Deemed income or gains not to be regarded as remitted before time when they are treated as arising or accruing

Where—

- (a) income or foreign chargeable gains are treated as arising or accruing, and
- (b) by virtue of anything done in relation to anything regarded as deriving from the income or chargeable gains, the income or chargeable gains would otherwise be regarded as remitted to the United Kingdom before the time when they are treated as arising or accruing,

treat the income or chargeable gains as remitted to the United Kingdom at that time.

[^{F38}Relief for money used to pay tax etc]

Textual Amendments

F38 S. 809V cross heading substituted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 6](#)

[^{F39}809VMoney paid to the Commissioners

- (1) Subsection (2) applies to income or chargeable gains of an individual if—
 - (a) the income or gains would (but for subsection (2)) be regarded as remitted to the United Kingdom by virtue of the bringing of money to the United Kingdom,
 - (b) the money is brought to the United Kingdom by way of one or more direct payments to the Commissioners, and
 - (c) the payments are made in relation to a tax year to which section 809H applies as regards the individual.
- (2) The income or chargeable gains are to be treated as not remitted to the United Kingdom to the extent that the payments do not exceed the applicable amount (as defined in section 809H).
- (3) Subsection (2) does not apply to payments if or to the extent that they are repaid by the Commissioners.]

Textual Amendments

F39 S. 809V substituted (17.7.2012) (with effect in accordance with Sch. 12 para. 5 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 4](#)

[^{F40}Business investment relief

Textual Amendments

F40 Ss. 809VA-809VO and cross-heading inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 7](#)

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

809VA Money or other property used to make investments

- (1) Subsection (2) applies if—
 - (a) a relevant event occurs,
 - (b) but for subsection (2), income or chargeable gains of an individual would be regarded as remitted to the United Kingdom by virtue of that event, and
 - (c) the individual makes a claim for relief under this section.
- (2) The income or gains are to be treated as not remitted to the United Kingdom.
- (3) A “relevant event” occurs if money or other property—
 - (a) is used by a relevant person to make a qualifying investment, or
 - (b) is brought to or received in the United Kingdom in order to be used by a relevant person to make a qualifying investment.
- (4) Subsection (1)(b) includes a case where income or gains would be treated under section 809Y as remitted to the United Kingdom by virtue of the relevant event.
- (5) Subsection (2) applies by virtue of subsection (3)(b) to the extent only that the investment is made within the period of 45 days beginning with the day on which the money or other property is brought to or received in the United Kingdom.
- (6) Where some but not all of the money or other property is used to make the investment within that 45-day period, the part of the income or gains to which subsection (2) applies is to be determined on a just and reasonable basis.
- (7) Subsection (2) does not apply if the relevant event occurs, or the investment is made, as part of or as a result of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.
- (8) A claim for relief under this section must be made on or before the first anniversary of the 31 January following the tax year in which the income or gains would, but for subsection (2), be regarded as remitted to the United Kingdom by virtue of the relevant event.

809VB Failure to invest within 45 days

- (1) This section applies to any portion of the income or gains to which section 809VA(2) does not apply because the investment was not made within the period mentioned in section 809VA(5) (“the 45-day period”).
- (2) That portion is to be treated as not remitted to the United Kingdom to the extent that the remaining money or other property is taken offshore within the 45-day period.
- (3) Where some but not all of the remaining money or other property is taken offshore within the 45-day period, the part of the income or gains to which subsection (2) applies is to be determined on a just and reasonable basis.
- (4) If any remaining money or other property is taken offshore within the 45-day period, nothing in subsection (2) prevents anything subsequently done in relation to it (or anything deriving from it) from counting as a remittance of the underlying income or gains to the United Kingdom at the time when the thing is subsequently done.
- (5) A reference to the “remaining” money or other property is to so much of the money or other property brought to or received in the United Kingdom as is not used within the 45-day period to make the investment (which may in some cases be all of it).

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

809VC Qualifying investments

- (1) For the purposes of section 809VA, a person makes an investment if—
 - (a) shares in a company are issued to the person, or
 - (b) the person makes a loan (secured or unsecured) to a company.
- (2) The company is referred to as “the target company”.
- (3) The shares or the person's rights under the loan (or both) forming the subject of the investment are referred to as “the holding”.
- (4) The investment counts as a “qualifying investment” if conditions A and B are met when the investment is made.
- (5) Conditions A and B are defined in sections 809VD and 809VF.
- (6) A reference in this section to “shares” includes any securities.
- (7) If a loan agreement authorises a company to draw down amounts of a loan over a period of time—
 - (a) entry into the agreement does not count for the purposes of this section as the making of a loan, but
 - (b) a separate loan is to be treated as made each time an amount is drawn down under the agreement.
- (8) Accordingly—
 - (a) a separate investment is treated as made each time an amount is drawn down under the agreement, and
 - (b) the reference in subsection (3) to the person's rights under the loan applies only to so much of the person's rights as relate to the drawdown of that particular amount.

809VD Condition A

- (1) Condition A is that the target company is—
 - (a) an eligible trading company,
 - (b) an eligible stakeholder company, or
 - (c) an eligible holding company.
- (2) A company is an “eligible trading company” if—
 - (a) it is a private limited company,
 - (b) it carries on one or more commercial trades or is preparing to do so within the next 2 years, and
 - (c) carrying on commercial trades is all or substantially all of what it does (or of what it is reasonably expected to do once it begins trading).
- (3) A company is an “eligible stakeholder company” if—
 - (a) it is a private limited company,
 - (b) it exists wholly for the purpose of making investments in eligible trading companies (ignoring any minor or incidental purposes), and
 - (c) it holds one or more such investments or is preparing to do so within the next 2 years.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (4) The reference in subsection (3) to making investments is to be read in accordance with section 809VC.
- (5) A company is an “eligible holding company” if—
 - (a) it is a member of an eligible trading group or of an eligible group that is reasonably expected to become an eligible trading group within the next 2 years,
 - (b) an eligible trading company in the group is a 51% subsidiary of it, and
 - (c) if the ordinary share capital that it owns in the eligible trading company is owned indirectly, each intermediary in the series is also a member of the group.
- (6) “Group” means a parent company and its 51% subsidiaries.
- (7) “Parent company” means a company that—
 - (a) has one or more 51% subsidiaries, but
 - (b) is not itself a 51% subsidiary of any company.
- (8) A group is an “eligible group” if the parent company and each of its 51% subsidiaries are private limited companies.
- (9) A group is an “eligible trading group” if—
 - (a) it is an eligible group, and
 - (b) carrying on commercial trades is all or substantially all of what the group does (taking the activities of its members as a whole).
- (10) The reference in subsection (5) to owning ordinary share capital indirectly is to be read in accordance with section 1155 of CTA 2010.
- (11) A company is a “private limited company” if—
 - (a) it is a body corporate whose liability is limited,
 - (b) it is not a limited liability partnership, and
 - (c) none of its shares are listed on a recognised stock exchange.

809VE Commercial trades

- (1) Section 809VD is to be read in accordance with this section.
- (2) A reference to a “trade” also includes—
 - (a) anything that is treated for corporation tax purposes as if it were a trade, and
 - (b) a business carried on for generating income from land (as defined in section 207 of CTA 2009).
- (3) A trade is a “commercial trade” if it is conducted on a commercial basis and with a view to the realisation of profits.
- (4) The carrying on of activities of research and development from which it is intended that a commercial trade will be derived, or will benefit, is to be treated as the carrying on of a commercial trade.
- (5) But preparing to carry on activities within subsection (4) is not to be treated as the carrying on of a commercial trade.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

809VF Condition B

- (1) Condition B is that no relevant person has (directly or indirectly) obtained or become entitled to obtain any related benefit, and no relevant person expects to obtain any such benefit.
- (2) A “benefit”—
 - (a) includes the provision of anything that would not be provided to the relevant person in the ordinary course of business, or would be provided but on less favourable terms, but
 - (b) does not include the provision of anything provided to the relevant person in the ordinary course of business and on arm's length terms.
- (3) A benefit is “related” if—
 - (a) it is directly or indirectly attributable to the making of the investment (whether it is obtained before or after the investment is made), or
 - (b) it is reasonable to assume that the benefit would not be available in the absence of the investment.
- (4) For the purposes of subsection (2)—
 - (a) a reference to the provision of anything is to the provision of anything in money or money's worth, including property, capital, goods or services of any kind, and
 - (b) “provision” includes any arrangement that allows a person to enjoy or benefit from the thing in question (whether temporarily or permanently).

809VG Income or gains treated as remitted following certain events

- (1) Subsection (2) applies if—
 - (a) income or chargeable gains are treated under section 809VA(2) as not remitted to the United Kingdom as a result of a qualifying investment,
 - (b) a potentially chargeable event occurs after the investment is made, and
 - (c) the appropriate mitigation steps are not taken within the grace period allowed for each step.
- (2) The affected income or gains are to be treated as having been remitted to the United Kingdom immediately after the end of the relevant grace period.
- (3) Where the step required by section 809VI(2)(a) is not taken within the grace period allowed for that step, “the relevant grace period” is the grace period allowed for that step.
- (4) Otherwise, “the relevant grace period” is the grace period allowed for the step required by section 809VI(1) or (2)(b).
- (5) “The affected income or gains” means such portion of the income or gains mentioned in subsection (1)(a) as reflects the portion of the investment affected by the potentially chargeable event.
- (6) The portion of the investment affected is—
 - (a) if the potentially chargeable event is a disposal of a part of the holding (or a part of the remaining holding), a portion equal to the portion of the holding (or remaining holding) being disposed of, and
 - (b) otherwise, the whole of the investment.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (7) Sections 809VN (order of disposals etc) and 809VO (investments made from mixed funds) make further provision for the purposes of this section.
- (8) If a qualifying investment is made using the money or other property mentioned in section 809VA(3) together with other funds—
- (a) that investment is to be treated as two separate investments, one made using the money or other property mentioned in section 809VA(3) and one made using the other funds, and
 - (b) references in the business investment provisions to “the investment” and “the holding” relate only to the investment made using the money or other property mentioned in section 809VA(3).
- (9) If the potentially chargeable event mentioned in subsection (1)(b) is not the first such event to affect the investment, the income or gains mentioned in subsection (1)(a) do not include, as respects that investment—
- (a) any part already treated under subsection (2) as remitted to the United Kingdom as a result of an earlier event,
 - (b) any part contained in amounts already taken offshore or re-invested by way of appropriate mitigation steps following an earlier event, or
 - (c) any part contained in amounts already used to make a tax deposit without which an amount mentioned in paragraph (b) would not have been enough to satisfy section 809VI(1) or (2)(b) (see section 809VK).

809VH Meaning of “potentially chargeable event”

- (1) For the purposes of section 809VG, a “potentially chargeable event” occurs if—
- (a) the target company is for the first time neither an eligible trading company nor an eligible stakeholder company nor an eligible holding company,
 - (b) the relevant person who made the investment (“P”) disposes of all or part of the holding,
 - (c) the extraction of value rule is breached, or
 - (d) the 2-year start-up rule is breached.
- (2) The extraction of value rule is breached if—
- (a) value (in money or money's worth) is received by or for the benefit of P or another relevant person,
 - (b) the value is received—
 - (i) from an involved company, or
 - (ii) from anyone else but in circumstances that are directly or indirectly attributable to the investment or to any other investment made by a relevant person in an involved company, and
 - (c) the value is received other than by virtue of a disposal that is itself a potentially chargeable event.
- (3) But the extraction of value rule is not breached merely because a relevant person receives value that—
- (a) is treated for income tax or corporation tax purposes as the receipt of income or would be so treated if that person were liable to such tax, and
 - (b) is paid or provided to the person in the ordinary course of business and on arm's length terms.

Status: Point in time view as at 19/07/2012.

*Changes to legislation: There are currently no known outstanding effects
for the Income Tax Act 2007, Chapter A1. (See end of Document for details)*

- (4) Each of the following is an “involved company”—
- (a) the target company,
 - (b) if the target company is an eligible stakeholder company, any eligible trading company in which it has made or intends to make an investment,
 - (c) if the target company is an eligible holding company, any eligible trading company that is a 51% subsidiary of it, and
 - (d) any company that is connected with a company within paragraph (a), (b) or (c).
- (5) The 2-year start-up rule is breached if—
- (a) immediately after the end of the period of 2 years beginning with the day on which the investment was made, the target company is non-operational, or
 - (b) at any time after the end of that period, the target company becomes non-operational.
- (6) The target company is “non-operational” at any time when—
- (a) it is an eligible trading company but is not trading,
 - (b) it is an eligible stakeholder company but—
 - (i) it holds no investments in eligible trading companies, or
 - (ii) none of the eligible trading companies in which it holds investments is trading, or
 - (c) it is an eligible holding company but—
 - (i) the group of which it is a member is not an eligible trading group, or
 - (ii) none of its 51% subsidiaries in the eligible trading group of which it is a member is an eligible trading company that is trading.
- (7) In subsection (6), “trading” means carrying on one or more commercial trades (including the carrying on of any activities treated under section 809VE(4) as the carrying on of a commercial trade).
- (8) If consideration for a disposal of all or part of the holding is or is to be paid in instalments, the disposal is to be treated for the purposes of this section as if it were separate disposals, one for each instalment (and each giving rise to a separate potentially chargeable event).
- (9) An event listed in subsection (1) does not count as a potentially chargeable event if it is due to an insolvency step taken for genuine commercial reasons (but this does not prevent the extraction of any value in connection with the insolvency step from counting as a potentially chargeable event).
- (10) For the purposes of subsection (9), an insolvency step is taken if—
- (a) the target company enters into administration or receivership or is wound up or dissolved,
 - (b) the target company is an eligible stakeholder company and any eligible trading company in which it holds an investment enters into administration or receivership or is wound up or dissolved,
 - (c) the target company is an eligible holding company and any eligible trading company in the group that is a 51% subsidiary of it enters into administration or receivership or is wound up or dissolved, or
 - (d) a similar step is taken in relation to a company mentioned in paragraph (a), (b) or (c) under the law of a country or territory outside the United Kingdom.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

809VI The appropriate mitigation steps

- (1) If the potentially chargeable event is a disposal of all or part of the holding, the appropriate mitigation steps are regarded as taken if the whole of the disposal proceeds have been taken offshore or re-invested.
- (2) For any other case, the appropriate mitigation steps are regarded as taken if—
 - (a) P has disposed of the entire holding (or so much of it as P retains when the potentially chargeable event occurs), and
 - (b) the whole of the disposal proceeds have been taken offshore or re-invested.
- (3) But if the disposal proceeds exceed X, subsections (1) and (2)(b) apply only to so much of the proceeds as is equal to X.
- (4) “X” is—
 - (a) the sum originally invested, less
 - (b) so much of that sum as has, on previous occasions involving the same investment—
 - (i) been taken into account in determining the affected income or gains under section 809VG(2),
 - (ii) been taken offshore or re-invested in order to avoid the application of that section, or
 - (iii) been used to make a tax deposit without which the amount actually taken offshore or re-invested would not have been enough to satisfy subsection (1) or (2)(b) (see section 809VK).
- (5) “The sum originally invested” means the amount of the money, or the market value of the other property, used to make the investment.
- (6) Market value is to be assessed for these purposes as at the date of the relevant event (see section 809VA).
- (7) Proceeds are “re-invested” if a relevant person uses them to make another qualifying investment (or the proceeds are themselves a qualifying investment) whether in the same or a different company.
- (8) In cases where a breach of the extraction of value rule occurs in connection with the winding-up or dissolution of the target company—
 - (a) subsection (2)(a) does not apply,
 - (b) the reference in subsection (2)(b) to the disposal proceeds is to the value received, and
 - (c) references in this section and in succeeding provisions of the business investment provisions to the disposal proceeds are to be read as references to the value received.

809VJ The grace period allowed for the appropriate mitigation steps

- (1) The grace period allowed for the step mentioned in section 809VI(2)(a) is the period of 90 days beginning—
 - (a) if the potentially chargeable event is a breach of the extraction of value rule, with the day on which the value is received, and
 - (b) otherwise, with the day on which a relevant person first became aware or ought reasonably to have become aware of the potentially chargeable event.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (2) The grace period allowed for the step mentioned in section 809VI(1) and (2)(b) is the period of 45 days beginning with the day on which the disposal proceeds first became available for use by or for the benefit of P or any other relevant person.
- (3) An officer of Revenue and Customs may agree in a particular case to extend the grace period allowed for an appropriate mitigation step in exceptional circumstances.
- (4) An officer of Revenue and Customs may agree in a particular case to extend the grace period allowed for an appropriate mitigation step in circumstances specified in regulations made by the Commissioners.
- (5) Regulations under subsection (4) may have effect in relation to investments made before the day on which the regulations are made.
- (6) Nothing in subsection (4) or in regulations made under it limits the power conferred by subsection (3).
- (7) The powers conferred on officers of Revenue and Customs by subsections (3) and (4) include power to agree to extend a grace period for a length of time that is indefinite but is capable of becoming definite by means identified in the agreement (such as the satisfaction of conditions).

809VK Retention of funds to meet CGT liabilities

- (1) This section applies if—
 - (a) there is a disposal of all or part of the holding,
 - (b) the disposal counts as a potentially chargeable event or is part of the appropriate mitigation steps taken in consequence of a potentially chargeable event,
 - (c) a chargeable gain (but not a loss) accrues to P on the disposal,
 - (d) P is chargeable to capital gains tax (but not corporation tax) in respect of that gain, and
 - (e) the actual disposal proceeds are less than Y.
- (2) The difference between the actual disposal proceeds and Y is referred to in this section as “the shortfall”.
- (3) “The actual disposal proceeds” means the disposal proceeds but disregarding section 809Z8(4).
- (4) “Y” is the sum of—
 - (a) the amount (if any) that would, but for this section, be required to be taken offshore or re-invested in order to satisfy section 809VI(1) or (2)(b), and
 - (b) the amount found by applying the highest potential CGT rate to the amount (computed in accordance with TCGA 1992) of the chargeable gain accruing to P on the disposal.
- (5) The highest potential CGT rate is—
 - (a) if the chargeable gain accrues to P as the trustees of a settlement or accrues to the personal representatives of P, the rate specified in section 4(3) of TCGA 1992, and
 - (b) otherwise, the rate specified in section 4(4) of that Act (regardless of the rate at which income tax is chargeable in respect of P's income).

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (6) If this section applies, the amount that is required to be taken offshore or re-invested in order to satisfy section 809VI(1) or (2)(b) is reduced by the permitted amount.
- (7) “The permitted amount” is so much of the shortfall as is used, within the grace period allowed for taking the disposal proceeds offshore or re-investing them, to make a deposit in respect of which a certificate of tax deposit is issued to P under section 12 of the National Loans Act 1968.
- (8) A reduction may not be made under subsection (6) unless—
 - (a) when details of the deposit are confirmed to Her Majesty's Revenue and Customs, the confirmation letter states that this section is intended to apply to the deposit, and
 - (b) the amount of the deposit is no greater than the shortfall.

809VL Effect of taking appropriate mitigation steps within grace period

- (1) This section explains the effect for the purposes of this Chapter in cases where section 809VG(2) does not apply because the appropriate mitigation steps were taken within the grace period allowed for each step.
- (2) If disposal proceeds were taken offshore as part of those steps, nothing in section 809VA(2) prevents anything subsequently done in relation to those proceeds (or anything deriving from them) from counting as a remittance of the underlying income or gains to the United Kingdom at the time when the thing is subsequently done.
- (3) If disposal proceeds were re-invested as part of those steps—
 - (a) the underlying income or gains continue to be treated under section 809VA(2) as not remitted to the United Kingdom, and
 - (b) the business investment provisions apply to the re-investment as they apply to the original investment.
- (4) In the application of the business investment provisions to the re-investment—
 - (a) treat the potentially chargeable event mentioned in section 809VG(1)(b) as the relevant event,
 - (b) treat the underlying income or gains as the income or gains treated under section 809VA(2) as not remitted to the United Kingdom as a result of the re-investment, and
 - (c) treat the amount used to make the re-investment as the sum originally invested.
- (5) If the re-investment is made using more than the minimum amount of disposal proceeds required to satisfy section 809VI(1) or (2)(b)—
 - (a) that investment is to be treated as two separate investments, one made using the minimum amount of disposal proceeds and one made using the excess, and
 - (b) references in the business investment provisions to “the investment” and “the holding” relate only to the investment made using the minimum amount of disposal proceeds.
- (6) “The underlying income or gains” means the affected income or gains (within the meaning of section 809VG) or, if one part of the disposal proceeds is taken offshore and the other part re-invested, a corresponding proportion of the affected income or gains.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (7) A further claim must be made in accordance with section 809VA in respect of the re-investment and, if no such claim is made on or before the first anniversary of the 31 January following the tax year in which the re-investment was made, section 809VG(2) applies, as respects the original investment, as if the appropriate mitigation steps had not been taken within the grace period allowed for each step.
- (8) Section 809VM makes further provision in cases involving a tax deposit.

809VM Cases involving tax deposits

- (1) This section applies in cases where—
- (a) section 809VG(2) did not apply because the appropriate mitigation steps were taken within the grace period allowed for each step,
 - (b) the amount required to be taken offshore or re-invested in order to satisfy section 809VI(1) or (2)(b) had been reduced under section 809VK, and
 - (c) but for that reduction, the amount that was actually taken offshore or re-invested would not have been enough to satisfy section 809VI(1) or (2)(b).
- (2) The tax deposit that gave rise to the reduction is referred to in this section as “the tax deposit”.
- (3) Use of the tax deposit to pay the relevant tax liability does not count as remitting the underlying income or gains to the United Kingdom (and, accordingly, section 809VA(2) continues to apply to the income or gains).
- (4) If any of the CTD conditions is breached, the underlying income or gains are to be treated as having been remitted to the United Kingdom immediately after the day on which the breach occurs.
- (5) “The underlying income or gains” means such portion of the affected income or gains (within the meaning of section 809VG) as is—
- (a) represented by the payment, in the case of subsection (3), or
 - (b) affected by the breach, in the case of subsection (4).
- (6) The CTD conditions are as follows—
- (a) the tax deposit must not be used to pay a tax liability other than the relevant tax liability,
 - (b) if any of the tax deposit is withdrawn by the depositor, the amount withdrawn must be taken offshore or re-invested within the period of 45 days beginning with the day on which the withdrawal was made, and
 - (c) any part of the tax deposit that has been neither used to pay a tax liability nor withdrawn by the due date must be withdrawn by the depositor and taken offshore or re-invested within the period of 45 days beginning with that date.
- (7) Where the CTD conditions were not breached because the requisite amount was taken offshore or re-invested within the 45-day period mentioned in subsection (6)(b) or (c) —
- (a) section 809VL applies to the amount taken offshore or re-invested as it applies to disposal proceeds, but
 - (b) read the reference in section 809VL(4)(a) to the potentially chargeable event as a reference to—
 - (i) the withdrawal, in a case within subsection (6)(b), and

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

(ii) the due date, in a case within subsection (6)(c).

(8) For the purposes of this section—

- (a) “the relevant tax liability” means P’s liability to capital gains tax for the tax year in which the disposal took place,
- (b) “the due date” means the date by which the relevant tax liability is required to be paid,
- (c) “re-invested” has the meaning given in section 809VI(7), and
- (d) references to withdrawal include repayment for whatever reason.

809VN Order of disposals etc

(1) Subsection (2) applies if at any time income or chargeable gains of an individual are treated under section 809VA as not remitted to the United Kingdom as a result of—

- (a) more than one qualifying investment made in the same target company,
- (b) more than one qualifying investment made in companies in the same eligible trading group, or
- (c) qualifying investments made in an eligible trading company and in an eligible stakeholder company that holds investments in that trading company.

(2) In the application of section 809VG at that time—

- (a) treat the investments and holdings as if they were a single qualifying investment and a single holding, and
- (b) assume that a disposal of all or part of that deemed single holding affects the deemed single investment in the order in which the qualifying investments were made (that is to say, on a first in, first out basis).

(3) Subsection (4) applies if at any time—

- (a) income or chargeable gains of an individual are treated under section 809VA as not remitted to the United Kingdom as a result of one or more qualifying investments,
- (b) in addition to that investment or those investments, a relevant person holds at least one other investment in the same target company, the same eligible trading group or a related eligible company, and
- (c) that other investment is not a qualifying investment.

(4) In the application of section 809VG at that time—

- (a) treat the investments and holdings as if they were a single investment and a single holding, and
- (b) assume that a disposal of all or part of that deemed single holding is a disposal of a holding from a qualifying investment until the holdings from all the qualifying investments have been disposed of.

(5) The reference to a “related eligible company”—

- (a) in relation to an eligible trading company, is to an eligible stakeholder company that holds investments in that company, and
- (b) in relation to an eligible stakeholder company, is to an eligible trading company in which that company holds investments.

(6) Subsections (2) and (4) apply whether the investments in question are held by the same relevant person or different ones.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

809VO Investments made from mixed funds

- (1) This section applies if—
 - (a) but for section 809VA(2), income or gains would have been remitted to the United Kingdom by virtue of a relevant event, and
 - (b) section 809Q (transfers from mixed funds) would have applied in determining the amount that would have been so remitted.
- (2) The relevant event counts as an offshore transfer for the purposes of section 809R(4).
- (3) The holding is to be treated as containing a proportion of each kind of income and capital contained in the invested property equal to the fixed proportion.
- (4) “The fixed proportion” is the proportion of that kind of income or capital contained in the invested property by virtue of subsection (2).
- (5) “The invested property” means the money or other property used to make the investment.
- (6) Subsection (7) applies in cases where—
 - (a) section 809VG(2) does not apply because an amount is taken offshore, re-invested or used to make a tax deposit, or
 - (b) section 809VM(4) does not apply because an amount is taken offshore or re-invested.
- (7) The amount taken offshore, re-invested or used to make a tax deposit is treated, immediately after that step, as containing the fixed proportion of each kind of income and capital contained in the holding.
- (8) In cases where section 809VG(2) applies—
 - (a) the affected income or gains are so much of the fixed amount of each kind of income or gain mentioned in subsection (1)(a) as reflects the portion of the investment affected by the potentially chargeable event (see section 809VG(6)),
 - (b) “the fixed amount” is the amount of that kind of income or gain that the holding is treated as containing by virtue of subsection (3), and
 - (c) section 809Q does not apply in determining the affected income or gains.
- (9) Section 809R(2) and (3) and section 809S apply for the purposes of this section.]

[^{F41}Relief for certain UK services]

Textual Amendments

F41 S. 809W cross heading inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 8](#)

809W Consideration for certain services

- (1) This section applies to income or chargeable gains if—
 - (a) the income or gains would (but for subsection (2)) be regarded as remitted to the United Kingdom because conditions A and B in section 809L are met,

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (b) condition A in section 809L is met because a service is provided in the United Kingdom (“the relevant UK service”), and
 - (c) condition B in section 809L is met because section 809L(3)(a) or (b) applies to the consideration for the relevant UK service (“the relevant consideration”).
- (2) The income or chargeable gains are to be treated as not remitted to the United Kingdom if the following conditions are met; but this is subject to subsection (5).
- (3) Condition A is that the relevant UK service relates wholly or mainly to property situated outside the United Kingdom.
- (4) Condition B is that the whole of the relevant consideration is given by way of one or more payments to one or more bank accounts held outside the United Kingdom by or on behalf of the person who provides the relevant UK service.
- (5) Subsection (2) does not apply if the relevant UK service relates (to any extent) to the provision in the United Kingdom of—
- (a) a benefit that is treated as deriving from the income by virtue of section 735, or
 - (b) a relevant benefit within the meaning of section 87B of TCGA 1992 that is treated as deriving from the chargeable gains by virtue of that section.
- (6) Sections 275 to 275C of TCGA 1992 (location of assets) apply for the purposes of subsection (3) as they apply for the purposes of TCGA 1992.

[^{F42}Exempt property relief]

Textual Amendments

F42 S. 809X crossheading inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 9](#)

809X Exempt property

- (1) Exempt property which is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies is to be treated as not remitted to the United Kingdom.
- (2) Subsections (3) to (5) set out the cases in which property is exempt property.
- (3) Property is exempt property if it meets the public access rule (see sections 809Z and 809Z1).
- (4) Clothing, footwear, jewellery and watches ^{F43}... are exempt property if they meet the personal use rule (see section 809Z2).
- (5) Property ^{F44}... is exempt property if—
 - (a) the property meets the repair rule (see section 809Z3),
 - (b) the property meets the temporary importation rule (see section 809Z4), or
 - (c) the notional remitted amount (see section 809Z5) is less than £1,000.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

Textual Amendments

- F43** Words in s. 809X(4) omitted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 10\(2\)](#)
- F44** Words in s. 809X(5) omitted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 10\(3\)](#)

809Y Property that ceases to be exempt property treated as remitted

- (1) Property that ceases to be exempt property is to be treated as having been remitted to the United Kingdom at the time it ceases to be exempt property.
 - (2) Property ceases to be exempt property in either of the following cases.
 - (3) The first case is where the whole or part of the exempt property is sold, or otherwise converted into money, whilst it is in the United Kingdom.
 - (4) The second case is where the property—
 - (a) is exempt property only because it meets one or more of the relevant rules,
 - (b) ceases to meet that rule, or all of those rules, whilst it is in the United Kingdom, and
 - (c) does not meet any other relevant rule.
 - (5) In this section—

“money” includes—

 - (a) a traveller's cheque,
 - (b) a promissory note,
 - (c) a bill of exchange, and
 - (d) any other—
 - (i) instrument that is evidence of a debt, or
 - (ii) voucher, stamp or similar token or document which is capable of being exchanged for money, goods or services, and

“relevant rule” means—

 - (a) the public access rule,
 - (b) the personal use rule,
 - (c) the repair rule, and
 - (d) the temporary importation rule.
- [Subsection (1) does not apply to property that ceases to be exempt property if—
- ^{F45}(6) (a) the property, or anything into which it is converted, is used by a relevant person to make a qualifying investment within the period of 45 days beginning with the day on which it ceased to be exempt property, and
- (b) the remittance basis user makes a claim for relief under this subsection on or before the first anniversary of the 31 January following the tax year in which the property ceases to be exempt property.
- (7) The reference in subsection (6)(a) to anything into which property is converted is—
 - (a) if the property is disposed of, the disposal proceeds, and
 - (b) if the property is converted into money in some other way, the money into which it is converted,

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

(including where the disposal or conversion occurs after the property ceases to be exempt property).

- (8) If subsection (1) does not apply by virtue of subsection (6)—
- (a) the property (or thing into which it was converted) used to make the investment is to be treated as containing or deriving from an amount of each kind of income and gain mentioned in section 809Q(4)(a) to (h) equal to the fixed amount,
 - (b) the income or gains treated under section 809X as not remitted to the United Kingdom continue to be treated as not remitted to the United Kingdom even though the property has ceased to be exempt property, and
 - (c) the business investment provisions apply to the income and gains as they apply to income or gains treated under section 809VA(2) as not remitted to the United Kingdom.
- (9) “The fixed amount” is the amount of that kind of income or gain contained in the property when it was brought to, or received or used in, the United Kingdom (as mentioned in section 809X).
- (10) If the investment is made using more than just the property (or thing into which it was converted), treat only the part made using the property (or thing into which it was converted) as “the investment” for the purposes of the business investment provisions.]

Textual Amendments

F45 Ss. 809Y(6)-(10) inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 10](#)

Exception to section 809Y: proceeds taken offshore or invested

F46 **809YA**

- (1) Section 809Y(1) does not apply to property if—
- (a) it ceases to be exempt property because the whole of it is sold whilst it is in the United Kingdom, and
 - (b) conditions A to F are met.
- (2) Condition A is that the sale is to a person other than a relevant person.
- (3) Condition B is that the sale is by way of a bargain made at arm's length.
- (4) Condition C is that, once the sale is completed, no relevant person—
- (a) has any interest in the property,
 - (b) is able or entitled to benefit from the property by virtue of any interest, right or arrangement, or
 - (c) has any right (whether conditional or unconditional) to acquire any interest mentioned in paragraph (a) or ability or entitlement mentioned in paragraph (b).
- (5) Condition D is that the whole of the disposal proceeds are released (whether in one go or in instalments) on or before the final deadline.
- (6) “The final deadline” is the first anniversary of the 5 January following the tax year in which the property ceases to be exempt property (within the meaning of section 809Y).

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (7) Condition E is that—
- (a) the whole of the disposal proceeds are taken offshore or used by a relevant person to make a qualifying investment within the period of 45 days beginning with the day on which the proceeds are released, or
 - (b) if the disposal proceeds are paid in instalments, each instalment is taken offshore or used by a relevant person to make a qualifying investment within the period of 45 days beginning with the day on which the instalment is released.
- (8) But if any of the disposal proceeds are released in the period of 45 days ending with the final deadline, Condition E is satisfied, as respects those proceeds, only if they are taken offshore or used by a relevant person to make a qualifying investment on or before the final deadline.
- (9) Condition F is that, if Condition E is satisfied wholly or in part by using disposal proceeds to make a qualifying investment, the remittance basis user makes a claim for relief under section 809YC(2) on or before the first anniversary of the 31 January following the tax year in which the property is sold.
- (10) For the purposes of this section, proceeds or instalments are “released” on the day on which they first become available for use by or for the benefit of any relevant person.
- (11) This section does not apply if the sale is made as part of or as a result of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

Textual Amendments

F46 Ss. 809YA-809YD inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 18](#)

809YB Condition E: supplementary

- (1) An officer of Revenue and Customs may agree in a particular case to extend any period within which disposal proceeds (or instalments) must be taken offshore or used by a relevant person to make a qualifying investment in order to satisfy Condition E.
- (2) The power to agree to an extension is exercisable only in exceptional circumstances and only if the remittance basis user requests such an extension.

Textual Amendments

F46 Ss. 809YA-809YD inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 18](#)

809YC Effect of disapplying section 809Y

- (1) This section has effect if section 809Y(1) does not apply to property by virtue of section 809YA.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (2) The income and gains treated under section 809X as not remitted to the United Kingdom continue to be treated after the sale as not remitted to the United Kingdom even though the property has ceased to be exempt property.
- (3) But nothing in subsection (2) prevents anything done in relation to any part of the disposal proceeds after that part is taken offshore (or used to make a qualifying investment) from counting as a remittance of the underlying income or gains to the United Kingdom at the time when the thing is done.
- (4) Treat the disposal proceeds as containing or deriving from an amount of each kind of income and gain mentioned in section 809Q(4)(a) to (h) equal to the amount of that kind of income or gain contained in the exempt property when it was brought to, or received or used in, the United Kingdom (as mentioned in section 809X).
- (5) Where Condition E was met by using the disposal proceeds to make a qualifying investment—
 - (a) the business investment provisions apply to the income and gains that continue, by virtue of subsection (2), to be treated as not remitted as they apply to income or gains that are treated under section 809VA(2) as not remitted, and
 - (b) if the investment was made using more than just the disposal proceeds, treat only the part of the investment made using the disposal proceeds as “the investment” for the purposes of those provisions.

Textual Amendments

F46 Ss. 809YA-809YD inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 18](#)

809YD Chargeable gains accruing on sales of exempt property

- (1) This section applies to an individual (“P”) if—
 - (a) a chargeable gain (but not a loss) accrues to a person on a sale of exempt property,
 - (b) but for section 809YA, section 809Y(1) would have applied to the property by virtue of the sale, and
 - (c) P is either—
 - (i) the person to whom the gain accrues, or
 - (ii) a person to whom a part of the gain is treated as accruing under section 13 of TCGA 1992 (members of non-resident companies).
- (2) The relevant UK gain is to be treated for the purposes of this Chapter as if—
 - (a) it were a foreign chargeable gain of P, and
 - (b) in the case of section 809E, it were not part of P’s UK income and gains.
- (3) Accordingly, if section 809F applies to P for the applicable tax year and P is not domiciled in the United Kingdom in that year, the relevant UK gain is charged in accordance with section 12 of TCGA 1992 as if it were a foreign chargeable gain.
- (4) The relevant UK gain is—
 - (a) in a case falling within subsection (1)(c)(i), the gain accruing to P,

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (b) in a case falling within subsection (1)(c)(ii), the part of the gain treated as accruing to P.
- (5) The applicable tax year is —
 - (a) if section 10A of TCGA 1992 (temporary non-residents) applies in P's case and the relevant UK gain is within subsection (2) of that section, the year of return as defined in that section,
 - (b) otherwise, the tax year in which the relevant UK gain accrues.
- (6) In applying this Chapter to the relevant UK gain—
 - (a) treat the amount of any gains mentioned in section 809Q(4)(e) contained in the disposal proceeds by virtue of section 809YC(4) as increased by the amount of the relevant UK gain,
 - (b) disregard section 809U, and
 - (c) anything done in relation to any part of the disposal proceeds before the part is taken offshore or used to make a qualifying investment (or both) does not count as a remittance to the United Kingdom of any of the relevant UK gain.
- (7) The relevant UK gain is to be treated for the purposes of the following provisions of TCGA 1992 as if it fell within the definition of foreign chargeable gains in section 12(4) of that Act—
 - (a) section 10A,
 - (b) section 12,
 - (c) section 14A, and
 - (d) sections 16ZB to 16ZD.
- (8) This section has effect despite section 14A(2) of TCGA 1992.
- (9) This section does not apply with respect to a chargeable gain if P gives notice to Her Majesty's Revenue and Customs under this subsection.
- (10) A notice under subsection (9)—
 - (a) must be in writing and must identify the gain in question,
 - (b) must be given on or before the first anniversary of the 31 January following the applicable tax year, and
 - (c) may not be revoked after that first anniversary.]

Textual Amendments

F46 Ss. 809YA-809YD inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 18](#)

Exception to section 809Y: gifts to the nation

F47 **809YE**

- (1) Section 809Y(1) does not apply to property if—
 - (a) it ceases to be exempt property in the second case mentioned in that section, and
 - (b) by no later than the time when it ceases to be exempt property, it has been donated in the circumstances described in paragraph 1 of Schedule 14 to FA 2012 (gifts to the nation).

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (2) Where section 809Y(1) does not apply to property by virtue of this section, the property is to continue to be treated as not remitted to the United Kingdom even though it no longer meets any of the relevant rules.]

Textual Amendments

F47 S. 809YE inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 14 para. 35](#)

809Z Public access rule: general

- (1) Property meets the public access rule if conditions A to D are met.
- (2) Condition A is that the property is—
- (a) a work of art,
 - (b) a collectors' item, or
 - (c) an antique,
- within the meaning of Council Directive [2006/112/EC](#) (see, in particular, Annex IX to that Directive).
- (3) Condition B is that—
- (a) the property is available for public access at an approved establishment,
 - (b) the property is to be available for public access at an approved establishment and, in connection with its being so available, is in transit to, or in storage at, public access rule premises, or
 - (c) the property has been available for public access at an approved establishment and, in connection with its having been so available, is in transit from, or in storage at, public access rule premises.
- (4) Property is “available for public access” at an approved establishment if the property is—
- (a) on public display at the establishment,
 - (b) held by the establishment and made available to the public on request for viewing or for educational use, or
 - (c) held by the establishment for public exhibition in connection with the sale of the property.
- (5) An “approved establishment” is—
- (a) an approved museum, gallery or other institution within the meaning of Group 9 of Schedule 2 to the Value Added Tax (Imported Goods) Relief Order 1984, or
 - (b) any other person, premises or institution designated (or of a description designated) by the Commissioners.
- (6) “Public access rule premises” are—
- (a) premises in the United Kingdom at which the property is to be, or has been, available for public access, or
 - (b) other commercial premises in the United Kingdom used by the approved establishment for the storage of property in advance of its being, or after its having been, available for public access at the approved establishment.

Status: Point in time view as at 19/07/2012.

*Changes to legislation: There are currently no known outstanding effects
for the Income Tax Act 2007, Chapter A1. (See end of Document for details)*

- (7) Condition C is that, during the relevant period, the property meets condition B for no more than—
- (a) two years, or
 - (b) such longer period as the Commissioners may specify.
- (8) “The relevant period” means the period—
- (a) beginning with the importation of the property, and
 - (b) ending when it ceases to be in the United Kingdom after that importation.
- (9) “Importation” means the property being brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies.
- (10) Condition D is that the property attracts a relevant VAT relief (see section 809Z1).

809Z1 Public access rule: relevant VAT relief

- (1) Property “attracts a relevant VAT relief” if any of conditions 1 to 4 is met.
- (2) Condition 1 is that article 5(1) of the Value Added Tax (Imported Goods) Relief Order 1984 applies in relation to the importation of the property by virtue of Group 9 of Schedule 2 to that Order (importation of works of art or collectors' pieces by museums etc).
- (3) Condition 2 is that article 5(1) would so apply if the following requirements were disregarded—
 - (a) the requirement that the importation be from a third country, and
 - (b) the requirement that the purpose of the importation be a purpose other than sale.
- (4) Condition 3 is that article 576(3)(a) of Commission Regulation ([EEC](#)) No 2454/93 (relief from import duties for works of art etc imported for the purposes of exhibition, with a view to possible sale) applies in relation to the importation of the property.
- (5) Condition 4 is that article 576(3)(a) would so apply if the requirement that the importation be from a third country were disregarded.
- (6) Where the property does not meet condition B in section 809Z at the time of its importation it is to be assumed for the purposes of this section that the property was imported on the day during the relevant period when the property first meets that condition.
- (7) “The relevant period” and “importation” have the same meaning as in section 809Z and “imported” is to be read accordingly.

809Z2 Personal use rule

- (1) Clothing, footwear, jewellery or watches meet the personal use rule if they—
 - (a) are property of a relevant person, and
 - (b) are for the personal use of a relevant individual.
- (2) In this section—
 - ^{F48}(a)

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

- (b) “relevant individual” means an individual who is a relevant person by virtue of section 809M(2)(a), (b), (c) or (d) (the individual with income or gains, or a husband, wife, civil partner, child or grandchild).

Textual Amendments

F48 S. 809Z2(2)(a) omitted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 11](#)

809Z3 Repair rule

- (1) Property meets the repair rule for the whole of the relevant period if, during the whole of that period, the property meets the repair conditions.
- (2) Property meets the repair rule for a part of the relevant period if—
 - (a) during the whole of that part of that period, the property meets the repair conditions, and
 - (b) during the whole of the other part of that period, or the whole of each other part of that period, the property meets the repair conditions or the public access rule.
- (3) Property meets the repair conditions if the property—
 - (a) is under repair or restoration,
 - (b) is in transit from a place outside the United Kingdom to repair rule premises, in transit between such premises, or in storage at such premises, in advance of repair or restoration, or
 - (c) is in storage at such premises, in transit between such premises, or in transit from such premises to a place outside the United Kingdom, following repair or restoration.
- (4) “Repair rule premises” means—
 - (a) premises in the United Kingdom that are to be used, or have been used, for the repair or restoration referred to in subsection (3)(b) or (c), or
 - (b) other commercial premises in the United Kingdom used by the restorer for the storage of property in advance of, or following, repair or restoration of property by the restorer.
- (5) “Restorer” means the person who is to carry out, or has carried out, the repair or restoration referred to in subsection (3)(b) or (c).
- (6) Property meets the repair conditions, or the public access rule, during the whole of a period, or the whole of part of a period, if the property meets those conditions or that rule—
 - (a) on the whole of, or on part of, the first day of that period or part period,
 - (b) on the whole of, or on part of, the last day of that period or part period, and
 - (c) on the whole of each other day of that period or part period.
- (7) “The relevant period” has the same meaning as in section 809Z.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

809Z4 Temporary importation rule

- (1) Property meets the temporary importation rule if the total number of countable days is 275 or fewer.
- (2) A “countable day” is a day on which, or on part of which, the property is in the United Kingdom by virtue of being brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies (whether the current case, or a past case, when the property was so brought, received or used).
- (3) A day is not a countable day if, on that day or any part of that day—
 - (a) the property meets the personal use rule,
 - (b) the property meets the repair rule,^{F49} ...
 - (c) the notional remitted amount in relation to the property is less than £1,000 [^{F50} or]
 - ^{F51}(d) [all or any part of the income or chargeable gains contained in the property (or from which the property derives) is treated, or continues to be treated, under section 809VA(2), 809Y(8)(b) or 809YC(2) as not remitted to the United Kingdom.]
- (4) A day on which, or on part of which, the property meets the public access rule (the “relevant day”) is not a countable day if any of conditions A to C is met.
- (5) Condition A is that the property meets the public access rule during the whole of the period of importation in which the relevant day falls.
- (6) Condition B is that—
 - (a) the property does not meet the public access rule during the whole of the period of importation in which the relevant day falls, and
 - (b) that period of importation—
 - (i) begins with a period of no public access, and
 - (ii) ends with a period of public access which immediately follows that period of no public access.
- (7) Condition C is that—
 - (a) the property does not meet the public access rule during the whole of the period of importation in which the relevant day falls, and
 - (b) during the parts, or each of the parts of the period of importation during which the property does not meet the public access rule it meets the repair conditions.
- (8) Section 809Z3(6) applies for the purposes of this section.
- (9) “Period of importation” means a period that—
 - (a) begins when property is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies, and
 - (b) ends when the property ceases to be in the United Kingdom after having been so brought, received or used.
- (10) “Period of no public access” means a period which is not a period of public access and “period of public access” means a period during the whole of which property meets the public access rule.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

Textual Amendments

- F49** Word in s. 809Z4(3)(b) omitted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 12\(a\)](#)
- F50** Word in s. 809Z4(3)(c) inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 12\(b\)](#)
- F51** S. 809Z4(3)(d) inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 12\(c\)](#)

809Z5 Notional remitted amount

- (1) The “notional remitted amount”, in relation to property, is the amount ^{F52}... that would be taken to be remitted to the United Kingdom in relation to the property (if section 809X did not apply in relation to the property).

^{F53}(2)

^{F53}(3)

Textual Amendments

- F52** Words in s. 809Z5(1) omitted (with effect in accordance with Sch. 27 para. 15(1) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 27 para. 11\(2\)](#)
- F53** S. 809Z5(2)(3) omitted (21.7.2009 retrospective) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 11\(3\), 15\(2\)](#)

809Z6 Exempt property: other interpretation

- (1) This section applies for the purposes of sections 809X to 809Z5.
- (2) “Property” does not include money.
- (3) In subsection (2) “money” includes—
- (a) a traveller's cheque,
 - (b) a promissory note,
 - (c) a bill of exchange, and
 - (d) any other—
 - (i) instrument that is evidence of a debt, or
 - (ii) voucher, stamp or similar token or document which is capable of being exchanged for money, goods or services.
- (4) References to property being in the United Kingdom are references to the property—
- (a) being in the United Kingdom after being brought to, or received in, the United Kingdom in circumstances in which section 809L(2)(a) applies, or
 - (b) being used in the United Kingdom in circumstances in which section 809L(2)(a) applies.

Status: Point in time view as at 19/07/2012.

*Changes to legislation: There are currently no known outstanding effects
 for the Income Tax Act 2007, Chapter A1. (See end of Document for details)*

Interpretation of Chapter

809Z7 [F54 Meaning of “foreign income and gains” etc]

- (1) This section applies for the purposes of this Chapter.
- (2) An individual's “foreign income and gains” for a tax year are—
 - (a) the individual's relevant foreign earnings for that year,
 - (b) the individual's foreign specific employment income for that year,
 - (c) the individual's relevant foreign income for that year, and
 - (d) if the individual is not domiciled in the United Kingdom in that year, the individual's foreign chargeable gains for that year.
- (3) An individual's “relevant foreign earnings” for a tax year are—
 - (a) if the individual is ordinarily UK resident in that year, the individual's chargeable overseas earnings for that year, and
 - (b) otherwise, the individual's general earnings within section 26(1) of ITEPA 2003 for that year (non-UK earnings).
- [F55(4) An individual's “foreign specific employment income” for a tax year (“the relevant tax year”) consists of the income (if any) within subsections (4A) and (4B).
- (4A) The income within this subsection is the individual's specific employment income for the relevant tax year so far as it consists of foreign securities income for the purposes of section 41A of ITEPA 2003.
- (4B) The income within this subsection is any income, or any part of any income, of the individual—
 - (a) to which section 554Z9(2) or 554Z10(2) of ITEPA 2003 applies, and
 - (b) which consists of the value of a relevant step, or a part of the value of a relevant step, which is “for” the relevant tax year as determined under section 554Z4 of ITEPA 2003.]
- (5) An individual's “foreign chargeable gains” for a tax year are the foreign chargeable gains (within the meaning of section 12(4) of TCGA 1992) accruing to the individual in that year.
- (6) In subsection (3)(a) “chargeable overseas earnings” has the same meaning as in section 22 of ITEPA 2003 (see section 23 of that Act).
- [F56(7)]

Textual Amendments

- F54** S. 809Z7 heading substituted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 15](#)
- F55** Ss. 809Z7(4)-(4B) substituted (19.7.2011) for s. 809Z7(4) (with effect in accordance with Sch. 2 para. 52-59 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 43](#)
- F56** S. 809Z7(7) omitted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 14](#)

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

[^{F57}809Z8] Meaning of “the disposal proceeds”

- (1) In this Chapter, in relation to a sale or other disposal, “the disposal proceeds” means—
 - (a) the consideration for the disposal, less
 - (b) any agency fees that are deducted before the consideration is paid or otherwise made available to or for the benefit of the person making the disposal (“the transferor”) or any other relevant person.
- (2) The following rules apply in determining the consideration for the disposal.
- (3) If the consideration is provided in the form of anything other than money, the amount of the consideration is the market value of the thing at the time of the disposal.
- (4) If the disposal is made other than by way of a bargain made at arm's length, the disposal is deemed to be made for a consideration equal to the market value, immediately before the disposal, of the thing being disposed of.
- (5) Without limiting the generality of subsection (4), a disposal made to another relevant person or to a person connected with a relevant person is treated in all cases as made other than by way of a bargain at arm's length.
- (6) In subsection (1), “agency fees” means fees and other incidental costs of the disposal that are charged to the transferor by any person by or through whom the disposal is effected, but excluding any such fees or costs that—
 - (a) are charged to the transferor by another relevant person, or
 - (b) are to be passed on to or otherwise applied for the benefit of a relevant person.
- (7) The exclusion mentioned in subsection (6) does not apply to the extent that the fees or costs—
 - (a) relate to a service actually provided by the relevant person to the transferor in connection with effecting the disposal, and
 - (b) do not exceed the amount that would be charged for that service if it were provided in the ordinary course of business and on arm's length terms.

Textual Amendments

F57 Ss. 809Z8-809Z10 inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 16](#)

809Z9 Taking proceeds etc offshore or investing them

- (1) This section applies to a provision of this Chapter that is satisfied if something (for example, disposal proceeds) is taken offshore or used by a relevant person to make a qualifying investment.
- (2) Things are to be regarded as “taken offshore” if (and only if) they are taken outside the United Kingdom such that, on leaving the United Kingdom, they cease to be available—
 - (a) to be used or enjoyed in the United Kingdom by or for the benefit of a relevant person, or
 - (b) to be used or enjoyed in any other way that would count as remitting income or gains to the United Kingdom.

Status: Point in time view as at 19/07/2012.

*Changes to legislation: There are currently no known outstanding effects
for the Income Tax Act 2007, Chapter A1. (See end of Document for details)*

- (3) If—
- (a) the thing required to be taken offshore or invested is money, and
 - (b) it is paid temporarily into an account pending satisfaction of the provision, the provision is satisfied only if the money actually taken offshore or invested is taken from the same account.
- (4) If the thing required to be taken offshore or invested is something in money's worth, the provision may be satisfied—
- (a) by taking the thing offshore or investing it, or
 - (b) by taking offshore or investing money or other property of the equivalent value.
- (5) “The equivalent value” is the market value of the thing in money's worth, assessed as at the date of the sale or other disposal in relation to which the provision is triggered.
- (6) If the consideration for a disposal is deemed under section 809Z8(4), the provision may be satisfied by taking offshore or investing money or other property of a value equal to—
- (a) the amount of the deemed consideration, less
 - (b) any agency fees (within the meaning of section 809Z8) that are deducted before the actual consideration is paid or otherwise made available to or for the benefit of a relevant person.
- (7) Subsections (4)(b) and (6) do not apply in the case of other property of the equivalent value if the other property is—
- (a) exempt property under section 809X,
 - (b) consideration for the disposal of any such exempt property, or
 - (c) consideration for the disposal of all or part of the holding (see section 809VC) relating to a qualifying investment.
- (8) Money or other property taken offshore or invested in accordance with subsection (4) (b) or (6) is to be treated for the purposes of this Chapter—
- (a) as deriving from the thing required to be taken offshore or invested, and
 - (b) as having the same composition of kinds of income and capital as that thing.
- (9) A provision to which this section applies may be satisfied—
- (a) by taking the whole thing offshore or investing the whole thing, or
 - (b) by taking one part offshore and investing the other part.
- (10) References in this section to something being “invested” are to something being used by a relevant person to make a qualifying investment.
- (11) The provisions to which this section applies include section 809VB(2) but in that case—
- (a) disregard references in this section to investment, and
 - (b) the assessment date for the purposes of subsection (5) is the date of the relevant event (see section 809VA(3)(b)).

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1. (See end of Document for details)

Textual Amendments

F57 Ss. 809Z8-809Z10 inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 16](#)

809Z10 General interpretation

In this Chapter—

“the business investment provisions” means sections 809VA to 809VO;

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“market value” has the same meaning as in TCGA 1992 (see in particular sections 272 and 273 of that Act);

“qualifying investment” has the meaning given by section 809VC (and references to making a qualifying investment are to be read in accordance with that section);

“relevant person” has the meaning given by section 809M;

“the remittance basis user”, in relation to income or chargeable gains of an individual, means that individual.]

Textual Amendments

F57 Ss. 809Z8-809Z10 inserted (17.7.2012) (with effect in accordance with Sch. 12 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 12 para. 16](#)

Status:

Point in time view as at 19/07/2012.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax Act 2007, Chapter A1.