

Status: Point in time view as at 21/07/2008.

Changes to legislation: Finance Act 2008, Part 3 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 16

NON-RESIDENTS: INVESTMENT MANAGERS

PART 3

NON-RESIDENTS LIABLE TO TAX: DISREGARDED INVESTMENT INCOME OR PROFITS

FA 2003

- 7 FA 2003 is amended as follows.
- 8 (1) Section 152 (non-resident companies: transactions carried out through broker, investment manager or Lloyd's agent) is amended as follows.
- (2) The existing provision of section 152 becomes subsection (1) of that section.
- (3) After subsection (1) insert—
- “(2) Schedule 26 also contains provision about disregarding profits of certain investment transactions carried out on behalf of non-resident companies when attributing profits under section 11AA of the Taxes Act 1988.”
- 9 (1) Schedule 26 (non-resident companies: transactions through broker, investment manager or Lloyd's agent) is amended as follows.
- (2) In paragraph 3(2)—
- (a) at the end of paragraph (d), insert “ and ”, and
- (b) omit paragraph (f) (and the “and” before it).
- (3) Omit paragraph 4(5).
- (4) After paragraph 5 insert—

*“Profits attributable to permanent establishment:
disregard of profits of certain investment transactions*

- 5A (1) This paragraph applies if—
- (a) an investment manager carries out one or more investment transactions (“relevant investment transactions”) on behalf of a non-resident company (whether or not the investment manager also carries out other transactions of any kind on behalf of the company), and
- (b) as regards the non-resident company, the investment manager is not regarded as an agent of independent status acting in the ordinary course of his business (whether because conditions in paragraph

Status: Point in time view as at 21/07/2008.

Changes to legislation: Finance Act 2008, Part 3 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

3 are not met in relation to relevant investment transactions or otherwise).

- (2) In determining under section 11AA of the Taxes Act 1988 the amount of the profits attributable to the permanent establishment represented by the investment manager acting as an agent on behalf of the non-resident company, chargeable profits that derive from a relevant investment transaction are to be disregarded in either of the following cases.
- (3) The first case is where the conditions in paragraph 3 are met in relation to the transaction.
- (4) The second case is where the conditions in paragraph 3, except for the requirements of the 20% rule, are met in relation to the relevant investment transaction.
- (5) But, in the second case, the chargeable profits are to be disregarded only to the extent that they do not represent relevant excluded income of the company to which the investment manager or a person connected with the investment manager has or has had any beneficial entitlement.
- (6) Expressions used in this paragraph and in paragraph 3 or 4 have the same meaning in this paragraph as in paragraph 3 or 4.”

ITA 2007

- 10 (1) Section 818 of ITA 2007 (the independent investment manager conditions) is amended as follows.
- (2) In subsection (1), for the words from “if” to the end substitute “ if conditions A to E are met. ”
- (3) Omit subsections (7) and (8).

Status:

Point in time view as at 21/07/2008.

Changes to legislation:

Finance Act 2008, Part 3 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.