

*Status: Point in time view as at 22/07/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, SCHEDULE 46. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 46

Section 219

#### ORDINARY RESIDENCE

#### PART 1

#### INCOME TAX AND CAPITAL GAINS TAX: REMITTANCE BASIS OF TAXATION

##### *Remittance basis restricted to non-doms*

- 1 Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.
- 2 In section 809A (overview of Chapter), omit “or are not ordinarily UK resident”.
- 3 In section 809B (claim for remittance basis to apply)—
- (a) in subsection (1)(b), omit “or is not ordinarily UK resident in that year”, and
- (b) omit subsection (2).
- 4 In section 809D (application of remittance basis without claim where unremitted foreign income and gains under £2,000)—
- (a) in subsection (1)(b), omit “or is not ordinarily UK resident in that year”, and
- (b) in subsection (1A), omit “the individual is not domiciled in the United Kingdom in that year and”.
- 5 In section 809E (application of remittance basis without claim: other cases), in subsection (1)(b), omit “or is not ordinarily UK resident in that year”.

##### *Treatment of relevant foreign earnings*

- 6 ITEPA 2003 is amended as follows.
- 7 (1) In section 22 (chargeable overseas earnings for year when remittance basis applies and employee ordinarily UK resident), in subsection (1), for paragraph (b) substitute—
- “(b) the employee does not meet the requirement of section 26A for that year.”
- (2) Accordingly—
- (a) in the heading of that section, for “**ordinarily UK resident**” substitute “**outside section 26**”, and
- (b) in the italicised heading before that section, for “*UK ordinarily resident employees*” substitute “*employees outside section 26*”.
- 8 In section 23 (calculation of “chargeable overseas earnings”), in subsection (2), for paragraph (aa) substitute—
- “(aa) the employee does not meet the requirement of section 26A for that year.”

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- 9 (1) In section 26 (foreign earnings for year when remittance basis applies and employee not ordinarily UK resident), in subsection (1), for “is not ordinarily UK resident in” substitute “meets the requirement of section 26A for”.
- (2) Accordingly—
- (a) in the heading of that section, for “**not ordinarily UK resident**” substitute “**meets section 26A requirement**”, and
- (b) in the italicised heading before that section, for “*not UK ordinarily resident*” substitute “*who meet section 26A requirement*”.

10 After that section insert—

**“26A Section 26: requirement for 3-year period of non-residence**

- (1) An employee meets the requirement of this section for a tax year if the employee was—
- (a) non-UK resident for the previous 3 tax years, or
- (b) UK resident for the previous tax year but non-UK resident for the 3 tax years before that, or
- (c) UK resident for the previous 2 tax years but non-UK resident for the 3 tax years before that, or
- (d) non-UK resident for the previous tax year, UK resident for the tax year before that and non-UK resident for the 3 tax years before that.
- (2) The residence status of the employee before the 3 years of non-UK residence is not relevant for these purposes.”
- 11 (1) Section 41C (foreign securities income) is amended as follows.
- (2) In subsection (4), for paragraph (b) substitute—
- “(b) the individual does not meet the requirement of section 26A for the year (reading references there to the employee as references to the individual).”.
- (3) In subsection (6), for paragraph (b) substitute—
- “(b) the individual meets the requirement of section 26A for the year (reading references there to the employee as references to the individual), and”.
- 12 In section 271 (limited exemption of removal benefits and expenses: general), in subsection (2)—
- (a) in paragraph (a), for “ordinarily UK resident” substitute “outside section 26”, and
- (b) in paragraph (b), for “not ordinarily UK resident” substitute “meets section 26A requirement”.
- 13 (1) In section 554Z9 (remittance basis: A is ordinarily UK resident), in subsection (1), for paragraph (c) substitute—
- “(c) A does not meet the requirement of section 26A for the relevant tax year (reading references there to the employee as references to A).”.
- (2) Accordingly, in the heading of that section, for “**A is ordinarily UK resident**” substitute “**A does not meet section 26A requirement**”.

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- 14 (1) In section 554Z10 (remittance basis: A is not ordinarily resident), in subsection (1), for paragraph (c) substitute—
- “(c) A meets the requirement of section 26A for the relevant tax year (reading references there to the employee as references to A).”
- (2) Accordingly, in the heading of that section, for “**A is not ordinarily resident**” substitute “**A meets section 26A requirement**”.
- 15 (1) Section 690 (employee non-resident etc) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
- “(a) is either non-UK resident for the tax year or is UK resident but meets the requirement of section 26A for the tax year, and”.
- (3) In subsection (2A), for “but not ordinarily resident in a tax year” substitute “for a tax year but not domiciled in the United Kingdom in that tax year”.

#### *Consequential amendments*

- 16 In section 266A of ICTA (life assurance premiums paid by employer), in subsection (8)—
- (a) in paragraph (a), for “employee resident and ordinarily resident, but not domiciled, in UK” substitute “remittance basis applies and employee outside section 26”, and
- (b) in paragraph (b), for “employee resident, but not ordinarily resident, in UK” substitute “remittance basis applies and employee meets section 26A requirement”.
- 17 In section 12 of TCGA 1992 (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute—
- “(1) This section applies to foreign chargeable gains accruing to an individual in a tax year (“the foreign chargeable gains”) if section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year.”
- 18 In section 87B of that Act (section 87: remittance basis), in subsection (1)—
- (a) insert “and” at the end of paragraph (a),
- (b) omit “and” at the end of paragraph (b), and
- (c) omit paragraph (c).
- 19 In section 726 of ITA 2007 (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute—
- “(1) This section applies in relation to income treated under section 721 as arising to an individual in a tax year (“the deemed income”) if section 809B, 809D or 809E (remittance basis) applies to the individual for that year.”
- 20 In section 730 of that Act (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute—
- “(1) This section applies in relation to income treated under section 728 as arising to an individual in a tax year (“the deemed income”) if section 809B, 809D or 809E (remittance basis) applies to the individual for that year.”
- 21 In section 735 of that Act (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute—

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- “(1) This section applies in relation to income treated under section 732 as arising to an individual in a tax year (“the deemed income”) if section 809B, 809D or 809E (remittance basis) applies to the individual for that year.”
- 22 In section 809F of that Act (effect on what is chargeable), in subsection (4), for “If the individual is not domiciled in the United Kingdom in that year, the” substitute “The”.
- 23 In section 809YD of that Act (chargeable gains accruing on sales of exempt property), in subsection (3), omit “and P is not domiciled in the United Kingdom in that year”.
- 24 In section 809Z7 of that Act (meaning of “foreign income and gains” etc)—
- (a) in subsection (2)(d), omit “if the individual is not domiciled in the United Kingdom in that year,”, and
  - (b) in subsection (3)(a), for “is ordinarily UK resident in” substitute “does not meet the requirement of section 26A of ITEPA 2003 for”.

#### *Commencement*

- 25 The amendments made by this Part of this Schedule have effect in relation to an individual's foreign income and gains for the tax year 2013-14 or any subsequent tax year.

#### *Savings*

- 26 (1) This paragraph applies to an individual who—
- (a) was resident in the United Kingdom for the tax year 2012-13, but
  - (b) was not ordinarily resident there at the end of the tax year 2012-13.
- (2) Enactments relating to income tax or capital gains tax have effect, in relation to any eligible foreign income and gains of the individual, as if the amendments made by this Part of this Schedule had not been made.
- (3) “Eligible foreign income and gains” means—
- (a) if the individual was resident in the United Kingdom for the tax year 2010-11 and the tax year 2011-12, foreign income and gains for the tax year 2013-14,
  - (b) if the individual was not resident in the United Kingdom for the tax year 2010-11 but was resident in the United Kingdom for the tax year 2011-12, foreign income and gains for the tax year 2013-14 and the tax year 2014-15, and
  - (c) if the individual was not resident in the United Kingdom for the tax year 2011-12, foreign income and gains for the tax year 2013-14, the tax year 2014-15 and the tax year 2015-16.
- (4) Where, by virtue of this paragraph, it is necessary to determine whether an individual is (or is not) ordinarily resident in the United Kingdom at a time on or after 6 April 2013, the question is to be determined as it would have been in the absence of this Schedule.

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### *Interpretation*

- 27 References in this Part of this Schedule to an individual's "foreign income and gains" for a tax year are to be read in accordance with section 809Z7 of ITA 2007 (interpretation of remittance basis rules).

## **PART 2**

### INCOME TAX: ARISING BASIS OF TAXATION

#### *ICTA*

- 28 In section 614 of ICTA (exemptions and reliefs in respect of income from investments etc of certain pension schemes)—
- (a) in subsection (4), for "not domiciled, ordinarily resident or resident" substitute "not domiciled and not resident", and
  - (b) in subsection (5), for "not domiciled, ordinarily resident or resident" substitute "not domiciled and not resident".

#### *ITEPA 2003*

- 29 ITEPA 2003 is amended as follows.
- 30 In section 56 (application of Income Tax Acts in relation to deemed employment), in subsection (5)—
- (a) for paragraph (a) substitute—
    - "(a) the worker being resident or domiciled outside the United Kingdom or meeting the requirement of section 26A," and
  - (b) in paragraph (b), omit "or ordinarily resident".
- 31 In section 61G (application of Income Tax Acts in relation to deemed employment), in subsection (5)—
- (a) for paragraph (a) substitute—
    - "(a) the worker being resident or domiciled outside the United Kingdom or meeting the requirement of section 26A," and
  - (b) in paragraph (b), omit "or ordinarily resident".
- 32 In section 328 (the income from which deductions may be made), in subsection (5), omit the entry for Chapter 6 of Part 5 and the word "and" immediately preceding it.
- 33 In section 341 (travel at start or finish of overseas employment), in subsection (3), for "resident and ordinarily resident in the United Kingdom" substitute "UK resident".
- 34 In section 342 (travel between employments where duties performed abroad), in subsection (6), for "resident and ordinarily resident in the United Kingdom" substitute "UK resident".
- 35 In section 370 (travel costs where duties performed abroad: employee's travel), in subsection (6), omit "in which the employee is ordinarily UK resident".
- 36 In section 376 (foreign accommodation and subsistence costs and expenses (overseas employments)), in subsection (1)(b), for "resident and ordinarily resident in the United Kingdom" substitute "UK resident".

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- 37 (1) Section 378 (deductions from seafarers' earnings: eligibility) is amended as follows.
- (2) In subsection (1), for “relevant taxable earnings or EEA-resident earnings” substitute “relevant general earnings”.
- (3) For subsection (5) substitute—
- “(5) Relevant general earnings” means—
- (a) taxable earnings under section 15, 22 or 26, or
- (b) general earnings—
- (i) to which section 27 applies, and
- (ii) which are for a period in which the employee is liable under the law of an EEA State (other than the United Kingdom) to tax in that State by reason of domicile or residence.”
- (4) Omit subsection (6).
- 38 (1) Section 413 (exception in certain cases of foreign service) is amended as follows.
- (2) In subsection (2), after “subsection” (in the second place it occurs) insert “ (2A), ”.
- (3) After that subsection insert—
- “(2A) This subsection applies to service in or after the tax year 2013-14—
- (a) to the extent that it consists of duties performed outside the United Kingdom in respect of which earnings would not be relevant earnings, or
- (b) if a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings).”
- (4) In subsection (3), after “2003-04” insert “ but before the tax year 2013-14 ”.
- (5) After that subsection insert—
- “(3ZA) In subsection (2A)(a) “relevant earnings” means earnings for a tax year that are earnings to which section 15 applies and to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year.”
- 39 (1) In section 681A (foreign benefits of consular employees), for subsection (4) substitute—
- “(4) Condition C is that—
- (a) the officer or employee is a permanent employee of that state, or
- (b) the officer or employee was non-UK resident for each of the 2 tax years preceding the tax year in which the officer or employee became a consular officer or employee in the United Kingdom of that state.”
- (2) The amendment made by this paragraph does not apply to a person who became a consular officer or employee in the United Kingdom before 6 April 2013.
- 40 (1) In Schedule 2 (approved share incentive plans), in paragraph 8(2), omit paragraph (b) and the “and” immediately before it.

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- (2) The amendments made by this paragraph do not apply to plans that have been approved before the day on which this Act is passed.
- 41 (1) In Schedule 3 (approved SAYE option schemes), in paragraph 6(2)—
- (a) insert “ and ” at the end of paragraph (c), and
  - (b) omit paragraph (ca), including the “and” at the end of it.
- (2) The amendments made by this paragraph do not apply to schemes that have been approved before the day on which this Act is passed.
- 42 In Schedule 5 (enterprise management incentives), in paragraph 27(3)(b), omit “and ordinarily resident”.

#### *ITTOIA 2005*

- 43 ITTOIA 2005 is amended as follows.
- 44 In section 154A (certain non-UK residents with interest on 3½% War Loan 1952 Or After), in subsection (1)(a), omit “ordinarily”.
- 45 In section 459 (transfer of assets abroad), in subsection (2), for “an individual ordinarily UK resident” substitute “ a UK resident individual ”.
- 46 In section 468 (non-UK resident trustees and foreign institutions), for subsection (2) substitute—
- “(2) Chapter 2 of Part 13 of ITA 2007 (which prevents avoidance of tax where a UK resident individual benefits from a transfer of assets) applies with the modifications specified in subsection (3) or (4).”
- 47 In section 569 (anti-avoidance: transfer of assets abroad), in subsection (2), for “an individual ordinarily UK resident” substitute “ a UK resident individual ”.
- 48 (1) In section 636 (calculation of undistributed income), in subsection (2)(b), for “, resident and ordinarily resident” substitute “ and resident ”.
- (2) The amendment made by this paragraph does not apply in calculating income arising under a settlement in tax years ending before 6 April 2013.
- 49 In section 648 (income arising under a settlement), in subsection (1)(b), for “, resident and ordinarily resident” substitute “ and resident ”.
- 50 In section 651 (meaning of “UK estate” and “foreign estate”), in subsection (3), omit “or not ordinarily UK resident”.
- 51 In section 664 (the aggregate income of the estate), in subsection (2)(b)(i), omit “who was ordinarily UK resident”.
- 52 (1) Section 715 (interest from FOTRA securities held on trust) is amended as follows.
- (2) In subsection (1)(b), for “person not ordinarily UK resident” substitute “ non-UK resident person ”.
- (3) In subsection (2)—
- (a) for “person not ordinarily UK resident” substitute “ non-UK resident person ”, and
  - (b) for “is ordinarily UK resident at the time when” substitute “ is UK resident for the tax year in which ”.

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- (4) In relation to a FOTRA security issued before 6 April 2013, the amendments made by this paragraph apply only if the security was acquired by the trust on or after that date.
- 53 (1) In section 771 (relevant foreign income of consular officers and employees), for subsection (4) substitute—
- “(4) Condition C is that—
- (a) the officer or employee is a permanent employee of that state, or
- (b) the officer or employee was non-UK resident for each of the 2 tax years preceding the tax year in which the officer or employee became a consular officer or employee in the United Kingdom of that state.”
- (2) The amendment made by this paragraph does not apply to a person who became a consular officer or employee in the United Kingdom before 6 April 2013.

*ITA 2007*

- 54 ITA 2007 is amended as follows.
- 55 In section 465 (overview of Chapter 2 and interpretation), in subsection (4), omit “and ordinary residence”.
- 56 (1) Section 475 (residence of trustees) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies for income tax purposes and explains how to work out, in relation to the trustees of a settlement, whether or not the single person mentioned in section 474(1) is UK resident.”
- (3) In subsection (2), for “both UK resident and ordinarily UK resident” substitute “UK resident”.
- (4) In subsection (3), for “both non-UK resident and not ordinarily UK resident” substitute “non-UK resident”.
- 57 (1) Section 476 (how to work out whether settlor meets condition C) is amended as follows.
- (2) In subsection (2)(b), omit “, ordinarily UK resident”.
- (3) In subsection (3)(b), omit “, ordinarily UK resident”.
- (4) The amendment made by sub-paragraph (2) does not apply if the person died before 6 April 2013.
- (5) The amendment made by sub-paragraph (3) does not apply if the settlement was made before 6 April 2013.
- 58 In section 643 (non-residents), in subsection (1), omit “and is not ordinarily UK resident during that year”.
- 59 In section 718 (meaning of “person abroad” etc), in subsection (2)(b), for “neither UK resident nor ordinarily UK resident” substitute “non-UK resident”.
- 60 In section 720 (charge to tax on income treated as arising under section 721), in subsection (1), omit “ordinarily”.



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- 61 (1) Section 721 (individuals with power to enjoy income as a result of relevant transactions) is amended as follows.
- (2) In subsection (1), for “conditions A and B” substitute “ conditions A to C ”.
- (3) After subsection (3) insert—
- “(3A) Condition C is that the individual is UK resident for the tax year.”
- (4) In subsection (5), for paragraph (b) substitute—
- “(b) whether the individual is UK resident for the tax year in which the relevant transfer is made (if different from the tax year mentioned in subsection (1)), or”.
- 62 In section 727 (charge to tax on income treated as arising under section 728), in subsection (1), omit “ordinarily”.
- 63 (1) Section 728 (individuals receiving capital sums as a result of relevant transactions) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), omit the “and” at the end of sub-paragraph (iii), and
- (b) at the end of paragraph (b) insert “, and
- (c) the individual is UK resident for the tax year.”
- (3) In subsection (3), for paragraph (b) substitute—
- “(b) whether the individual is UK resident for the tax year in which the relevant transfer abroad is made (if different from the tax year mentioned in subsection (1)), or”.
- 64 In section 732 (non-transferors receiving benefit as a result of relevant transactions), in subsection (1)(b), for “ordinarily UK resident receives a benefit” substitute “ UK resident for a tax year receives a benefit in that tax year ”.
- 65 (1) In section 749 (restrictions on particulars to be provided by relevant lawyers), in subsection (2), omit “ordinarily”.
- (2) The amendment made by this paragraph applies only if the transfer is made or, in the case of an associated operation, the transfer is made and the associated operation is effected on or after 6 April 2013.
- 66 In section 812 (case where limit on liability of non-UK residents is not to apply), in subsection (1)(a), omit “ordinarily”.
- 67 (1) In section 834 (residence of personal representatives), in subsection (3), omit “, ordinarily UK resident”.
- (2) The amendment made by this paragraph does not apply if D died before 6 April 2013.
- 68 (1) In section 858 (declarations of non-UK residence: individuals)—
- <sup>F1</sup>(a) .....
- (b) in subsection (4), omit “ordinarily”.
- (2) The amendments made by this paragraph apply to the making of declarations on or after 6 April 2014, and any declarations made before that date continue to have effect in respect of interest paid on or after that date as if those amendments had not been made.

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#### Textual Amendments

**F1** Sch. 46 para. 68(1)(a) omitted (15.9.2016) (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), Sch. 6 para. 25(c)(i)

- 69 (1) In section 859 (declarations of non-UK residence: Scottish partnerships)—
- <sup>F2</sup>(a) . . . . .
- (b) in subsection (4), omit “ordinarily”.
- (2) The amendments made by this paragraph apply to the making of declarations on or after 6 April 2014, and any declarations made before that date continue to have effect in respect of interest paid on or after that date as if those amendments had not been made.

#### Textual Amendments

**F2** Sch. 46 para. 69(1)(a) omitted (15.9.2016) (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), Sch. 6 para. 25(c)(ii)

- 70 <sup>F3</sup>(1) . . . . .
- (2) The amendment made by this paragraph applies only if the deceased died on or after 6 April 2014.

#### Textual Amendments

**F3** Sch. 46 para. 70(1) omitted (15.9.2016) (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), Sch. 6 para. 25(c)(iii)

- 71 (1) Section 861 (declarations of non-UK residence: settlements) is amended as follows.
- (2) In subsection (3)(b)(i) and (iii), omit “ordinarily”.
- (3) In subsection (4)—
- (a) in paragraphs (b) and (d), omit “ordinarily”, <sup>F4</sup>...
- <sup>F4</sup>(b) . . . . .
- (4) The amendments made by this paragraph apply to the making of declarations on or after 6 April 2014, and any declarations made before that date continue to have effect in respect of interest paid on or after that date as if those amendments had not been made.

#### Textual Amendments

**F4** Sch. 46 para. 71(3)(b) and word omitted (15.9.2016) (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), Sch. 6 para. 25(c)(iv)

#### Commencement

- 72 (1) The amendments made by this Part of this Schedule have effect for the purposes of a person's liability to income tax for the tax year 2013-14 or any subsequent tax year.

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- (2) Sub-paragraph (1) is without prejudice to any provision in this Part of the Schedule about the application of a particular amendment.

### *Savings*

- 73 (1) This paragraph applies to an individual who—
- (a) was resident in the United Kingdom for the tax year 2012-13, but
  - (b) was not ordinarily resident there at the end of the tax year 2012-13.
- (2) The provisions listed in sub-paragraph (3) have effect, in relation to such an individual and a qualifying tax year, as if the amendments made to or with respect to those provisions by this Part of this Schedule had not been made.
- (3) The provisions are—
- (a) section 413 of ITEPA 2003 (exception for payments and benefits on termination of employment etc in certain cases involving foreign service),
  - (b) section 414 of that Act (reduction in other cases of foreign service), and
  - (c) Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad).
- (4) But, in the case of provisions within paragraph (a) or (b) of sub-paragraph (3), this paragraph applies only if service in the employment in question began before the start of the tax year 2013-14.
- (5) The meaning of “qualifying tax year” depends on the individual's residence status—
- (a) if the individual was resident in the United Kingdom for the tax year 2010-11 and the tax year 2011-12, “qualifying tax year” means the tax year 2013-14,
  - (b) if the individual was not resident in the United Kingdom for the tax year 2010-11 but was resident in the United Kingdom for the tax year 2011-12, “qualifying tax year” means each of the tax year 2013-14 and the tax year 2014-15, and
  - (c) if the individual was not resident in the United Kingdom for the tax year 2011-12, “qualifying tax year” means each of the tax year 2013-14, the tax year 2014-15 and the tax year 2015-16.
- (6) Where, by virtue of this paragraph, it is necessary to determine whether an individual is (or is not) ordinarily resident in the United Kingdom at a time on or after 6 April 2013, the question is to be determined as it would have been in the absence of this Schedule.

## **PART 3**

### **CAPITAL GAINS TAX: ACCRUALS BASIS OF TAXATION**

#### *TCGA 1992*

- 74 TCGA 1992 is amended as follows.
- 75 (1) Section 2 (persons and gains chargeable to capital gains tax, and allowable losses) is amended as follows.
- (2) In subsection (1), for the words from “during any part” to the end substitute “ if the residence condition is met ”.

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- (3) After that subsection insert—
- “(1A) The residence condition is—
- (a) in the case of an individual, that the individual is resident in the United Kingdom for the year in question,
  - (b) in the case of personal representatives of a deceased person, that the single and continuing body mentioned in section 62(3) is resident in the United Kingdom,
  - (c) in the case of the trustees of a settlement, that the single person mentioned in section 69(1) is resident in the United Kingdom during any part of the year in question, and
  - (d) in any other case, that the person is resident in the United Kingdom when the gain accrues.”
- 76 In section 10 (non-resident with United Kingdom branch or agency), in subsection (1), for “in which he is not resident and not ordinarily resident in the United Kingdom but” substitute “ if the residence condition is not met (see section 2(1A)) but the person ”.
- 77 (1) Section 13 (attribution of gains to members of non-resident companies) is amended as follows.
- (2) In subsection (2), omit “or ordinarily resident”.
  - (3) In subsection (10), for “neither resident nor ordinarily resident” substitute “ not resident ”.
  - (4) In subsection (13)(b), omit “or ordinarily resident”.
- 78 In section 16 (computation of losses), in subsection (3), for “during no part of which he is resident or ordinarily resident in the United Kingdom” substitute “ where the residence condition is not met (see section 2(1A)) ”.
- 79 In section 62 (death: general provisions), in subsection (3), omit “, ordinary residence,”.
- 80 In section 65 (liability for tax of trustees or personal representatives), in subsection (3)(b), for “become neither resident nor ordinarily resident” substitute “ cease to be resident ”.
- 81 In section 67 (provisions applicable where section 79 of the Finance Act 1980 has applied), in subsection (6)(a), in paragraph (b) of the substituted subsection (1), for “ becomes neither resident nor ordinarily resident ” substitute “ ceases to be resident ”.
- 82 (1) Section 69 (trustees of settlements) is amended as follows.
- (2) In subsection (2), omit “and ordinarily resident”.
  - (3) In subsection (2B)(c), omit “, ordinarily resident”.
  - (4) In subsection (2E), for the words from “and ordinarily resident” to the end substitute “ in the United Kingdom, then for the purposes of this Act it is treated as being not resident in the United Kingdom ”.
- 83 In section 76 (disposal of interests in settled property), in subsection (1B)(a), for “neither resident nor ordinarily resident” substitute “ not resident ”.

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*Status: Point in time view as at 22/07/2020.*

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- 84 In section 80 (trustees ceasing to be resident in UK), in subsection (1), for “neither resident nor ordinarily resident” substitute “ not resident ”.
- 85 (1) Section 81 (death of trustee: special rules) is amended as follows.
- (2) In subsection (1)(b), omit “and ordinarily resident”.
- (3) In subsection (3)(b), omit “and ordinarily resident”.
- (4) In subsection (4)(b), omit “and ordinarily resident”.
- (5) In subsection (5)(a), omit “and ordinarily resident”.
- 86 In section 82 (past trustees: liability for tax), in subsection (3)(b), for “become neither resident nor ordinarily resident” substitute “ cease to be resident ”.
- 87 In section 83 (trustees ceasing to be liable to UK tax), in subsection (1), omit “and ordinarily resident”.
- 88 (1) Section 83A (trustees both resident and non-resident in a year of assessment) is amended as follows.
- (2) In subsection (3)(a), omit “and ordinarily resident”.
- (3) In subsection (4)—
- (a) in paragraph (a), for “neither resident nor ordinarily resident” substitute “ not resident ”, and
- (b) in paragraph (b), omit “and ordinarily resident”.
- 89 In section 84 (acquisition by dual resident trustees), in subsection (1)(b), omit “and ordinarily resident”.
- 90 In section 85 (disposal of interests in non-resident settlements), in subsection (1), for “neither resident nor ordinarily resident” substitute “ not resident ”.
- 91 (1) Section 86 (attribution of gains to settlors with interest in non-resident or dual resident settlements) is amended as follows.
- (2) In subsection (1)(c), for the words from “either resident” to the end substitute “ resident in the United Kingdom for the year ”.
- (3) For subsection (2) substitute—
- “(2) The condition as to residence is that—
- (a) there is no time in the year when the trustees are resident in the United Kingdom, or
- (b) there is such a time but, whenever the trustees are resident in the United Kingdom during the year, they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.”
- (4) In subsection (3), omit “and ordinarily resident”.
- 92 (1) Section 87 (non-UK resident settlements: attribution of gains to beneficiaries) is amended as follows.
- (2) In subsection (1), for the words from “the trustees” to the end substitute “ there is no time in that year when the trustees are resident in the United Kingdom ”.
- (3) In subsection (4)(a), omit “and ordinarily resident”.

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- 93 In section 88(1) (gains of dual resident settlements)—
- (a) in paragraph (a), omit “and ordinarily resident”, and
  - (b) in paragraph (b), omit “and ordinary residence”.
- 94 (1) Section 96 (payments by and to companies) is amended as follows.
- (2) In subsection (3), omit “or ordinarily resident”.
  - (3) In subsection (4), in each of paragraphs (a) and (b), omit “or ordinarily resident”.
  - (4) In subsection (5)(b), omit “or ordinary residence”.
- 95 In section 97 (supplementary provisions), in subsection (1)(a), for “neither resident nor ordinarily resident” substitute “ not resident ”.
- 96 In section 99 (application of Act to unit trust schemes), in subsection (1)(c), omit “and ordinarily resident”.
- 97 In section 106A(5A) (identification of securities: capital gains tax)—
- (a) in paragraph (a), for “neither resident nor ordinarily resident” substitute “ not resident ”, and
  - (b) in paragraph (b), omit “or ordinarily resident”.
- 98 (1) Section 159 (non-residents: roll-over relief) is amended as follows.
- (2) In subsection (2)(b), omit “or ordinarily resident”.
  - (3) In subsection (5), in the definition of “dual resident”, omit “or ordinarily resident”.
- 99 (1) Section 166 (gifts to non-residents) is amended as follows.
- (2) In subsection (1), for “neither resident nor ordinarily resident” substitute “ not resident ”.
  - (3) In subsection (2)(a), omit “or ordinarily resident”.
- 100 (1) Section 167 (gifts to foreign-controlled companies) is amended as follows.
- (2) In subsection (2)(a), for “neither resident nor ordinarily resident” substitute “ not resident ”.
  - (3) In subsection (3), for the words from “or ordinarily resident” to “nor ordinarily resident” substitute “ in the United Kingdom is to be regarded as not resident ”.
- 101 (1) Section 168 (emigration of donee) is amended as follows.
- (2) In subsection (1)(b), for “becomes neither resident nor ordinarily resident” substitute “ ceases to be resident ”.
  - (3) In subsection (4), for “becoming neither resident nor ordinarily resident” substitute “ ceasing to be resident ”.
  - (4) In subsection (5)—
    - (a) in paragraph (a), for “becoming neither resident nor ordinarily resident” substitute “ ceasing to be resident ”, and
    - (b) in paragraph (b), omit “or ordinarily resident”.
- 102 In section 169 (gifts into dual resident trusts), in subsection (3)(a), omit “and ordinarily resident”.

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- 103 In section 199 (exploration or exploitation assets: deemed disposals), in subsection (2), for “who is not resident and not ordinarily resident in the United Kingdom” substitute “ in respect of whom the residence condition (see section 2(1A)) is not met ”.
- 104 (1) Section 261 (section 260 relief: gifts to non-residents) is amended as follows.
- (2) In subsection (1), for “neither resident nor ordinarily resident” substitute “ not resident ”.
- (3) In subsection (2)(a), omit “or ordinarily resident”.
- 105 In Schedule 1 (application of exempt amount and reporting limits in cases involving settled property), in paragraph 2(7)(a), omit “and ordinarily resident”.
- 106 (1) Schedule 4A (disposal of interest in settled property: deemed disposal of underlying assets) is amended as follows.
- (2) In paragraph 5(1) and (2), omit “and ordinarily resident”.
- (3) In paragraph 6(1)—
- (a) for “in the relevant” substitute “ as respects the relevant ”, and
- (b) for the words from “either” to the end substitute “ met the residence condition set out in section 2(1A) ”.
- (4) If any of the previous 5 years of assessment mentioned in paragraph 6(1) of Schedule 4A ends before 6 April 2013, the test in that paragraph is to be applied, as respects any such year ending before that date, as if that paragraph had not been amended by sub-paragraph (3).
- 107 (1) Schedule 4C (transfers of value: attribution of gains to beneficiaries) is amended as follows.
- (2) In paragraph 1A(3), for the words from “the beneficiary” to the end substitute “ , as respects that year, the beneficiary meets the residence condition set out in section 2(1A) ”.
- (3) In paragraph 4—
- (a) in sub-paragraph (1), omit “and ordinarily resident”, and
- (b) in sub-paragraph (2), omit “and ordinarily resident”.
- (4) In paragraph 5(1)—
- (a) in paragraph (a), omit “and ordinarily resident”, and
- (b) in paragraph (b), omit “and ordinary residence”.
- (5) In paragraph 9(3)(a)(i), omit “and ordinarily resident”.
- (6) In paragraph 10(1), omit “and ordinarily resident”.
- 108 (1) Schedule 5 (attribution of gains to settlors with interest in non-resident or dual resident settlement) is amended as follows.
- (2) In paragraph 2A(4)—
- (a) in paragraph (a), for “become on or after 17th March 1998 neither resident nor ordinarily resident” substitute “ cease on or after 17 March 1998 to be resident ”, and
- (b) in paragraph (b), omit “and ordinarily resident”.

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- (3) In paragraph 9(4)—
- (a) in paragraph (a), for “become on or after 19th March 1991 neither resident nor ordinarily resident” substitute “ cease on or after 19 March 1991 to be resident ”, and
  - (b) in paragraph (b), omit “and ordinarily resident”.
- (4) The amendments made by this paragraph apply to changes in the residence status of trustees on or after 6 April 2013.
- 109 (1) Schedule 5A (settlements with foreign element: information) is amended as follows.
- (2) In paragraph 2(1)—
- (a) in paragraph (c), for “neither resident nor ordinarily resident” substitute “ not resident ”, and
  - (b) in paragraph (d), omit “and ordinarily resident”.
- (3) In paragraph 3—
- (a) in sub-paragraph (1)—
    - (i) in paragraph (a), for “neither resident nor ordinarily resident” substitute “ not resident ”, and
    - (ii) in paragraph (b), omit “and ordinarily resident”, and
  - (b) in sub-paragraph (3), for “either resident or ordinarily resident” substitute “ resident ”.
- (4) In paragraph 4—
- (a) in sub-paragraph (1)—
    - (i) in paragraph (a), for “neither resident nor ordinarily resident” substitute “ not resident ”, and
    - (ii) in paragraph (b), omit “and ordinarily resident”, and
  - (b) in sub-paragraph (3), for “either resident or ordinarily resident” substitute “ resident ”.
- (5) In paragraph 5(1)—
- (a) in paragraph (a), for the words from “become” to “ordinarily resident” substitute “ cease at any time (the relevant time) on or after the commencement day to be resident ”, and
  - (b) in paragraph (b), omit “and ordinarily resident”.
- (6) The amendments made by this paragraph apply as follows—
- (a) the amendments made by sub-paragraph (2) apply in relation to transfers of property made on or after 6 April 2013,
  - (b) the amendments made by sub-paragraphs (3) and (4) apply in relation to settlements created on or after that date, and
  - (c) the amendments made by sub-paragraph (5) apply to changes in the residence status of trustees on or after that date.
- 110 (1) Schedule 5B (enterprise investment scheme: re-investment) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (1)(d), omit “or ordinarily resident”, and
  - (b) in sub-paragraph (4)(a), omit “or ordinarily resident”.
- (3) In paragraph 3(3)(b), omit “or ordinarily resident”.



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- (4) In paragraph 19(1), in the definition of “non-resident”, for “neither resident nor ordinarily resident” substitute “not resident”.
- (5) The amendments made by this paragraph apply in cases where the accrual time is on or after 6 April 2013 (even if the qualifying investment was made before that date).
- 111 In Schedule 7C (reliefs for transfers to approved share plans), in paragraph 8, for paragraph (a) substitute—
- “(a) the claimant would be chargeable to capital gains tax under section 2(1) (persons and gains chargeable to capital gains tax) in respect of the gain, or”.

#### *Commencement*

- 112 (1) The amendments made by this Part of this Schedule have effect in relation to a person's liability to capital gains tax for the tax year 2013-14 or any subsequent tax year.
- (2) Sub-paragraph (1) is without prejudice to any provision in this Part of this Schedule about the application of a particular amendment.

### **PART 4**

#### OTHER AMENDMENTS

##### *FA 1916*

- 113 In FA 1916, omit section 63 (exemption from taxation of municipal securities issued in America).

##### *F(No.2)A 1931*

- 114 (1) In section 22 of F(No.2)A 1931 (provisions in cases where Treasury has power to borrow money), in subsection (1)(a) and (b), omit “ordinarily”.
- (2) Nothing in sub-paragraph (1) limits the power conferred by section 60(1) of FA 1940.
- (3) Subject to sub-paragraph (5), the amendment made by sub-paragraph (1) does not affect a pre-commencement security (nor the availability of the relevant exemption).
- (4) Sub-paragraph (5) applies to a person who becomes the beneficial owner of a pre-commencement security (or an interest in such a security) on or after 6 April 2013.
- (5) If obtaining the relevant exemption is conditional on being not ordinarily resident in the United Kingdom, any enactment conferring the exemption is to have effect (in relation to a person to whom this sub-paragraph applies) as if obtaining the exemption were conditional instead on being not resident in the United Kingdom.
- (6) In this paragraph—
- “pre-commencement security” means a FOTRA security (as defined in section 713 of ITTOIA 2005) issued before the day on which this Act is passed;

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“the relevant exemption”, in relation to a pre-commencement security, means the exemption for which provision is made in the exemption condition (as defined in that section).

#### *TMA 1970*

- 115 TMA 1970 is amended as follows.
- 116 (1) In section 98 (special returns etc), in subsection (4E)(d), omit “ordinarily”.
- (2) The amendment made by this paragraph takes effect on the coming into force of regulations made under section 17(3) of F(No.2)A 2005 (authorised investment funds) by virtue of the amendment made by paragraph 136.
- 117 In Schedule 1A (claims etc not included in returns), in paragraph 2(6), omit “or not ordinarily resident”.

#### *IHTA 1984*

- 118 (1) Section 157 of IHTA 1984 (non-residents' bank accounts) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) This section applies to a person who is not domiciled and not resident in the United Kingdom immediately before his death.”
- (3) In subsection (3), for “, resident or ordinarily resident” substitute “ or resident ”.
- (4) In subsection (4)—
- (a) in paragraph (a), omit “or ordinarily resident”, and
- (b) in paragraph (b), omit “or ordinarily resident” and “and ordinarily resident”.
- (5) The amendments made by this paragraph do not apply if the person dies before 6 April 2013.

#### *FA 2004*

- 119 Part 4 of FA 2004 (pension schemes etc) is amended as follows.
- 120 In section 185G (disposal by person holding directly), in subsection (3)(a), omit “, ordinarily resident”.
- 121 In section 205 (short service refund lump sum charge), in subsection (3), omit “, ordinarily resident”.
- 122 In section 205A (serious ill-health lump sum charge), in subsection (3), omit “, ordinarily resident”.
- 123 In section 206 (special lump sum death benefits charge), in subsection (3), omit “, ordinarily resident”.
- 124 In section 207 (authorised surplus payments charge), in subsection (3), omit “, ordinarily resident”.
- 125 In section 208 (unauthorised payments charge), in subsection (4), omit “, ordinarily resident”.
- 126 In section 209 (unauthorised payments surcharge), in subsection (5), omit “, ordinarily resident”.

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- 127 In section 217 (persons liable to lifetime allowance charge), in subsection (5), omit “, ordinarily resident”.
- 128 In section 237A (liability of individual to annual allowance charge), in subsection (2), omit “, ordinarily resident”.
- 129 In section 237B (liability of scheme administrator), in subsection (8), omit “, ordinarily resident”.
- 130 In section 239 (scheme sanction charge), in subsection (4), omit “, ordinarily resident”.
- 131 In section 242 (de-registration charge), in subsection (3), omit “, ordinarily resident”.
- 132 The amendments of Part 4 of FA 2004 made by this Part of this Schedule have effect in relation to the tax year 2013-14 and any subsequent tax year.

*FA 2005*

- 133 (1) In section 30 of FA 2005 (qualifying trust gains: special capital gains tax treatment), in subsection (1), for paragraph (c) substitute—  
“ (c) the trustees are resident in the United Kingdom during any part of the tax year, and”.
- (2) The amendment made by this paragraph has effect in relation to the tax year 2013-14 and any subsequent tax year.

*F(No.2)A 2005*

- 134 F(No.2)A 2005 is amended as follows.
- 135 (1) In section 7 (charge to income tax on lump sum), in subsection (3), omit “, ordinarily resident”.
- (2) The amendment made by this paragraph has effect in relation to the tax year 2013-14 and any subsequent tax year.
- 136 In section 18 (section 17(3): specific powers), in subsection (1)(f) and (g), omit “ordinarily”.

*CTA 2009*

- 137 CTA 2009 is amended as follows.
- 138 (1) In section 900 (which relates to roll-over relief for disposals of pre-FA 2002 assets), in subsection (2), omit “or ordinarily UK resident”.
- (2) The amendment made by this paragraph applies in relation to gains accruing or treated as accruing on or after 6 April 2013.
- 139 (1) In section 936 (meaning of “UK estate” and “foreign estate”), in subsection (3), omit “or not ordinarily UK resident”.
- (2) The amendment made by this paragraph applies if the tax year in question begins on or after 6 April 2013.
- 140 (1) In section 947 (aggregate income of the estate), in subsection (2)(b)(i), omit “who was ordinarily UK resident”.

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- (2) The amendment made by this paragraph applies if the tax year in question begins on or after 6 April 2013.
- 141 (1) In section 1009 (conditions relating to employee's income tax position), in subsection (5)(a), omit “and ordinarily UK resident”.
- (2) The amendment made by this paragraph applies in relation to shares acquired on or after 6 April 2013.
- 142 (1) In section 1017 (condition relating to employee's income tax position), in subsection (4)(a), omit “and ordinarily UK resident”.
- (2) The amendment made by this paragraph applies in relation to options obtained on or after 6 April 2013.
- 143 (1) In section 1025 (additional relief available if shares acquired are restricted shares), in subsection (5)(a), omit “and ordinarily UK resident”.
- (2) The amendment made by this paragraph applies in relation to restricted shares acquired on or after 6 April 2013.
- 144 (1) In section 1032 (meaning of “chargeable event”), in subsection (5)(a), omit “and ordinarily UK resident”.
- (2) The amendment made by this paragraph applies in relation to convertible shares acquired on or after 6 April 2013.

#### *CTA 2010*

- 145 (1) Section 1034 of CTA 2010 (purchase by unquoted trading company of own shares: requirements as to residence) is amended as follows.
- (2) In subsections (1) and (2), omit “and ordinarily resident”.
- (3) In subsection (3), omit “and ordinary residence” in both places.
- (4) Omit subsection (4).
- (5) The amendments made by this paragraph do not apply in relation to a purchase by an unquoted trading company of its own shares if the purchase takes place before 6 April 2013.

#### *TIOPA 2010*

- 146 In section 363A of TIOPA 2010 (residence of offshore funds which are undertakings for collective investment in transferable securities), in subsection (3), for “neither resident nor ordinarily resident” substitute “not resident”.

#### *Constitutional Reform and Governance Act 2010*

- 147 (1) In section 41 of the Constitutional Reform and Governance Act 2010 (tax status of MPs and members of the House of Lords), in subsection (2), omit “, ordinarily resident”.
- (2) The amendment made by this paragraph has effect for the purposes of a member's liability to income tax or capital gains tax for the tax year 2013-14 or any subsequent tax year.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2013, SCHEDULE 46.