

Status: Point in time view as at 17/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 2. (See end of Document for details)

SCHEDULES

SCHEDULE 46

ORDINARY RESIDENCE

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”.

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- 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”.
- 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.”

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- (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.
- (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)—

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- (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 ”.
- (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”.

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- 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”.
- 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)—
- (a) in subsection (3)(a) and (b), for “not ordinarily UK resident” substitute “ non-UK resident ”, and
- (b) in subsection (4), omit “ordinarily”.

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- (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.
- 69 (1) In section 859 (declarations of non-UK residence: Scottish partnerships)—
- (a) in subsection (3), for “not ordinarily UK resident” substitute “ non-UK resident ”, and
 - (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.
- 70 (1) In section 860 (declarations of non-UK residence: personal representatives), in subsection (3), for “not ordinarily UK resident” substitute “ non-UK resident ”.
- (2) The amendment made by this paragraph applies only if the deceased died on or after 6 April 2014.
- 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”, and
 - (b) in paragraph (f), for “an ordinarily” substitute “ a ”.
- (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.

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.
- (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),

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- (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.

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