

1 Periods of residence: days of arrival and departure etc

- (1) Section 831 of ITA 2007 (foreign income of individuals in United Kingdom for temporary purpose) is amended as follows.
- (2) In subsection (1), for paragraph (b) substitute –
 - “(b) during the tax year in question the individual spends (in total) less than 183 days in the United Kingdom.”
- (3) After that subsection insert –
 - “(1A) In determining whether an individual is within subsection (1)(b) treat as a day spent by the individual in the United Kingdom any day on which the individual arrives in or departs from (or both arrives in and departs from) the United Kingdom.
 - (1B) But in determining that issue do not treat as a day spent by the individual in the United Kingdom any day on which the individual’s presence in the United Kingdom is solely as a passenger in a part of an airport or port not accessible to members of the public unless they are arriving in or departing from the United Kingdom.”
- (4) In section 832 of that Act (employment income of individuals in United Kingdom for temporary purpose), after subsection (1) insert –
 - “(1A) In determining whether an individual is within subsection (1)(b) treat as a day spent by the individual in the United Kingdom any day on which the individual arrives in or departs from (or both arrives in and departs from) the United Kingdom.
 - (1B) But in determining that issue do not treat as a day spent by the individual in the United Kingdom any day on which the individual’s presence in the United Kingdom is solely as a passenger in a part of an airport or port not accessible to members of the public unless they are arriving in or departing from the United Kingdom.”
- (5) Section 9 of TCGA 1992 (residence, including temporary residence) is amended as follows.
- (6) In subsection (3), for the words after “if and only if” substitute “the individual spends (in total) at least 183 days in the United Kingdom.”
- (7) Insert at the end –
 - “(5) In determining for the purposes of subsection (3) above whether an individual spends (in total) at least 183 days in the United Kingdom treat as a day spent by the individual in the United Kingdom any day on which the individual arrives in or departs from (or both arrives in and departs from) the United Kingdom

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- (6) But in determining that issue for those purposes do not treat as a day spent by the individual in the United Kingdom any day on which the individual's presence in the United Kingdom is solely as a passenger in a part of an airport or port not accessible to members of the public unless they are arriving in or departing from the United Kingdom.”
- (8) The amendments made by this section have effect for the tax year 2008-09 and subsequent tax years.

2 Remittance basis

The Schedule contains provision for and in connection with the revision of the remittance basis.

SCHEDULE

Section 2

REMITTANCE BASIS

PART 1

MAIN PROVISIONS

Remittance basis - general

- 1 In Part 14 of ITA 2007 (income tax liability: miscellaneous rules), before Chapter 1 insert –

“CHAPTER A1

REMITTANCE BASIS

Introduction

809A Overview of Chapter

This Chapter provides for an alternative basis for 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.

809C Application of remittance basis without claim where unremitted foreign income and gains under £1,000

- (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 individual’s unremitted foreign income and gains for that year are less than £1,000.

- (2) An individual's "unremitted" foreign income and gains for a tax year are so much of the individual's foreign income and gains for that year as are not remitted to the United Kingdom in that year.
- (3) 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 relevant foreign income for that year, and
 - (c) if the individual is not domiciled in the United Kingdom in that year, the individual's foreign chargeable gains for that year.

Effect of section 809B or 809C applying

809D Effect on what is chargeable

- (1) This section applies if section 809B or 809C 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.

809E 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, 458 or 459 (payments for life insurance etc).
- (3) See also section 3(1A) of TCGA 1992 (no annual exempt amount for chargeable gains).

809F Claim for remittance basis: additional charge for long-term UK residents

- (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"), and
 - (b) the individual has been UK resident in at least 7 of the 9 tax years immediately preceding the relevant tax year.
- (2) The individual must pay the remittance basis charge for the relevant tax year.
- (3) The amount of that charge is £30,000.
- (4) The charge is to be –

- (a) paid and accounted for, and
 - (b) treated for the purposes of collecting and recovering it (including imposing surcharges and applying interest in respect of it),
- as if it were income tax payable for the relevant tax year.
- (5) Nothing in subsection (4) causes section 33 of TMA 1970 (error or mistake in return resulting in excessive income tax or capital gains tax assessment) to apply in relation to the charge.

Meaning of “remitted to the United Kingdom” etc

809G Sections 809H to 809L: introduction

- (1) Sections 809H to 809L apply for the purposes of—
- (a) sections 22 and 26 of ITEPA 2003 (relevant foreign earnings charged on remittance basis),
 - (b) section 832 of ITTOIA 2005 (relevant foreign income charged on remittance basis), and
 - (c) 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” (section 809H),
 - (b) provide for the calculation of the amount remitted (section 809I),
 - (c) contain rules for attributing transfers from mixed funds to particular kinds of income and capital (sections 809J and 809K), and
 - (d) contain further provision in relation to certain foreign chargeable gains (section 809L).

809H Meaning of “remitted to the United Kingdom”

- (1) An individual’s income is, or chargeable gains are, “remitted to the United Kingdom” if conditions A and B are met.
- (2) Condition A is that—
- (a) any 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) any service is provided in the United Kingdom to or for the benefit of a relevant person.
- (3) Condition B is that—
- (a) the property or consideration for the service is (wholly or in part) the income or chargeable gains,
 - (b) the property or that consideration derives (wholly or in part, and directly or indirectly) from the income or chargeable gains,
 - (c) the income or chargeable gains are used outside the United Kingdom to satisfy (wholly or in part, and directly or indirectly) a debt which is (wholly or in part, and directly or indirectly) in respect of the property or service, 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) In subsection (2) “relevant person” means the individual or a person connected with the individual.
- (5) For the purposes of subsection (4) –
 - (a) a man and woman living together as husband and wife are treated as if they were married to each other, and
 - (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.
- (6) If the service mentioned in subsection (2)(b) is the income or chargeable gains, references in subsection (3)(a) and section 809I(2) to the property include the service.

809I Section 809H: 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 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 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 or consideration derives.
- (4) If the income or chargeable gains are used as mentioned in section 809H(3)(c), the amount remitted is equal to the amount of income or chargeable gains used; but this is subject to subsection (6).
- (5) If anything deriving from the income or chargeable gains is used as mentioned in section 809H(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 (6).
- (6) 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.
- (7) 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.

809J Sections 809H and 809I: transfers from mixed funds

- (1) This section applies for the purposes mentioned in subsection (2) where condition A in section 809H 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 809H(3)(c).
- (2) The purposes referred to in subsection (1) are –
 - (a) determining whether condition B in section 809H is met, and
 - (b) if it is met, determining (under section 809I) 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 (e) of subsection (4), find (applying section 809K) 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.

Treat the transfer as containing income or capital within that paragraph (and for that tax year) of an amount equal to the amount determined under step 1 (or, if less, the amount of the transfer).

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 relevant foreign earnings),
 - (b) relevant foreign earnings,
 - (c) relevant foreign income,
 - (d) foreign chargeable gains, and
 - (e) income or capital not within another paragraph of this subsection.
- (5) 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.
- (6) References in this section to the amount of the transfer include the market value of it.

809K Section 809J: composition of mixed fund

- (1) This section applies for the purposes of step 1 of section 809J(3) (composition of mixed fund).
- (2) If a mixed fund derives (wholly or in part, and directly or indirectly) from an individual’s income or capital within a relevant paragraph (and for a tax year), treat the fund as containing that income or capital if (and to the extent that) it is just and reasonable to do so.
- (3) If a debt (wholly or in part, and directly or indirectly) in respect of a mixed fund has been satisfied by –
 - (a) an individual’s income or capital within a relevant paragraph (and for a tax year), or
 - (b) anything deriving (directly or indirectly) from such income or capital,
 treat the fund as containing that income or capital if (and to the extent that) it is just and reasonable to do so.
- (4) In subsections (2) and (3) “relevant paragraph” means any of paragraphs (a) to (d) of section 809J(4).
- (5) If section 809J 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 809J(3) (composition of transfer) as it applied in relation to each earlier transfer.

809L Sections 809H to 809K: foreign chargeable gains accruing on disposal made other 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 equal to the market value of the asset.
- (2) For the purposes of sections 809H to 809K, treat the asset as deriving from the chargeable gains.

Interpretation of Chapter

809M Meaning of “foreign chargeable gains” and “relevant foreign earnings”

- (1) This section applies for the purposes of this Chapter.
- (2) An individual’s “foreign chargeable gains” for a tax year are the individual’s foreign chargeable gains (within the meaning of section 12(4) of TCGA 1992) accruing to the individual in 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).
- (4) In subsection (3)(a) “chargeable overseas earnings” has the same meaning as in section 22 of ITEPA 2003 (see section 23 of that Act).”

Employment income

- 2 ITEPA 2003 is amended as follows.
- 3 In section 6(3) (nature of charge to tax on employment income), omit the “and” at the end of paragraph (a), and after that paragraph insert—
- “(aa) whether section 809B or 809C of ITA 2007 (remittance basis) applies to an employee for a tax year, and”.
- 4 In section 10(2) (meaning of “taxable earnings” etc), for the words after “with” substitute “Chapters 4 and 5 of this Part”.
- 5 For the title to Chapter 4 of Part 2 substitute “TAXABLE EARNINGS: UK RESIDENT EMPLOYEES”.
- 6 In section 14(1) (taxable earnings under Chapter 4: introduction), for “resident, ordinarily resident and domiciled in UK” substitute “UK resident”.
- 7 For the cross-heading before section 15 substitute “*UK resident employees*”.
- 8 (1) Section 15 (earnings for year when employee resident, ordinarily resident and domiciled in UK) is amended as follows.
- (2) In subsection (1) for the words from the first “resident” to the end substitute “UK resident.”
 - (3) For subsection (3) substitute—
 - “(3) Subsection (2) applies whether or not the employment is held when the earnings are received.”
 - (4) Accordingly, in the heading for “**resident, ordinarily resident and domiciled in UK**” substitute “**UK resident**”.
- 9 For the title to Chapter 5 of Part 2 substitute “TAXABLE EARNINGS: REMITTANCE BASIS RULES AND RULES FOR NON-UK RESIDENT EMPLOYEES”.
- 10 (1) Section 20 (taxable earnings under Chapter 5: introduction) is amended as follows.
- (2) For subsection (1) substitute—
 - “(1) This Chapter—
 - (a) contains provision for calculating what are taxable earnings from certain kinds of employment in a tax year for which section 809B or 809C of ITA 2007 (remittance basis) applies to the employee, and
 - (b) sets out what are taxable earnings from an employment in a tax year in which the employee is non-UK resident.”
 - (3) In subsection (2), omit paragraphs (b) and (c).

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- (4) In subsection (3) for “the sections listed in subsection (1)” substitute “sections 22, 26 and 27”.
- 11 For the cross-heading before section 21 substitute “*Remittance basis rules for UK ordinarily resident employees*”.
- 12 Omit section 21 (earnings for year when employee resident and ordinarily resident, but not domiciled, in UK, except chargeable overseas earnings).
- 13 (1) Section 22 (chargeable overseas earnings for year when employee resident and ordinarily resident, but not domiciled, in UK) is amended as follows.
- (2) In subsection (1), for the words from “in which” to the end substitute “, to the extent that they are chargeable overseas earnings for that year, if –
- (a) section 809B or 809C of ITA 2007 (remittance basis) applies to the employee for that year, and
- (b) the employee is ordinarily UK resident in that year.”
- (3) For subsection (3) substitute –
- “(3) Subsection (2) applies whether or not the employment is held when the earnings are remitted.”
- (4) In subsection (4), omit the words after “year”.
- (5) In subsection (5)(b), for “section 21” substitute “section 15”.
- (6) After subsection (5) insert –
- “(6) See sections 809H to 809L of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.
- (7) General earnings for the employee for the tax year fall within section 15(1) to the extent that they do not fall within subsection (1).”
- (7) Accordingly, in the heading for the words from “**employee**” to the end substitute “**remittance basis applies and employee ordinarily UK resident**”.
- 14 (1) Section 23 (calculation of chargeable overseas earnings) is amended as follows.
- (2) In subsection (1), for “sections 21 and” substitute “section”.
- (3) In subsection (2), for paragraph (a) substitute –
- “(a) section 809B or 809C of ITA 2007 (remittance basis) applies to the employee for that year,
- (aa) the employee is ordinarily UK resident in that year,”.
- 15 In section 24(7) (limit on chargeable overseas earnings where duties of associated employment performed in UK), for “section 21(1)” substitute “section 15(1)”.
- 16 For the cross-heading before section 25 substitute “*Remittance basis rules: employees not UK ordinarily resident*”.
- 17 Omit section 25 (UK-based earnings for year when employee resident, but not ordinarily resident, in UK).
- 18 (1) Section 26 (foreign earnings for year when employee resident, but not ordinarily resident, in UK) is amended as follows.

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- (2) In subsection (1), for the words from “in which” to “they” substitute “where section 809B or 809C of ITA 2007 (remittance basis) applies to the employee for that year and the employee is not ordinarily UK resident in that year, if the general earnings”.
- (3) For subsection (3) substitute –
- “(3) Subsection (2) applies whether or not the employment is held when the earnings are remitted.”
- (4) After subsection (4) insert –
- “(5) See sections 809H to 809L of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.
- (6) General earnings for the employee for the tax year fall within section 15(1) if they do not fall within subsection (1).”
- (5) Accordingly, in the heading for the words from “**employee**” to the end substitute “**remittance basis applies and employee not ordinarily UK resident**”.
- 19 (1) Section 27 (UK-based earnings for year when employee non-UK resident) is amended as follows.
- (2) For subsection (3) substitute –
- “(3) Subsection (2) applies whether or not the employment is held when the earnings are received.”
- (3) After subsection (4) insert –
- “(5) Sections 18 and 19 (time when earnings are received) apply for the purposes of this section.”
- 20 Omit sections 31 to 37 (and the cross-heading before section 31).
- 21 Omit Chapter 6 of Part 2 (disputes as to domicile or ordinary residence).
- 22 (1) Section 690(1) (employee non-resident etc) is amended as follows.
- (2) For the words from “only if” to the end of paragraph (a) substitute “if –
- (a) either –
- (i) section 809B or 809C of ITA 2007 (remittance basis) applies to the employee for the year, and the employee is not ordinarily UK resident, or
- (ii) the employee is not UK resident, and”.
- (3) At the beginning of paragraph (b) insert “the employee”.
- 23 In section 721(1) (other definitions), for the definition of “foreign employer” substitute –
- ““foreign employer” means an individual, partnership or body of persons resident outside, and not resident in, the United Kingdom,”.

Relevant foreign income

- 24 In section 575 of ITEPA 2003 (foreign pensions: taxable pension income), omit subsection (4).

- 25 ITTOIA 2005 is amended as follows.
- 26 In section 260(1) (overview of Part 3)—
- (a) at the end of paragraph (d) insert “and”, and
 - (b) omit paragraph (f) (and the “and” before it).
- 27 In section 269 (territorial scope of charge to tax), omit subsections (3) and (4).
- 28 Omit Chapter 11 of Part 3 (overseas property income).
- 29 In section 829 (overview of Part 8), for paragraph (a) substitute—
- “(a) the charging of relevant foreign income of a person to whom section 809B or 809C of ITA 2007 applies (remittance basis),”.
- 30 (1) Section 830 (meaning of “relevant foreign income” is amended as follows.
- (2) In subsection (1), for the words from “which” to the end substitute “which—
 - (a) arises from a source outside the United Kingdom, and
 - (b) is chargeable under any of the provisions specified in subsection (2) (or would be so chargeable if section 832 did not apply to it).” - (3) In subsection (2), omit paragraph (d).
- 31 Omit section 831 (claims for relevant foreign income to be charged on remittance basis).
- 32 For section 832 substitute—

“832 Relevant foreign income charged on remittance basis

- (1) This section applies to an individual’s relevant foreign income for a tax year (“the relevant foreign income”) if section 809B or 809C of ITA 2007 (remittance basis) applies to the individual for that year.
- (2) For any tax year in which—
 - (a) the individual is UK resident, and
 - (b) any of the relevant foreign income is remitted to the United Kingdom,

income tax is charged on the full amount of the relevant foreign income so remitted in that year.
- (3) Subsection (2) applies whether or not the source of the income exists when the income is remitted.
- (4) See sections 809H to 809L of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.

832A Section 832: temporary non-residents

- (1) This section applies if—
 - (a) an individual satisfies the residence requirements for any tax year (“the year of return”),
 - (b) the individual did not satisfy those requirements for one or more tax years immediately before the year of return but did satisfy those requirements for an earlier tax year,
 - (c) there are fewer than 5 tax years between—

- (i) the last tax year before the year of return for which the individual satisfied those requirements (“the year of departure”), and
 - (ii) the year of return, and
- (d) the individual satisfied those requirements for at least 4 out of the 7 tax years immediately before the year of departure.
- (2) Treat any of the individual’s relevant foreign income within subsection (3) which is remitted to the United Kingdom after the year of departure and before the year of return as remitted to the United Kingdom in the year of return.
- (3) Relevant foreign income is within this subsection if—
 - (a) it is for the year of departure or any earlier tax year, and
 - (b) section 832 applies to it.
- (4) For the purposes of subsection (1) an individual “satisfies the residence requirements” for a tax year if—
 - (a) at any time in that year, the individual is UK resident and not Treaty non-resident, or
 - (b) the individual is ordinarily UK resident, and is not Treaty non-resident, for that year.
- (5) For the purposes of subsection (4) an individual is “Treaty non-resident” at any time if, at that time, he is regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.
- (6) In subsection (5) “double taxation relief arrangements” means arrangements specified in an Order in Council making any such provisions as are referred to in section 788 of ICTA.

832B Section 832: deductions from remitted income

- (1) The only case in which deductions are allowed from the income mentioned in section 832(2) is where the income is from a trade, profession or vocation carried on outside the United Kingdom.
- (2) In that case the same deductions are allowed as are allowed under the Income Tax Acts where the trade, profession or vocation is carried on in the United Kingdom.”

33 Omit sections 833 to 837.

Chargeable gains

34 TCGA 1992 is amended as follows.

35 In section 3 (annual exempt amount), after subsection (1) insert—

- “(1A) Subsection (1) does not apply to an individual for a tax year if section 809B of ITA 2007 (claim for remittance basis to apply) applies to the individual for that year.”

- 36 In section 3A (reporting limits), after subsection (5) insert –
- “(5A) Subsection (1) does not apply to an individual for a tax year if section 809B of ITA 2007 (claim for remittance basis to apply) applies to the individual for that year.”
- 37 In section 9 (residence etc), omit subsection (2).
- 38 In section 10A (temporary non-residents), after subsection (9) insert –
- “(9ZA) If –
- (a) section 809B or 809C of ITA 2007 (remittance basis) applies to the taxpayer for the year of return, and
- (b) the taxpayer is not domiciled in the United Kingdom in that year,
- any foreign chargeable gains falling within subsection (2)(a) which were remitted in an intervening year are treated as remitted in the year of return.
- For this purpose “foreign chargeable gains” has the meaning given by section 12(4).”
- 39 For section 12 substitute –
- “12 Non-UK domiciled individuals to whom remittance basis applies**
- (1) This section applies to foreign chargeable gains accruing to an individual in a tax year (“the foreign chargeable gains”) if –
- (a) section 809B or 809C of ITA 2007 (remittance basis) applies to the individual for that year, and
- (b) the individual is not domiciled in the United Kingdom in that year.
- (2) Chargeable gains are treated as accruing to the individual in any tax year in which any of the foreign chargeable gains are remitted to the United Kingdom.
- (3) The amount of chargeable gains treated as accruing is equal to the full amount of the foreign chargeable gains so remitted in that year.
- (4) In this section “foreign chargeable gains” means chargeable gains accruing from the disposal of an asset which is situated outside the United Kingdom.
- (5) See sections 809H to 809L of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.”
- 40 In section 16(4) (computation of losses), omit “In accordance with section 12(1),”.

Minor and consequential amendments

- 41 In section 42 of TMA 1970 (procedure for making claims etc), after subsection (9) insert –
- “(9A) This section (except subsections (1A), (6) and (7)) applies in relation to a claim under section 809B of ITA 2007 (claim for remittance basis to apply) as it applies in relation to claims within subsection (1).”
- 42 ITTOIA 2005 is amended as follows.

- 43 In section 839 (annual payments payable out of relevant foreign income), omit subsection (6).
- 44 In section 840 (relief for backdated pensions charged on arising basis), omit subsection (4) (application of section 837).
- 45 After that section insert –

“840A Claims under section 840

- (1) A claim under section 840 must be made on or before the fifth anniversary of the normal self-assessment filing date for the tax year for which the relief is claimed.
- (2) All adjustments (by way of repayment of tax, assessment or otherwise) are to be made which are necessary to give effect to section 840.
- (3) Those adjustments may be made at any time, despite anything to the contrary in the Income Tax Acts.
- (4) A person’s personal representatives may make any claim under section 840 which the person might have made.
- (5) If a person dies –
- (a) any tax paid by the person and repayable because of a claim under section 840 is to be repaid to the personal representatives, and
- (b) the person’s personal representatives are liable for any additional tax which arises because of a claim under that section.
- (6) If subsection (5)(b) applies, the additional tax –
- (a) is to be assessed on the personal representatives, and
- (b) is a debt due and payable out of the estate.”
- 46 (1) Section 857 (partners to whom the remittance basis may apply) is amended as follows.
- (2) In subsection (1), for paragraph (c) substitute –
- “(c) a partner who is UK resident in a tax year is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year.”
- (3) In subsection (3), for the words from “is treated” to the end substitute “–
- (a) is treated as relevant foreign income for the purposes of section 809C of ITA 2007 (application of remittance basis without claim where unremitted foreign income and gains under £1,000), and
- (b) if section 809B or 809C of that Act (remittance basis) applies to the partner for the year, is treated as relevant foreign income for all purposes.”
- 47 In Schedule 2 (transitional provision etc), omit paragraphs 150 and 151.
- 48 ITA 2007 is amended as follows.

- 49 In section 2(14) (overview of Act), before paragraph (a) insert –
“(za) an alternative basis for charge (the remittance basis) for certain income and gains of certain individuals (Chapter A1),”.
- 50 In section 34 (personal allowances etc: introduction), after subsection (2) insert –
“(3) For the effect of section 809B (claim for remittance basis to apply) applying to an individual for a tax year, see section 809E (no entitlement to personal allowance or blind person’s allowance).”
- 51 In section 42 (tax reductions for married couples etc: introduction), after subsection (4) insert –
“(5) For the effect of section 809B (claim for remittance basis to apply) applying to an individual for a tax year, see section 809E (no entitlement to tax reduction).”
- 52 In section 460 (residence etc of claimants for relief for life insurance payments etc), after subsection (3) insert –
“(4) For the effect of section 809B (claim for remittance basis to apply) applying to an individual for a tax year, see section 809E (no entitlement under section 457, 458 or 459).”

Commencement etc

- 53 The amendments made by this Part of this Schedule have effect for the tax year 2008-09 and subsequent tax years.
- 54 (1) This paragraph applies in relation to an individual’s general earnings for the tax year 2007-08 or any earlier tax year (“the relevant tax year”) if the individual –
(a) was UK resident in that year, but
(b) was not domiciled in the United Kingdom, or was not ordinarily UK resident, in that year.
- (2) Section 22 or 26 of ITEPA 2003 (as amended by this Part of this Schedule) applies in relation to the general earnings as if –
(a) section 809B of ITA 2007 (claim for remittance basis to apply) applied to the individual for the relevant tax year, and
(b) section 22(7) or 26(6) of ITEPA 2003 were omitted.
- (3) In relation to the general earnings, the definition of “foreign employer” in section 721(1) of ITEPA 2003 has effect as if at the end there were inserted “and not resident in the Republic of Ireland”.
- 55 (1) This paragraph applies to an individual’s relevant foreign income for the tax year 2007-08 or any earlier tax year (“the relevant tax year”) if –
(a) the individual made a claim under section 831 of ITTOIA 2005 for the relevant tax year, or
(b) section 65(5) of ICTA (or any earlier superseded enactment corresponding to that provision) applied in relation to the individual for the relevant tax year.
- (2) Section 832 of ITTOIA 2005 (as amended by this Part of this Schedule) applies in relation to the relevant foreign income as if section 809B of ITA

- 2007 (claim for remittance basis to apply) applied to the individual for the relevant tax year.
- (3) If the relevant tax year is the tax year 2005-06, 2006-07 or 2007-08, nothing in section 832 of ITTOIA 2005 applies in relation to any of the relevant foreign income that arose in the Republic of Ireland.
- (4) Nothing in section 832A of that Act applies in relation to anything remitted to the United Kingdom in the tax year 2007-08 or any earlier tax year.
- 56 (1) This paragraph applies if section 12 of TCGA 1992 (or any corresponding superseded enactment) applied in relation to a gain accruing to an individual in the tax year 2007-08 or any earlier tax year (“the relevant tax year”).
- (2) Section 12 of TCGA 1992 (as amended by this Part of this Schedule) applies in relation to that gain as if section 809B of ITA 2007 (claim for remittance basis to apply) applied to the individual for the relevant tax year.
- (3) Nothing in section 10A of TCGA 1992 applies in relation to any part of the gain remitted to the United Kingdom in the tax year 2007-08 or any earlier tax year.
- 57 Section 809H of ITA 2007 (meaning of “remitted to the United Kingdom”) has effect in relation to an individual’s income and chargeable gains for the tax year 2007-08 or any earlier tax year as if the references in subsection (2) to a relevant person were to the individual.
- 58 Sections 809J and 809K of ITA 2007 (transfers from mixed funds) do not apply for the purposes of determining whether income or chargeable gains for the tax year 2007-08 or any earlier tax year are remitted to the United Kingdom (or the amount of any such income or chargeable gains so remitted).

PART 2

NON-RESIDENT COMPANIES AND TRUSTS ETC

Offshore funds

- 59 In section 761 of ICTA (charge to income tax or corporation tax of offshore income gain), for subsection (5) substitute –
- “(5) Section 12 of the 1992 Act (non-UK domiciled individuals to whom remittance basis applies) and sections 809H to 809K of ITA 2007 (meaning of “remitted to the United Kingdom” etc) apply in relation to income treated by virtue of subsection (1) as arising to an individual in a year of assessment as they apply in relation to foreign chargeable gains accruing to the individual in that year.”
- 60 (1) Section 762 of that Act (offshore income gains accruing to persons resident or domiciled abroad) is amended as follows.
- (2) In subsection (2) –
- (a) at the end of paragraph (b) insert “and”, and
- (b) omit paragraph (c).

- 61 The amendments made by paragraphs 59 and 60 have effect for the tax year 2008-09 and subsequent tax years.

Attribution of gains to members of non-resident companies

- 62 In section 13(2) of TCGA 1992 (attribution of gains to members of non-resident companies), for the words from “, who, if” to “and who” substitute “and”.

- 63 After section 14 of that Act insert –

“14A Section 13: non-UK domiciled individuals

- (1) This section applies if –
 - (a) by virtue of section 13, part of a chargeable gain that accrues to a company on the disposal of an asset is treated as accruing to an individual in a tax year, and
 - (b) the individual is not domiciled in the United Kingdom in that year.
- (2) The part of the chargeable gain treated as accruing to the individual (“the deemed chargeable gain”) is a foreign chargeable gain within the meaning of section 12 if (and only if) the asset is situated outside the United Kingdom.
- (3) For the purposes of sections 809H to 809K of ITA 2007 (meaning of “remitted to the United Kingdom” etc) –
 - (a) treat any consideration obtained by the company on the disposal of the asset as deriving from the deemed chargeable gain, and
 - (b) unless the consideration so obtained is of an amount equal to the market value of the asset, treat the asset as deriving from the deemed chargeable gain.
- (4) The following provisions apply if –
 - (a) section 809B or 809C of ITA 2007 (remittance basis) applies to the individual for the year mentioned in subsection (1) (“the relevant tax year”), and
 - (b) the deemed chargeable gain is a foreign chargeable gain (within the meaning of section 12).
- (5) Section 13(7) (deduction on disposal of interest in company) does not apply to the extent that the amount of tax mentioned there is attributable to the deemed chargeable gain.
- (6) If any of the deemed chargeable gain is remitted to the United Kingdom in any tax year other than the relevant tax year, the chargeable gain treated by virtue of section 12(2) as accruing may not be reduced or extinguished under section 13(8).”

- 64 The amendments made by paragraphs 62 and 63 have effect in relation to chargeable gains accruing on or after 6 April 2008.

Attribution of gains to settlors with interest in non-resident settlements etc

- 65 TCGA 1992 is amended as follows.

- 66 In section 86(1)(c) (attribution of gains to settlors with interest in non-resident or dual resident settlements), omit the words from “domiciled” to “either”.
- 67 In section 87 (attribution of gains to beneficiaries), before subsection (4) insert –
- “(3B) Paragraph 5B of Schedule 5 (section 86: settlor’s foreign chargeable gains charged on remittance basis) treats the trust gains for the year as increased in the circumstances mentioned there.”
- 68 In section 89 (migrant settlements etc), after subsection (3) insert –
- “(4) The following provisions apply if –
- (a) subsection (2) applies, and
 - (b) paragraph 5B(2) of Schedule 5 increased the amount of the trust gains for the last year of the non-resident period.
- (5) For the purposes of subsection (2) as it applies in relation to any subsequent tax year, those trust gains are the sum of –
- (a) what they would have been but for that increase, and
 - (b) the amount calculated under paragraph 5B(2) of Schedule 5 for the tax year.
- (6) Paragraph 5B(3) of that Schedule applies in relation to chargeable gains treated under section 89(2) as accruing if (and to the extent that) they would not be so treated if subsection (5)(b) were omitted.”
- 69 In section 92 (qualifying amounts and matching), after subsection (6) insert –
- “(7) Subsection (8) applies if –
- (a) a chargeable gain treated under section 87 or 89(2) as accruing in a tax year would not be so treated if the amount calculated under paragraph 5B(2) of Schedule 5 for the year were nil, and
 - (b) a capital payment would otherwise be carried forward to the following tax year.
- (8) For the purposes of matching the capital payment, treat the qualifying amount for the tax year as increased by an amount equal to the amount of the chargeable gain within subsection (7)(a).”
- 70 In Schedule 5 (provision supplementary to section 86), after paragraph 5 insert –

“Settlor not UK domiciled: general

- 5A (1) This paragraph applies if –
- (a) under section 86(4), chargeable gains are treated as accruing to a person (“the settlor”) in a tax year, and
 - (b) the settlor is not domiciled in the United Kingdom in the year.
- (2) Treat the deemed chargeable gains as foreign chargeable gains within the meaning of section 12 to the extent that the amount referred to in section 86(1)(e) is attributable to disposals of settled

property situated outside the United Kingdom (“the relevant disposals”).

- (3) For the purposes of sections 809H to 809K of ITA 2007 (meaning of “remitted to the United Kingdom” etc) treat—
- (a) the consideration for the relevant disposals, and
 - (b) if the trustees did not receive consideration for the relevant disposals of an amount equal to the market value of the settled property outside the United Kingdom, that property,
- as deriving from so much of the deemed chargeable gains as are foreign chargeable gains by virtue of sub-paragraph (2).
- (4) In this paragraph and paragraph 5B “the deemed chargeable gains” means the chargeable gains treated under section 86(4) as accruing to the settlor.
- (5) The following provisions apply if—
- (a) paragraph 1(3) (chargeable gains of non-resident company attributable to trustees) applies as regards the year mentioned in sub-paragraph (1), and
 - (b) the chargeable gains (or part of them) accrued to the company in which the trustees are (or were) participators as a result of the disposal by the company of an asset situated outside the United Kingdom.
- (6) Treat the deemed chargeable gains as foreign chargeable gains within the meaning of section 12 to the extent that the amount referred to in section 86(1)(e) is attributable to the disposal mentioned in sub-paragraph (5)(b).
- (7) For the purposes of sections 809H to 809K of ITA 2007 (meaning of “remitted to the United Kingdom” etc) treat—
- (a) the consideration for the disposal mentioned in sub-paragraph (5)(b), and
 - (b) if the company did not receive consideration for that disposal of an amount equal to the market value of the asset mentioned in sub-paragraph (5)(b), that asset,
- as deriving from so much of the deemed chargeable gains as are foreign chargeable gains by virtue of sub-paragraph (6).

Settlor’s foreign chargeable gains charged on remittance basis: relationship between sections 86 and 87

- 5B (1) This paragraph applies if—
- (a) paragraph 5A applies for a tax year (“the relevant tax year”),
 - (b) some or all of the deemed chargeable gains are foreign chargeable gains (“the foreign deemed chargeable gains”), and
 - (c) section 809B or 809C of ITA 2007 (remittance basis) applies to the settlor for the relevant tax year.

- (2) If section 87 applies to the settlement in question for the relevant tax year or any subsequent tax year, treat the trust gains for the year as increased by an amount (not less than nil) equal to—

FDCG – RA

where—

FDCG is the amount of the foreign deemed chargeable gains,
and

RA is the total amount of those gains that have been remitted to the United Kingdom in the tax year or any earlier tax year.

- (3) If by virtue of sub-paragraph (2) an amount of chargeable gains is treated under section 87(4) as accruing in a tax year to a person who is resident in the United Kingdom in that year, in relation to subsequent tax years treat the amount of the foreign deemed chargeable gains as reduced by that amount.”

- 71 The amendments made by paragraphs 65 to 70 have effect for the tax year 2008-09 and subsequent tax years.

Attribution of gains to beneficiaries

- 72 (1) Section 87 of TCGA 1992 (attribution of gains to beneficiaries) is amended as follows.

(2) Omit subsection (7).

(3) After subsection (9) insert—

“(9A) A chargeable gain treated by virtue of subsection (4) as accruing to a beneficiary is not a foreign chargeable gain within the meaning of section 12 (if it otherwise would be).”

- 73 In section 89(3) of that Act (migrant settlements etc), for “(7)” substitute “(9A)”.

- 74 In paragraph 8(4) of Schedule 4C to that Act (transfers of value: attribution of gains to beneficiaries), omit paragraph (b) (and the “and” before it).

- 75 The amendments made by paragraphs 72 to 74 have effect for the tax year 2008-09 and subsequent tax years.

Foreign trusts etc: notification requirements

- 76 Schedule 5A to TCGA 1992 (settlements with foreign element: notification) is amended as follows.

77 (1) Paragraph 3 is amended as follows.

(2) In sub-paragraph (1), for “the commencement day” substitute “6 April 2008”.

(3) In sub-paragraph (2)—

(a) for paragraph (b) substitute—

“(b) is resident or ordinarily resident in the United Kingdom at that time,” and

- (b) for “the relevant day” substitute “the day on which the settlement is created”.
- (4) After that sub-paragraph insert –
- “(2A) A person who –
- (a) is a settlor in relation to the settlement at the time it is created, and
- (b) is not resident or ordinarily resident in the United Kingdom at that time but subsequently becomes so resident or ordinarily resident,
- must, before the end of 12 months beginning with the day on which the person becomes so resident or ordinarily resident, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4).”
- (5) Omit sub-paragraphs (3) and (5).
- (6) The amendments made by this paragraph (which are treated as having come into force on 6 April 2008) have effect in relation to settlements created on or after that date.
- (7) Where, by virtue of those amendments, a return under paragraph 3(2) or (2A) of the Schedule would otherwise be required to be delivered before 1 September 2008, that provision has effect as if it required it to be delivered by the end of that date.
- 78 (1) Paragraph 4 is amended as follows.
- (2) In sub-paragraph (1), after “1991” insert “and before 6 April 2008”.
- (3) In sub-paragraph (2), for paragraph (c) substitute –
- “(c) fulfils the condition in sub-paragraph (3A) on 6 April 2008 or first fulfils it after that date,”.
- (4) In sub-paragraph (3), after “condition” insert “referred to in sub-paragraph (2)(b)”.
- (5) After that sub-paragraph insert –
- “(3A) The condition referred to in sub-paragraph (2)(c) is that the person is resident or ordinarily resident in the United Kingdom.”
- (6) In sub-paragraph (5), for the words from “the day” to the end substitute “the first day (on or after 6 April 2008) on which the person fulfils the condition in sub-paragraph (3A).”
- (7) The amendments made by this paragraph are treated as having come into force on 6 April 2008.
- (8) They do not have effect in relation to a case where the relevant day (as defined by paragraph 4(5) of the Schedule as it has effect without the amendments) is before 6 April 2008.

Transfers of securities: accrued income profits

- 79 In section 830(4) of ITTOIA 2005 (meaning of “relevant foreign income”) –
- (a) omit the “and” at the end of paragraph (f), and

- (b) at the end of paragraph (g) insert “, and
(h) section 670A of ITA 2007 (accrued income profits).”
- 80 In section 617 of ITA 2007 (accrued income profits: income charged), after subsection (6) insert –
- “(7) Subsection (1) is subject to section 832 of ITTOIA 2005 (relevant foreign income charged on remittance basis).”
- 81 Omit section 644 of that Act (accrued income profits: individuals to whom remittance basis applies).
- 82 After section 670 of that Act insert –

“Individuals to whom remittance basis applies

670A Individuals to whom remittance basis applies

- (1) This section applies if –
- (a) accrued income profits are made by an individual as a result of a transfer of foreign securities, and
 - (b) section 809B or 809C (remittance basis) applies to the individual for the tax year in which the profits are made.
- (2) For the purposes of the provisions mentioned in subsection (3), treat the accrued income profits as relevant foreign income of the individual.
- (3) The provisions are –
- (a) Chapter A1 of Part 14 (remittance basis), and
 - (b) Chapter 2 of Part 8 of ITTOIA 2005 (relevant foreign income charged on remittance basis).
- (4) For the purposes of sections 809H to 809K (meaning of “remitted to the United Kingdom” etc) –
- (a) if the individual is the transferor –
 - (i) treat any consideration for the transfer as deriving from the accrued income profits, and
 - (ii) if on the transfer the individual does not receive consideration of an amount equal to the market value of the securities, treat the securities as deriving from the accrued income profits, and
 - (b) if the individual is the transferee, treat the securities as deriving from the accrued income profits.
- (5) For the purposes of this section securities are “foreign” if any income from them would be relevant foreign income.”
- 83 The amendments made by paragraphs 79 to 82 have effect in relation to transfers of securities where the settlement day is on or after 6 April 2008.

Transfers of assets abroad

- 84 ITA 2007 is amended as follows.
- 85 In section 720(4) (transfer of assets abroad: charge where power to enjoy income), after “abroad)” insert “and section 726 (non-UK domiciled individuals to whom remittance basis applies)”.

86 For section 726 substitute –

“726 Non-UK domiciled individuals to whom remittance basis applies

- (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 –
 - (a) section 809B or 809C (remittance basis) applies to the individual for the year, and
 - (b) the individual is not domiciled in the United Kingdom in the year.
- (2) For the purposes of this section the deemed income is “foreign” if (and to the extent that) the income mentioned in section 721(2) would be relevant foreign income if it were the individual’s.
- (3) The individual is charged to tax on the foreign deemed income in accordance with the following provisions.
- (4) If in any tax year any of the foreign deemed income is remitted to the United Kingdom, tax is charged on the full amount of the foreign deemed income so remitted in that year.
- (5) Sections 809H to 809K (meaning of “remitted to the United Kingdom” etc) apply in relation to the foreign deemed income as if it were the individual’s relevant foreign income.
- (6) For the purposes of those sections, treat so much of the income within section 721(2) as would be relevant foreign income if it were the individual’s as deriving from the foreign deemed income.”

87 In section 727 (transfer of assets abroad: charge where capital sums received), after subsection (3) insert –

“(3A) But see section 730 (non-UK domiciled individuals to whom remittance basis applies).”

88 For section 730 substitute –

“730 Non-UK domiciled individuals to whom remittance basis applies

- (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 –
 - (a) section 809B or 809C (remittance basis) applies to the individual for the year, and
 - (b) the individual is not domiciled in the United Kingdom in the year.
- (2) For the purposes of this section the deemed income is “foreign” if (and to the extent that) the income mentioned in section 728(1)(a) would be relevant foreign income if it were the individual’s.
- (3) The individual is charged to tax on the foreign deemed income in accordance with the following provisions.
- (4) If in any tax year any of the foreign deemed income is remitted to the United Kingdom, tax is charged on the full amount of the foreign deemed income so remitted in that year.

- (5) Sections 809H to 809K (meaning of “remitted to the United Kingdom” etc) apply in relation to the foreign deemed income as if it were the individual’s relevant foreign income.
- (6) For the purposes of those sections, treat so much of the income within section 728(1)(a) as would be relevant foreign income if it were the individual’s as deriving from the foreign deemed income.”
- 89 In section 731 (transfer of assets abroad: charge where benefit received), after subsection (2) insert –
- “(2A) But see section 735 (non-UK domiciled individuals to whom remittance basis applies).”
- 90 For section 735 substitute –

“735 Non-UK domiciled individuals to whom remittance basis applies

- (1) This section applies if –
- (a) income is treated under section 732 as arising to an individual in a tax year (“the deemed income”),
 - (b) section 809B or 809C (remittance basis) applies to the individual for the year, and
 - (c) the individual is not domiciled in the United Kingdom in the year.
- (2) For the purposes of this section the deemed income is “foreign” if (and to the extent that) the relevant income to which it relates would be relevant foreign income if it were the individual’s.
- (3) The individual is charged to tax on the foreign deemed income in accordance with the following provisions.
- (4) If in any tax year any of the foreign deemed income is remitted to the United Kingdom, tax is charged on the full amount of the foreign deemed income so remitted in that year.
- (5) Sections 809H to 809K (meaning of “remitted to the United Kingdom” etc) apply in relation to the foreign deemed income as if it were the individual’s relevant foreign income.
- (6) For the purposes of those sections treat relevant income, or a benefit, that relates to any part of the foreign deemed income as deriving from that part of the foreign deemed income.

735A Section 735: relevant income and benefits relating to foreign deemed income

- (1) For the purposes of section 735 –
- (a) place the benefits mentioned in Step 1 in the order in which they were received by the individual (starting with the earliest benefit received),
 - (b) deduct from those benefits so much of any benefit within section 734(1)(b) as gives rise as mentioned in section 734(1)(d) to chargeable gains,
 - (c) place the income mentioned in Step 3 for the tax years mentioned in Step 4 (“the relevant income”) in the order in which it arose (starting with the earliest income to arise),

- (d) deduct from that income any income that may not be taken into account because of section 743(1) or (2) (no duplication of charges),
- (e) place the income treated under section 732(2) as arising to the individual in respect of the benefits in the order in which it is treated as arising (starting with the earliest income treated as having arisen), and
- (f) treat the income mentioned in paragraph (e) as related to—
 - (i) the benefits, and
 - (ii) the relevant income,by matching that income with the benefits and the relevant income (in the orders mentioned in paragraphs (a), (c) and (e)).

(2) In subsection (1) references to a step are to a step in section 733(1).”

91 The amendments made by paragraphs 85 to 90 have effect for the tax year 2008-09 and subsequent tax years.