

# Draft legislation

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This annex sets out draft legislation on the main elements of the reforms, namely:

- clause 1 provides the rules deeming individuals to be domiciled in the UK for the purposes of income tax and capital gains tax
- clause 2 amends the rule which currently deems individuals to be domiciled in the UK for the purposes of inheritance tax
- clause 3 extends the scope of inheritance tax to UK residential property held by a non-domiciled person through an offshore structure
- schedule 1 sets out new rules for income tax and capital gains tax which apply to individuals who are deemed to be domiciled in the UK, including certain protections for non-resident trusts

The legislation published in this document is not intended to be complete and excludes some issues which will be included in the Finance Bill 2017.

The purpose of publishing the legislation now is to give stakeholders some certainty about the way in which the reforms will be introduced. It also provides an opportunity to consider and comment on the draft. It is not, however, intended to be a definitive version and should not be used for planning purposes.

The draft Finance Bill 2017 will be published later in the year.

The government is keen to hear views from stakeholders on the draft clauses published below.

## **1 Domicile: income tax and capital gains tax**

- (1) In Chapter 2A of Part 14 of ITA 2007 (income tax liability: domicile), after section 835B insert—

### **“835BA Deemed domicile**

- (1) This section has effect for the purposes of the provisions of the Income Tax Acts or TCGA 1992 which apply this section.
- (2) An individual not domiciled in the United Kingdom at a time in a tax year is to be regarded as domiciled in the United Kingdom at that time if—
- (a) condition A is met, or
  - (b) condition B is met.
- (3) Condition A is that—
- (a) the individual was born in the United Kingdom,
  - (b) the individual’s domicile of origin was in the United Kingdom, and
  - (c) the individual is resident in the United Kingdom for the tax year referred to in subsection (2).
- (4) Condition B is that the individual has been UK resident for at least 15 of the 20 tax years immediately preceding the tax year referred to in subsection (2).”
- (2) Schedule 1 contains—
- (a) provision applying section 835BA of ITA 2007, and
  - (b) further provision relating to this section.
- (3) The amendments made by this section and Schedule 1 do not have effect in relation to a person who has not been resident in the United Kingdom after 5 April 2017.

## 2 Domicile: inheritance tax

- (1) In section 267 of IHTA 1984 (persons treated as domiciled in the United Kingdom), in subsection (1) –
  - (a) in paragraph (a), omit the final “or”;
  - (b) after that paragraph insert –
    - “(aa) he is a formerly domiciled resident for the tax year in which the relevant time falls, or”;
  - (c) for paragraph (b) substitute –
    - “(b) he was resident in the United Kingdom –
      - (i) for at least fifteen of the twenty tax years immediately preceding the tax year in which the relevant time falls, and
      - (ii) for that tax year or, if he was not resident in the United Kingdom for that tax year, for at least one of the four tax years immediately preceding that tax year.”
- (2) In that section, omit subsection (3).
- (3) In that section, in subsection (4), for “in any year of assessment” substitute “for any tax year”.
- (4) In section 48 of that Act (settlements: excluded property) –
  - (a) in subsection (3)(b), for “and (3D)” substitute “to (3E)”;
  - (b) in subsection (3A)(b), for “subsection (3B)” substitute “subsections (3B) and (3E)”;
  - (c) after subsection (3D) insert –
    - “(3E) In a case where the settlor of property comprised in a settlement is not domiciled in the United Kingdom at the time the settlement is made, the property is not excluded property by virtue of subsection (3) or (3A) above at any time in a tax year if the settlor was a formerly domiciled resident for that tax year.”
- (5) In section 64 of that Act (charge at ten-year anniversary), in subsection (1B), after “was made” insert “and is not a formerly domiciled resident for the tax year in which the ten-year anniversary falls”.
- (6) In section 65 of that Act (charge at other times), after subsection (7A) insert –
  - “(7B) Tax shall not be charged under this section by reason only that property comprised in a settlement becomes excluded property by virtue of section 48(3E) ceasing to apply in relation to it.”
- (7) In section 82 of that Act (excluded property) –
  - (a) for subsection (1) substitute –
    - “(1) In a case where, apart from this section, property to which section 80 or 81 applies would be excluded property by virtue of section 48(3)(a) above, that property shall not be taken to be excluded property at any time (“the relevant time”) for the purposes of this Chapter (except sections 78 and 79) unless Conditions A and B are satisfied.”;
  - (b) in subsection (2), for “the condition in subsection (3) below” substitute “Condition A”;

- (c) in subsection (3), for “The condition” substitute “Condition A”;
  - (d) after subsection (3) insert –
    - “(4) Condition B referred to in subsection (1) above is –
      - (a) in the case of property to which section 80 above applies, that the person who is the settlor in relation to the settlement first mentioned in that section, and
      - (b) in the case of property to which subsection (1) or (2) of section 81 above applies, that the person who is the settlor in relation to the first or second of the settlements mentioned in that subsection,  
was not a formerly domiciled resident for the tax year in which the relevant time falls.”
- (8) In section 272 of that Act (interpretation) –
- (a) for the definition of “foreign-owned” substitute –
    - ““foreign-owned”, in relation to property at any time, means property –
      - (a) in the case of which the person beneficially entitled to it is at that time domiciled outside the United Kingdom, or
      - (b) if the property is comprised in a settlement, in the case of which the settlor –
        - (i) is not a formerly domiciled resident for the tax year in which that time falls, and
        - (ii) was domiciled outside the United Kingdom when the property became comprised in the settlement;”;
  - (b) at the appropriate place insert –
    - ““formerly domiciled resident”, in relation to a tax year, means a person –
      - (a) who was born in the United Kingdom,
      - (b) whose domicile of origin was in the United Kingdom,
      - (c) who was resident in the United Kingdom for that tax year, and
      - (d) who was resident in the United Kingdom for at least one of the two tax years immediately preceding that tax year;”.
- (9) The amendments made by this section have effect in relation to times after 5 April 2017, subject to subsections (10) and (11).
- (10) The amendment to section 267(1) of IHTA 1984 made by subsection (1)(c) does not have effect –
- (a) in relation to a person who has not been resident in the United Kingdom after 5 April 2017;
  - (b) in determining –
    - (i) whether settled property which became comprised in the settlement on or before that date is excluded property for the purposes of IHTA 1984;

- (ii) the settlor's domicile for the purposes of section 65(8) of that Act in relation to settled property which became comprised in the settlement on or before that date;
  - (iii) whether, for the purpose of section 65(8) of that Act, the condition in section 82(3) of that Act is satisfied in relation to such settled property.
- (11) Despite subsection (2), section 267(1) of IHTA 1984, as originally enacted, shall continue to be disregarded in determining—
  - (a) whether settled property which became comprised in the settlement on or before 9 December 1974 is excluded property for the purposes of IHTA 1984;
  - (b) the settlor's domicile for the purposes of section 65(8) of that Act in relation to settled property which became comprised in the settlement on or before that date;
  - (c) whether, for the purpose of section 65(8) of that Act, the condition in section 82(3) of that Act is satisfied in relation to such settled property.

**3 IHT: overseas property whose value is attributable to UK residential property**

- (1) IHTA 1984 is amended as follows.
- (2) In section 6 (excluded property), in subsection (1), at the end insert “; but this subsection is subject to Schedule A1.”
- (3) In section 48 (excluded property), in subsection (3), at the end insert “and to Schedule A1”.
- (4) Before Schedule 1 insert –

“SCHEDULE A1

EXCLUDED PROPERTY: PROPERTY OUTSIDE THE UK WHOSE VALUE IS ATTRIBUTABLE TO UK RESIDENTIAL PROPERTY

- 1 (1) Property is not excluded property by virtue of section 6(1) or 48(3)(a) at any time if or to the extent that its value is attributable to a chargeable interest that is exclusively in or over land which –
  - (a) consists of a dwelling at that time, or
  - (b) consisted of a dwelling at any time in the period of two years ending with that time.
- (2) In this paragraph “chargeable interest” has the same meaning as in Part 3 of the Finance Act 2013 (annual tax on enveloped dwellings).
- (3) Land consists of a dwelling for the purposes of this paragraph if it consists of a dwelling for the purposes of that Part.
- (4) The powers conferred by section 114 of that Act and section 116(8)(a) of the Finance Act 2003 apply for the purposes of this paragraph.
- 2 (1) In determining whether (or the extent to which) property situated outside the United Kingdom is excluded property, no regard is to be had to any arrangements the purpose or one of the main purposes of which is to secure a tax advantage by avoiding the effect of paragraph 1(1).
- (2) In this paragraph –
  - “tax advantage” has the meaning given in section 208 of the Finance Act 2013;
  - “arrangements” includes any scheme, transaction or series of transactions, agreement or understanding (whether or not legally enforceable and whenever entered into) and any associated operations.”
- (5) The amendments made by this section have effect in relation to times after 5 April 2017.

## DOMICILE: INCOME TAX AND CAPITAL GAINS TAX

## ICTA 1988

- 1 (1) In section 266A of ICTA 1988 (life assurance premiums paid by employer), after subsection (8) insert—
  - “(8A) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (6)(b).”
- (2) The amendment made by this paragraph has effect in relation to the tax year 2017-18 and subsequent tax years.

## TCGA 1992

- 2 TCGA 1992 is amended as follows.
- 3 (1) Section 16ZA (losses: non-UK domiciled individuals) is amended as follows.
  - (2) For subsections (1) to (3) substitute—
    - “(1) An individual may make an election under this section in respect of—
      - (a) the first tax year in which section 809B of ITA 2007 (claim for remittance basis) applies to the individual, or
      - (b) the first tax year in which that section applies to the individual following a period in which the individual has been domiciled in the United Kingdom.
    - (2) Where an election is made by an individual under this section in respect of a tax year, the election has effect in relation to the individual for—
      - (a) that tax year, and
      - (b) all subsequent tax years.
    - (2A) But if after making an election under this section an individual becomes domiciled in the United Kingdom at any time in a tax year, the election does not have effect in relation to the individual for—
      - (a) that tax year, or
      - (b) any subsequent tax year.
    - (2B) Where an election made by an individual under this section in respect of a tax year ceases to have effect by virtue of subsection (2A), the fact that it has ceased to have effect does not prevent the individual from making another election under this section in respect of a later tax year.
    - (3) If an individual does not make an election under this section in respect of a year referred to in subsection (1)(a) or (b), foreign losses accruing to the individual in—
      - (a) that tax year, or
      - (b) any subsequent tax year except one in which the individual is domiciled in the United Kingdom,are not allowable losses.”

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- (3) After subsection (6) insert –
- “(7) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of this section.”
- (4) The amendments made by this paragraph have effect in relation to the tax year 2017-18 and subsequent tax years.
- (5) Where –
- (a) an individual makes an election under section 16ZA of TCGA 1992 as originally enacted for a tax year before 2017-18, but
- (b) after making the election the individual becomes domiciled in the United Kingdom at any time in a tax year,
- sections 16ZB and 16ZC of that Act do not have effect in relation to the individual by virtue of that election for that tax year or any subsequent tax year.
- (6) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of sub-paragraph (5).
- 4 (1) In section 16ZB (election under section 16ZA: foreign chargeable gains remitted in the tax year after that in which they accrue), in subsection (1), for paragraphs (a) and (b) substitute –
- “(a) the individual has made an election under section 16ZA in respect of a tax year before the applicable year,
- (aa) the election has effect in relation to the individual for the applicable year,
- (b) foreign chargeable gains accrued to the individual in or after the tax year in respect of which the election was made but before the applicable year, and”.
- (2) The amendments made by this paragraph have effect in relation to the tax year 2017-18 and subsequent tax years.
- 5 (1) In section 16ZC (election under section 16ZA by individual to whom remittance basis applies), in subsection (1), for paragraphs (a) to (c) substitute –
- “(a) the individual has made an election under section 16ZA in respect of the tax year or any earlier tax year,
- (b) the election has effect in relation to the individual for the tax year, and
- (c) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the tax year.”
- (2) The amendment made by this paragraph has effect in relation to the tax year 2017-18 and subsequent tax years.
- 6 (1) In section 69 (trustees of settlements), after subsection (2E) insert –
- “(2F) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (2B)(c).”
- (2) The amendment made by this paragraph has effect in relation to a settlement –
- (a) in a case where the settlement arose on the settlor’s death (whether by will, intestacy or otherwise), where the settlor died on or after 6 April 2017;



- (b) in any other case, where the settlor made the settlement (or was treated for the purposes of TCGA 1992 as making the settlement) on or after 6 April 2017.
- 7 (1) In section 86 (attribution of gains to settlors with interest in non-resident or dual resident settlements), after subsection (3) insert –
  - “(3A) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (1)(c).”
- (2) The amendment made by this paragraph has effect in relation to the tax year 2017-18 and subsequent tax years.
- 8 (1) In section 275 (location of assets), after subsection (3) insert –
  - “(3A) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (1)(l)(iii).”
- (2) The amendment made by this paragraph has effect for the purposes of determining for the purposes of TCGA 1992 the situation of any asset, or whether the situation of any asset is in the United Kingdom, at any time on or after 6 April 2017 (irrespective of when the asset was acquired by the person holding it).
- 9 In Schedule 5 (provisions supplementing section 86 of TCGA 1992), after paragraph 5 insert –
  - “5A (1) Section 86 does not apply in relation to a year (“the particular year”) if –
    - (a) the particular year is the tax year 2017-18 or a later tax year,
    - (b) the settlor is not domiciled in the United Kingdom when the settlement is created,
    - (c) where the settlement is created on or after 6 April 2017, it is created at a time when the settlor is not regarded for the purposes of section 86(1)(c) as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 (see section 86(3A)),
    - (d) there is no time in the particular year when the settlor is –
      - (i) domiciled in the United Kingdom, or
      - (ii) regarded for the purposes of section 86(1)(c) as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of condition A in that section being met,
    - (e) no property or income is provided directly or indirectly for the purposes of the settlement at a time –
      - (i) in or after the first post-settlement 15/20 tax year, and
      - (ii) before the end of the particular year, and
    - (f) no family benefit is conferred at a time –
      - (i) in or after the first post-settlement 15/20 tax year, and
      - (ii) before the end of the particular year.
  - (2) For the purposes of sub-paragraph (1)(e), ignore –
    - (a) property provided under a transaction entered into at arm’s length,

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- (b) property provided in pursuance of a liability incurred by any person before [(*date*)], and
  - (c) where the settlement's expenses relating to taxation and administration for a tax year exceed its income for that year, property provided towards meeting that excess if the value of the property is not greater than the amount of the excess.
- (3) For the purposes of sub-paragraph (1)(e) and (f), a tax year is a "post-settlement 15/20 tax year" if—
- (a) it begins after the creation of the settlement, and
  - (b) the settlor has been UK resident for at least 15 of the 20 tax years immediately preceding that tax year.
- (4) For the purposes of sub-paragraph (1)(f), a family benefit is conferred if—
- (a) any relevant property comprised in the settlement, or any relevant income arising under the settlement, is applied for the benefit of or paid to—
    - (i) the settlor, or
    - (ii) a person who is a family member when the property, or income, is applied or paid, or
  - (b) the settlor, or any other person at a time when that person is a family member, otherwise enjoys a benefit directly or indirectly from any relevant property comprised in the settlement or any relevant income arising under the settlement.
- (5) In sub-paragraph (4)—
- "family member" means any of the following—
    - (a) the settlor's spouse or civil partner, and
    - (b) any child, or step-child, of the settlor who has not reached the age of 18,
  - "relevant income" is income originating from the settlor, and
  - "relevant property" is property originating from the settlor."
- 10 (1) In Schedule 5A (settlements with foreign element: information), in paragraph 3, after sub-paragraph (3) insert—
- "(3A) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of sub-paragraph (3)."
- (2) The amendment made by this paragraph has effect in relation to settlements created on or after 6 April 2017.

#### ITEPA 2003

- 11 (1) ITEPA 2003 is amended as follows.
- (2) In section 355 (deductions for corresponding payments by non-domiciled employees with foreign employers), in subsection (2), at the end insert "(and section 835BA of ITA 2007 (deemed domicile) applies for the purposes of this subsection)".
  - (3) In section 373 (non-domiciled employee's travel costs and expenses where duties performed in UK), at the end insert—

- “(7) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (1).”
- (4) In section 374 (non-domiciled employee’s spouse’s etc travel costs and expenses where duties performed in UK), at the end insert –
- “(10) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (1).”
- (5) In section 376 (foreign accommodation and subsistence costs and expenses (overseas employment)), at the end insert –
- “(6) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (1)(c).”
- (6) The amendments made by this paragraph have effect in relation to the tax year 2017-18 and subsequent tax years.

#### ITTOIA 2005

- 12 ITTOIA 2005 is amended as follows.
- 13 In Chapter 5 of Part 5 (settlements: amounts treated as income of settlor), after section 628 insert –

#### **“628A Foreign trust income where settlor has deemed UK domicile**

- (1) Subsections (2) and (3) apply if a tax year (“the current year”), or any earlier tax year, is a protected year for a settlement.
- (2) If the current year is a protected year for the settlement, calculate the amount (“RFI”) of income that –
- (a) arises under the settlement in the current year,
  - (b) arises during the life of the settlor from property in which the settlor has an interest,
  - (c) is relevant foreign income, and
  - (d) is not excepted by sections 626 to 628.
- (3) Calculate the total value (“FB”) of family benefits conferred in the current year (see section 628B).
- (4) If –
- (a) the current year is a protected year for the settlement, and
  - (b) RFI exceeds FB,
- the amount of income arising under the settlement in the current year to which the rule in section 624(1) applies is treated as reduced by the excess.
- (5) If –
- (a) the current year is a protected year for the settlement, and
  - (b) FB exceeds RFI,
- the amount of income arising under the settlement in the current year to which the rule in section 624(1) applies is treated as increased by the excess.
- (6) If the current year is not a protected year for the settlement, the amount of income arising under the settlement in the current year to which the rule in section 624(1) applies is treated as increased by FB.

- (7) In this section “protected year” has the meaning given by section 628C.

**628B Meaning of “confer a family benefit” in section 628A**

- (1) For the purposes of section 628A, a family benefit is conferred in a tax year if –
- (a) any protected income is in the year applied for the benefit of or paid to –
    - (i) the settlor, or
    - (ii) a person, other than the settlor, who is a relevant person when the income is applied or paid, or
  - (b) the settlor, or any other person at a time when that person is a relevant person, in the year otherwise enjoys a benefit directly or indirectly from any protected income.
- (2) In subsection (1) “protected income” means income that –
- (a) arises under the settlement –
    - (i) in the tax year mentioned in subsection (1) if that year is a protected year for the settlement, or
    - (ii) in any earlier tax year that is a protected year for the settlement,
  - (b) arises during the life of the settlor from property in which the settlor has an interest,
  - (c) is relevant foreign income, and
  - (d) is not excepted by sections 626 to 628.
- (3) Section 809M of ITA 2007 (meaning of “relevant person”) applies for the purposes of subsection (1) as for those of Chapter A1 of Part 14 of ITA 2007, but with references in that section to “the individual” being read as references to the settlor.
- (4) In this section “protected year” has the meaning given by section 628C.

**628C Meaning of “protected year” in sections 628A and 628B**

- (1) For the purposes of sections 628A and 628B, a particular tax year is a “protected year” for a settlement if –
- (a) the trustees of the settlement are non-UK resident in the particular year,
  - (b) the settlor has been UK resident for at least 15 of the 20 tax years immediately preceding the particular year,
  - (c) there is no time in the particular year when the settlor is –
    - (i) domiciled in the United Kingdom, or
    - (ii) regarded for the purposes of section 809B of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of condition A in that section being met,
  - (d) the settlor is not domiciled in the United Kingdom when the settlement is created,
  - (e) where the settlement is created on or after 6 April 2017, it is created at a time when the settlor is not regarded for the purposes of section 809B of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007,

- (f) no property or income is provided directly or indirectly for the purposes of the settlement at a time –
      - (i) in or after the first post-settlement 15/20 tax year, and
      - (ii) before the end of the particular year, and
    - (g) the particular year begins on or after 6 April 2017.
  - (2) For the purposes of subsection (1)(f), ignore –
    - (a) property provided under a transaction entered into at arm's length,
    - (b) property provided in pursuance of a liability incurred by any person before [(date)], and
    - (c) where the settlement's expenses relating to taxation and administration for a tax year exceed its income for that year, property provided towards meeting that excess if the value of the property is not greater than the amount of the excess.
  - (3) For the purposes of subsection (1)(f), a tax year is a "post-settlement 15/20" tax year if –
    - (a) it begins after the creation of the settlement, and
    - (b) the settlor has been UK resident for at least 15 of the 20 tax years immediately preceding that tax year."
- 14 In section 624 (income under a settlement where settlor retains interest), in subsection (3) (which lists provisions containing exceptions) –
  - (a) omit the "and" at the end of the entry for section 627;
  - (b) at the end of the entry for section 628 insert ", and  
section 628A (exception for foreign trust income if settlor has deemed UK domicile)."

ITA 2007

- 15 ITA 2007 is amended as follows.
- 16 (1) In section 476 (how to work out whether settlor meets Condition C in section 475), after subsection (3) insert –
  - “(3A) Section 835BA (deemed domicile) applies for the purposes of subsections (2)(b) and (3)(b).”
- (2) The amendment made by this paragraph has effect –
  - (a) so far as relating to section 476(2)(b) of ITA 2007, in relation to a settlor who dies on or after 6 April 2017;
  - (b) so far as relating to section 476(3)(b) of ITA 2007, in relation to a settlement made on or after 6 April 2017.
- 17 (1) In section 718 (meaning of "person abroad" etc), after subsection (2) insert –
  - “(3) Section 835BA (deemed domicile) applies for the purposes of subsection (1)(b).”
- (2) The amendment made by this paragraph has effect in relation to the tax year 2017-18 and subsequent tax years.
- 18 (1) Chapter A1 of Part 14 (remittance basis) is amended as follows.
- (2) In section 809B (claim for remittance basis to apply), after subsection (1) insert –

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- “(1A) Section 835BA (deemed domicile) applies for the purposes of subsection (1)(b).”
- (3) In section 809C (claim for remittance basis by long-term UK resident: nomination) omit the following—
- (a) in subsection (1)(b), “the 17-year residence test”;
  - (b) subsection (1ZA);
  - (c) subsection (1A)(a);
  - (d) in subsection (1B)(a), “the 17-year residence test or”;
  - (e) subsection (4)(za).
- (4) In section 809E (application of remittance basis without claim: other cases), after subsection (1) insert—
- “(1A) Section 835BA (deemed domicile) applies for the purposes of subsection (1)(b).”
- (5) In section 809H (claim for remittance basis by long-term UK resident: charge) omit the following—
- (a) in subsection (1)(c), “the 17-year residence test”;
  - (b) in subsection (1A)—
    - (i) “(1ZA)”;
    - (ii) “the 17-year residence test”;
  - (c) subsection (5B)(za).
- 19 (1) The amendments made by paragraph 18 have effect in relation to the tax year 2017-18 and subsequent tax years.
- (2) This is subject to paragraphs 20 and 21.
- 20 (1) This paragraph applies in a case where—
- (a) section 10A of TCGA 1992 (temporary non-residents) as originally enacted applies in relation to an individual, and
  - (b) the year of return is 2017-18.
- (2) For the purposes of capital gains tax in respect of foreign chargeable gains accruing to the individual during an intervening year, the amendment made by paragraph 18(2) does not have effect in relation to the year of return.
- (3) Where by virtue of sub-paragraph (2) an individual makes a claim under section 809B of ITA 2007 for the tax year 2017-18, sections 809C, 809G and 809H of ITA 2007 do not apply to the individual for that tax year.
- (4) In this paragraph—
- “intervening year” and “year of return” have the same meanings as in section 10A of TCGA 1992 as originally enacted;
  - “foreign chargeable gain” has the meaning given by section 12(4) of TCGA 1992.
- 21 (1) This paragraph applies in a case where section 10A of TCGA 1992 as substituted by paragraph 119 of FA 2013 applies in relation to an individual.
- (2) For the purposes of capital gains tax in respect of foreign chargeable gains accruing to the individual during a temporary period of non-residence beginning before 8 July 2015, the amendment made by paragraph 18(2) does not have effect in relation to the tax year which consists of or includes the period of return.

- (3) Where by virtue of sub-paragraph (2) an individual makes a claim under section 809B of ITA 2007 for any of the tax years 2017-18 to 2020-21 inclusive, sections 809C, 809G and 809H of ITA 2007 do not apply to the individual for that tax year.
  - (4) In this paragraph, “foreign chargeable gain” has the meaning given by section 12(4) of TCGA 1992.
  - (5) Part 4 of Schedule 45 to FA 2013 explains what “temporary period of non-residence” and “period of return” mean.
- 22 (1) In section 834 (residence of personal representatives), at the end insert –
- “(5) Section 835BA (deemed domicile) applies for the purposes of subsection (3).”
- (2) The amendment made by this paragraph has effect in relation to the tax year 2017-18 and subsequent tax years.

FA 2008

- 23 In Part 2 of Schedule 7 to FA 2008 (remittance basis: trusts etc), after paragraph 171 insert –
- “172 (1) Sub-paragraph (2) has effect for the purposes of –
    - paragraphs 100(1)(b), 101(1)(c) and 102(1)(e),
    - paragraph (b) of paragraph 118(3) so far as having effect for the purposes of paragraph 118(1)(d), and
    - paragraphs 124(1)(b), 126(7)(b), 127(1)(e) and 151(1)(b).
  - (2) An individual not domiciled in the United Kingdom at a time in the tax year 2017-18, or a later tax year, is to be regarded as domiciled in the United Kingdom at that time if –
    - (a) the individual was born in the United Kingdom,
    - (b) the individual’s domicile of origin was in the United Kingdom, and
    - (c) the individual is resident in the United Kingdom for the tax year concerned.”

