

## **Clause 1: DOMICILE: INCOME TAX AND CAPITAL GAINS TAX**

### **Summary**

1. This measure changes the way in which some people who are not domiciled in the UK under general law are taxed.
2. The measure introduces and relies on the concept of individuals who are not UK domiciled under general law being deemed domiciled in the UK for income and capital gains tax.
3. Subject to a few exceptions, the effect of the measure is that those deemed domiciled in the UK for income and capital gains tax will be taxed in exactly the same way as those UK domiciled under general law. The main effect on those individuals as far as income tax and capital gains taxes are concerned will lose access to the Remittance Basis of taxation. So, someone deemed domiciled in the UK for income and capital gains tax will become liable to tax on their worldwide income and gains, rather than just their income and gains arising in the UK and only those foreign income and gains that are remitted to the UK.
4. The new provisions come into effect from the tax year 2017-18.
5. Similar provisions covering Inheritance Tax are introduced under Clause 2.

### **Details of the clause**

#### **Clause 1**

6. The clause introduces the deeming provisions mentioned in the summary.
7. Clause 1(1) makes provision to amend Chapter 2A of Part 14 of the Income Tax Act 2007 by inserting a new section 835BA (section 835BA). Sub-section 835BA (1) provides for the further, deeming part of the clause to apply to parts of the Income Tax Acts and any other enactments as specified in the related Schedule 1.
8. Sub-section 835BA (2) provides that an individual not domiciled in the UK is to be deemed domiciled if they meet either of two conditions.
9. Sub-section 835BA (3) gives the first such condition. It is that the individual was born in the UK and has a UK domicile of origin. Sub-section 835(3) also requires that the individual be UK resident for tax in the tax year under consideration.
10. Sub-section 835BA (4) gives the second such condition. It is that the individual must have been UK resident for tax in at least 15 out of the 20 years preceding the tax year under consideration.
11. Subsequent references to 'deemed domiciled in the UK' are references to being so deemed by virtue of either condition mentioned above, unless otherwise indicated.
12. Clause 1(2) explains that Schedule 1 contains provisions applying new section 835BA ITA 2007 and further provisions relating to this clause.
13. Clause 1(3) provides that the amendments made by the clause and by Schedule 1 do not have effect in relation to a person who has not been UK resident for tax after 5 April 2017.

## Clause 2: Inheritance tax: domicile

### Summary

1. Clause 2 amends the inheritance tax (IHT) legislation relating to individuals who will be treated as domiciled in the United Kingdom. The amendment will provide that an individual will be treated as domiciled for IHT purposes if they have been resident in the UK for at least 15 out of the previous 20 tax years rather than 17 out of the 20 tax years ending with the tax year in question. The clause also introduces a separate rule to provide that an individual born in the UK with a UK domicile of origin who has acquired a domicile of choice elsewhere will be treated as domiciled for IHT purposes if at any time they are resident in the UK and have been resident in the UK in at least one out of the two previous tax years.

### Details of the clause

2. Subsection 1 amends section 267(1) of the Inheritance Tax Act (IHTA) 1984 to insert new paragraph (aa). This sets out another situation in which an individual is treated as being domiciled in the UK. It relates to individuals who are formerly domiciled residents, a phrase that is explained in paragraph 11 below.
3. Subsection 1 also makes an amendment to section 267(1)(b). The amendment reduces the time for which an individual has to be resident in the UK in order to be treated as being domiciled here for the tax year in which a relevant time falls. Rather than being resident in the UK in not less than 17 of the 20 years of assessment ending with that in which the relevant time falls, an individual will have to be resident in the UK only for at least 15 of the 20 tax years immediately preceding the tax year in question. However, a person who would otherwise satisfy the test will not be deemed domiciled if they are non UK resident in that tax year and have been non-resident for the previous four consecutive tax years.
4. Subsection 2 omits subsection 267(3)
5. Subsection 3 makes an amendment to section 267(4) by substituting ‘any year of assessment’ for ‘any tax year’.
6. Subsection 4 makes amendments to section 48(3) of the Inheritance Tax Act (1984). New section 48(3E) provides that any foreign assets settled into trust by a formerly domiciled resident while they were domiciled outside the UK will, no longer be treated as excluded property for a tax year in which the formerly domiciled resident is resident in the UK.
7. Subsection 5 makes an amendment to section 64 of the Inheritance Tax Act (1984) to ensure that the provision at section 64(1B) does not apply if the settlor meets the conditions in new section 48(3E). This means that long-retained income that is invested abroad (or in authorised unit trusts or open ended investment companies) cannot be excluded property while the settlor is a formerly domiciled resident.
8. Subsection 6 makes an amendment to section 65 of the Inheritance Tax Act (1984) to ensure that tax is not charged under this section if property that was settled by an individual who then became a formerly domiciled resident subsequently becomes excluded property once more by virtue of the fact the settlor is no longer resident in the UK.
9. Subsection 7 makes an amendment to section 82 of the Inheritance Tax Act (1984) so that the tests in s82 are aligned with the test under new section 48(3E). This will ensure that where there is property to which section 80 or section 81 applies then not only must the settlor of the first or second settlement as appropriate not have been a UK domiciliary when the settlement was made, but they must also not be a formerly domiciled resident in the tax year concerned in order for foreign property to benefit from excluded property status.
10. Subsection 8(a) makes an amendment to the definition of ‘foreign owned’ in section 272 of the Inheritance Tax Act (1984). Property settled by a formerly domiciled resident cannot be foreign owned.
11. Subsection 8(b) defines the term ‘formerly domiciled resident’ by setting out the conditions that must

be met before an individual who was formerly domiciled in the UK is treated as being domiciled in the UK for a tax year. Those conditions are that the individual was born in the UK, that their domicile of origin was in the UK, and that they were resident in the UK for the tax year and at least one of the two immediately preceding tax years.

12. Subsection 9 contains the commencement provision and provides that the amendments will take effect in relation to times after 5 April 2017 subject to subsections (10) and (11).
13. Subsection 10 inserts a transitional provision to ensure that a person leaving the UK before 6 April 2017 will not be subject to the 15/20 test and that the test will not be relevant in determining the excluded property status of property added to a settlement before that date.
14. Subsection 11 preserves the transitional provisions as originally enacted in section 267(3) to the extent that they are still needed to determine the excluded property status of property added to a settlement on or before 9 December 1974.

### **Clause 3: IHT: Overseas property whose value is attributable to UK residential property**

#### **Summary**

1. Clause 3 amends the Inheritance Tax Act (IHTA) 1984 as it applies to residential properties situated in the UK by bringing such properties within the scope of IHT where they are held by a non-domiciled individual through an overseas company or similar structure. It does so by amending the definition of excluded property in sections 6(1) and 48(3)(a) IHTA with reference to a new Schedule A1 such that an interest in those properties will be treated as part of a person's estate and thus liable to IHT in the event of a chargeable transfer.
2. Excluded property is generally not subject to IHT. One of the major categories of excluded property is property situated overseas which is owned by an individual who is domiciled outside the UK. It is common for such individuals to hold UK residential property through an overseas company. This will mean that the individual's property for IHT purposes will be overseas shares which will be treated as excluded property. The effect is to take UK residential property outside of the charge to IHT.
3. Clause 3 ensures that IHT will be chargeable on UK residential properties even where they are held through an overseas structure.

#### **Clause 3(1)**

4. Clause 3(1) introduces the amendments to IHTA.

#### **Clause 3(2)**

5. Clause 3(2) amends the definition of excluded property in section 6(1) IHTA by making it subject to new Schedule A1.

#### **Clause 3(3)**

6. Clause 3(3) mirrors Clause 3(2) by amending the definition of excluded property in section 48(3)(a) by making it subject to new Schedule A1.

#### **Clause 3(4)**

7. Clause 3(4) introduces new Schedule A1
8. Paragraph 1(1) of the Schedule provides that property is not excluded property to the extent that its value is attributable to an interest in UK land which is an interest in residential property situated in the UK.
9. Paragraph 1(2) of the Schedule stipulates when an interest in UK land will be treated as interest in UK residential property. This is that the land in question has been, or has included, a dwelling at any time ('the relevant time') within the previous two years. It also provides for the Schedule to apply where the interest in land has been acquired in the form of an arrangement known as an off-plan purchase in which land is sold before the construction of a dwelling has been completed.
10. Paragraph 1(3) of the Schedule provides that the meaning of an interest in UK land follows that which is provided by paragraph 2 of Schedule B1 to the Taxation of Chargeable Gains Act (TCGA) 1992. That Schedule was introduced for the purposes of charging CGT on the disposal of UK residential property by certain non-resident persons.
11. Paragraph 1(4) of the Schedule provides that the meaning of a dwelling follows the definitions provided by paragraphs 4 to 9 of Schedule B1 to TCGA. Paragraph 1(4)(a) to (e) confirm that for the purpose of the new Schedule, Schedule B1 to TCGA is to be read as omitting any reference to the disposal of an interest in land; that references to 'relevant ownership period' are references to the period in paragraph 1(2) of the Schedule and that references to completion of the disposal or the disposal are references to the relevant time.. The meaning of a dwelling includes any building used as a dwelling or suitable to be used as such, any dwelling in the process of construction and any grounds where a dwelling is situated. It excludes, however, certain types of property such as nursing homes, military barracks, prisons and

student accommodation containing 15 or more bedrooms.

12. Paragraph 1(5) of the Schedule stipulates that the meaning of an off-plan purchase follows that set out in paragraph 1(6) of Schedule B1 to TGCA.
13. Paragraph 2(1) of the Schedule provides a targeted anti-avoidance rule whose effect is to disregard any arrangements whose whole or main purpose is to secure a tax advantage by avoiding a charge on UK residential property arising under paragraph 1(1).
14. Paragraph 2(2) of the Schedule defines the terms 'tax advantage' and 'arrangements' for the purposes of paragraph 2(1).

**Clause 3(5)**

15. Clause 3(5) provides the commencement provisions for the new clause and Schedule which are given effect from 6 April 2017.

## Schedule 1: DOMICILE: INCOME TAX AND CAPITAL GAINS TAX

### Details of the Schedule

1. The amendments made by Schedule 1 have effect in the tax year 2017-18 and in subsequent tax years unless indicated otherwise.
2. Paragraph 1 of Schedule 1 amends section 266A of the Income and Corporation Taxes Act 1988 (ICTA).
3. Section 266A is amended so that the payment of premium in respect of an employee who is deemed domiciled in the UK by virtue of new section 835BA is taxed in the same way as a payment made in respect of an employee who is domiciled in the UK under general law.
4. Paragraph 2 of Schedule 1 introduces the amendments to the Taxation of Chargeable Gains Act 1992 (TCGA).
5. Paragraph 3(1) of Schedule 1 makes provision to amend section 16ZA of TCGA. Section 16ZA TCGA enables a non-domiciled individual to make an election to enable foreign losses to be treated as allowable losses.
6. Paragraph 3(2) substitutes sections 16ZA (1) to (3) with three new sub-sections (1) to (3).
7. New sub-section (1) enables a non-domiciled individual to make an election under section 16ZA for the first year in which section 809B of ITA2007 (claim for remittance basis) applies to the individual and for any subsequent first tax year in which that section applies to the individual following a period during which the individual has been domiciled in the UK. For these purposes the reference to the first tax year in which s 809 B applies refers to the first year in which the individual makes a remittance basis claim and not the first year in which the individual could have made a claim.
8. New sub-section (2), (which is subject to new sub-section (2A)), provides that the election has effect for the tax year for which the election is made and any subsequent tax year.
9. New sub-section (2A) provides that where an individual becomes domiciled in the UK after making an election under new subsections (1) and (2) that election will cease to have effect for that tax year and any subsequent tax year. For these purposes references to an individual becoming UK domiciled include individuals who become deemed domiciled in the UK by virtue of new section 835BA ITA 2007 (see new section 16ZA(7) below).
10. New sub-section (2B) provides that where an election made by an individual ceases to have effect by virtue of new sub-section (2A) because the individual has become domiciled in the UK, this will not prevent the individual making another election under the section in a later year.
11. New sub-section (3) provides that where an individual does not make an election under amended section 16ZA, foreign losses are not allowable losses in any tax year except where the individual is domiciled in the United Kingdom or deemed domiciled in the UK by virtue of new section 835BA ITA 2007
12. Paragraph 3(3) of Schedule 1 inserts new sub-section (7) into section 16ZA which provides for the deemed domicile provisions in new section 835BA to apply to section 16ZA generally.
13. Paragraph 3(5) makes special provision where an individual has made an election under s16ZA for a tax year before 2017-2018 and after making that election becomes domiciled in the UK at any time in a tax year. Sections 16ZB and 16ZC do not have effect for that tax year in which the individual became domiciled or any subsequent tax year.
14. Paragraph 3(6) means that the deemed domicile provisions apply for the purpose of sub-paragraph (5).
15. Paragraph 4 substitutes a new section 16ZB. New section 16ZB makes consequential provision for the purpose of new section 16ZA regarding the treatment of foreign chargeable gains remitted in a year after the year in which they accrue.

16. Paragraph 5 substitutes a new section 16ZC makes consequential provision for elections pursuant to new section 16ZA.
17. Paragraph 6 of the Schedule amends section 69 of TCGA so that, for the purposes of determining whether trustees of a settlement made or arising on or after 6 April 2017 are UK resident, the deemed domicile provisions in new section 835BA will apply to determine the domicile status of the settlor at the time the settlement was made.
18. Paragraph 7 amends section 86 TCGA, which deals with the attribution of gains to settlors of foreign or dual resident settlements trusts, by inserting new sub-section 86(3A) which applies new section 835BA for the purposes of s 86(1)(c). The effect of this is that the provisions of s 86 in general apply to a settlor who is deemed domiciled in the UK by virtue of new section 835BA in the same way as a settlor who is domiciled in the UK under general law. However this is subject to new paragraph 5A of Schedule 5 TCGA which disapplies the provisions of s 86 in some circumstances where a settlor is deemed domiciled in the UK by virtue of condition B in section 835BA having been met.
19. Paragraph 8 amends section 275 TCGA which deals with the location or situation of assets. Paragraph 8 amends section 275 by inserting new sub-section 275(3A) so that the holder of a non-sterling bank account who is deemed domiciled in the UK by virtue of new section 835BA is treated in the same way as a bank account holder who is domiciled in the UK under general law.
20. Paragraph 9 inserts a new paragraph 5A into Schedule 5 to TCGA which disapplies the effect of the amended section 86 (dealing with the attribution of gains to settlors of foreign or resident settlements trusts) where the following conditions are met -
  - (a) the particular year is the tax year 2017-2018 or a later year
  - (b) the settlor is not domiciled in the UK when the settlement is created
  - (c) where a settlement is created after 6 April 2017, the settlor is not deemed domiciled in the UK by virtue of new section 835BA when the settlement is created.
  - (d) there is no time in the particular year when the settlor is domiciled or deemed domiciled in the UK by virtue of condition A in new section 835BA.
  - (e) no property or income is provided directly or indirectly for the purposes of the settlement and no family benefit is conferred at a time in or after the first post-settlement 15/20 tax year and before the end of the particular tax year.
  - (f) no family benefit is conferred once a settlor is deemed domiciled in the UK or becomes domiciled in the UK
21. New paragraph 5A (2) means that those expenses and liabilities mentioned in this paragraph are disregarded for the condition listed as (e) above.
22. New paragraph 5A (3) defines a 'post settlement 15/20 tax year' as beginning after creation of the settlement and the settlor has been UK resident for at least 15 of the 20 tax years immediately preceding that tax year.
23. New paragraph 5A(4) provides that a 'family benefit' is conferred if any relevant property or income of the settlement is applied for the benefit of or paid to the settlor or a person who is a family member when the property, or income is applied or paid. It includes the settlor or any other family member who enjoys a direct or indirect benefit from any relevant property or income arising under the settlement.
24. New paragraph 5A(5) defines 'family member' for the purpose of 'family benefit' as the settlor's spouse or civil partner and any child or step child of the settlor who has not reached the age of 18. Paragraph 5A (5) further defines 'relevant income' as income originating from the settlor and 'relevant property' as property originating from the settlor.
25. Paragraph 10 of Schedule 1 to the clause amends paragraph 3 of Schedule 5 to TCGA by inserting new sub-paragraph (3A) Paragraph 3 deals with particulars of returns to made in connection with settlements where, *inter alia*, a settlor is domiciled and resident in the UK. The effect of new sub-paragraph (3A) is that for these purposes a settlor who is deemed domiciled in the UK by virtue of new section 835BA is treated in the same way as a settlor who is domiciled in the UK under general law. The amendment has effect in relation to settlements created on or after 6 April 2017.
26. Paragraph 11(1) introduces the amendments to the Income Tax (Earnings & Pensions) Act 2003 (ITEPA).

27. Paragraph 11(2) amends section 355 ITEPA so that a person who is deemed domiciled by virtue of new section 835BA and has a foreign employer may not make a claim for a deduction for a corresponding payment in the same way as an employee of a foreign employer who is domiciled in the UK under general law.
28. Paragraph 11(3) amends section 373 ITEPA. The effect of the amendment is that for the purposes of deducting and employees travel costs and expenses where duties are performed in the UK, a person who is deemed domiciled in the UK by virtue of new section 835BA is treated in the same way as an employee who is domiciled in the UK under general law.
29. Paragraph 11(4) amends section 374 ITEPA. The effect of the amendment is that a person who is deemed domiciled by virtue of new section 835BA may not claim a deduction for travel costs and expenses incurred by an employee's spouse, civil partner or child in the same way as an employee who is domiciled in the UK under general law may not make such a claim.
30. Paragraph 11 (5) amends section 376. The effect of the amendment is that a deduction for foreign accommodation and subsistence costs and expenses in the case of an employee who is deemed domiciled in the UK by virtue of new section 835BA is treated in the same way as a deduction in respect of such an employee who is domiciled in the UK under general law.
31. Paragraph 12 introduces the amendments to the Income Tax (Trading and Other Income) Act 2005 (ITTOIA).
32. Paragraph 13 inserts a new section 628A into ITTOIA Chapter 5 Part 5, 'settlements: amounts treated as income of the settlor'.
33. New section 628A of ITTOIA deals with 'foreign trust income where the settlor has deemed UK domicile'.
34. New sub-section (1) provides for sub-sections (2) and (3) to apply if a tax year (the current year) or any earlier year is a 'protected year' for a settlement.
35. New sub-section (2) provides the basis of calculating relevant foreign income (RFI) for the purpose of new section 628A where the current year is a protected year for the settlement.
36. New sub-section (3) requires that the total value of family benefits (FB) conferred in the current year be calculated.
37. New sub-section (4) provides for the amount of income arising in the current year to which s 624(1) ITTOIA applies to be reduced by the excess where RFI exceeds FB.
38. New sub-section (5) provides for the amount of income arising in the current year to which in a protected year to which s624 (1) ITTOIA applies to be increased by the excess where FB exceeds RFI.
39. New sub-section (6) provides for the amount of income arising in the year to which s624 (1) ITTOIA applies to be increased by FB where the current year is not a protected year for the settlement.
40. New sub-section (7) provides for the meaning of 'protected year' in new section 628A to be given by new section 628C.
41. New section 628B gives the meaning of 'confer a family benefit' for section 628A.
42. New section 628B(1) provides that a family benefit is conferred if any protected income is applied for the benefit of or paid to the settlor or other relevant person. It also provides that a family benefit is conferred where such a person enjoys a benefit, whether directly or indirectly, from any protected income.
43. New section 628B(2) gives the meaning of 'protected income' for these purposes which is broadly any relevant foreign income which arises under the settlement in a protected year.
44. New section 628B(3) provides that the term 'relevant person' as used in new section 628B(1) has the same meaning as it does in section 809M of ITA for the purposes of the remittance basis, provided that references to an individual are read as references to a settlor.
45. New section 628B(4) provides that the term 'protected year' as used in new section 828B is defined in new section 628C.
46. New section 628C gives the meaning of 'protected year' for the purposes of new sections 628A and 628B. A tax year will be a protected year where the following conditions are met:



- (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 years preceding the particular year
  - (c) there is no time in the particular year when the settlor is domiciled or deemed domiciled in the UK by virtue of condition A in new section 835BA
  - (d) the settlor is not UK domiciled when the settlement is created
  - (e) in cases where a settlement is created on or after 6 April 2017, the settlor is not regarded as domiciled in the UK by virtue of new section 835BA when the settlement is created
  - (f) no property or income is provided directly or indirectly for the purposes of the settlement at a time in or after the first post-settlement 15/20 tax year and before the end of the particular tax year
  - (g) the particular year begins or after 6 April 2017.
47. New section 628C( 2) means that those expenses and liabilities mentioned in this paragraph are disregarded for the condition listed as (f) above.
  48. New section s 628C(3) defines a `post settlement 15/20 tax year` as beginning after creation of the settlement and the settlor has been UK resident for at least 15 of the 20 tax years immediately preceding that tax year
  49. Paragraph 14 of Schedule 1 provides for a consequential amendment to section 624 ITTOIA necessary by reason of the insertion of new section 628A.
  50. Paragraph 15 of Schedule 1 introduces the amendment to the Income Tax Act 2007 (ITA).
  51. Paragraph 16 of Schedule 1 amends section 476 ITA. Section 476 determines whether a settlor meets Condition C in section 475. Section 475 determines whether trustees of a settlement are UK resident. The effect of the amendment to section 476 is that a settlor who is deemed domiciled in the UK by virtue of new section 835BA will for these purposes be treated in the same way as a settlor who is domiciled in the UK under general law.
  52. Paragraph 17 of Schedule 1 amends section 718. Section 718 gives the meaning of a `person abroad` for the purpose of Chapter 2 of Part 13 (transfer of assets abroad). The effect of the amendment to section 718 is that a person who is deemed domiciled in the UK by virtue of new section 835BA will be treated in the same way as a person who is domiciled in the UK under general law in determining whether they are a person abroad for s 718 purposes. Note: draft legislation will be published later in the year setting out the protections promised for persons who would otherwise become subject to Chapter 2 of Part 13 by virtue of the introduction of new s 835BA.
  53. Paragraph 18 of Schedule 1 amends Chapter A1 of Part 14 of ITA (remittance basis).
  54. Paragraph 18(2) amends section 809B by inserting new sub-section (1A). Section 809B sets out the conditions for an individual making a claim for the `remittance basis`. One of the conditions, given by section 809B (1) (b), is that the individual is not domiciled in the UK. New subsection (1A) provides that new section 835BA applies for the purposes of section 809B (1) (b). The effect of the amendment is that an individual who is deemed domiciled in the UK by virtue of new section 835BA will be treated in the same way as an individual who is domiciled in the UK under general law for these purposes and will not meet the conditions enabling a remittance basis claim to be made.
  55. Paragraph 18(3) amends section 809C. Section 809C requires an individual making a remittance basis claim to nominate income or chargeable gains which will be subject to a remittance basis charge under section 809H where the individual is a long term resident who meets a 7 out of 9, 12 out of 14 or 17 out of 20 year residence test. The effect of the amendment to section 809C is to make consequential amendments to section 809C to delete references to the 17 out of 20 test. This is necessary to reflect the fact that an individual who has been UK resident for more than 15 years is no longer liable to pay a Remittance Basis Charge because they can no longer claim the remittance basis by virtue of the amendment made by paragraph 18(2).
  56. Paragraph 18(4) amends section 809E. Section 809E permits certain individuals with nil or very little UK income and gains to access the remittance basis without having to make a claim. The effect of the amendment to section 809E is that an individual who is deemed domiciled in the UK by virtue of new section 835BA will be treated in the same way as an individual who is domiciled in the UK under general law and will no longer be able to access the remittance basis by virtue of this section.

57. Paragraph 18(5) amends section 809H. Section 809H makes provision for the amount of the 17 out of 20 year charge mentioned in paragraph 62 above. The effect of the amendment to section 809H is to make the consequential amendment necessary to reflect the fact that such an individual is longer liable to pay a charge by virtue of being deemed domiciled under new section 835BA.
58. Paragraph 19 provides that the amendments made by paragraph 18 have effect in relation to the tax year 2017 -18 and subsequent tax years. Paragraph 19 is however subject to paragraphs 20 and 21.
59. Paragraph 20(1) concerns cases where section 10A (temporary non-residents) as originally enacted applies if the temporary non-resident's year of return is 2017-18
60. Paragraph 20 (2) disapplies the effect of paragraph 18(2) of Schedule 1 in paragraph 20 (1) Schedule 1 cases. The effect of this is that an individual who is not domiciled in the UK under general law in the year of return can make a remittance basis claim in respect of foreign chargeable gains accruing in the intervening years (subject to paragraph 20(3)) even though they are deemed domiciled by virtue of new section 835BA.
61. Paragraph 20(3) means that sections 809C (long term residents), 809G (reduced allowances) and 809H (long term resident's charge) will not apply where a remittance basis claim is made by virtue of paragraph 20(2). The effect of this is that where a deemed domiciled individual is able to make a remittance basis claim in respect of foreign chargeable gains there will be no remittance basis charge and no effect on allowances.
62. Paragraph 20(4) defines certain terms used elsewhere in paragraph 20 Schedule 1.
63. Paragraph 21 concerns cases where s10A of TCGA 1992 as it is currently enacted applies.
64. Paragraph 21 (2) disapplies the effect of paragraph 18(2) of Schedule 1 in paragraph 21 (1) Schedule 1 cases where the temporary period of non-residence began before 8 July 2015. The effect of this is that an individual who is not domiciled in the UK under the general law in the year of return can make a remittance basis claim in respect of foreign chargeable gains accruing during the period of temporary non residence (subject to paragraph 21(3)) even though they are deemed domiciled in the UK by virtue of new section 835BA
65. Paragraph 21(3) provides that where an individual makes a remittance basis claim under sections 809B of ITA 2007 by virtue of paragraph 20(2) for any of the tax years 2017 -18 to 2020-21, sections 809C (long term residents), 809G (reduced allowances) and 809H (long term resident's charge) of ITA 2007 will not apply. The effect of this is that where a deemed domiciled individual is able to make a remittance basis claim in respect of foreign chargeable gains there will be no remittance basis charge and no effect on allowances.
66. Paragraphs 21(4) and 21(5) define certain terms used elsewhere in paragraph 21 Schedule 1.
67. Paragraph 22 amends section 834 ITA. Section 834 ITA determines the residence of personal representatives where a deceased has both UK and foreign personal representatives. The effect of this is that an individual who was deemed domiciled on death will be regarded in the same way as a deceased individual who was domiciled in the UK under general law.
68. Paragraph 23 of Schedule 1 amends Schedule 7 to Finance Act 2008 (Remittance Basis: trusts etc.). Paragraph 23 of Schedule 1 inserts new paragraph 172 into Part 2 of Schedule 7 (amendments necessary for non-resident companies and trusts consequent to the revision of the Remittance Basis in Finance Act 2008). New paragraph 172 applies an identical deeming provision to that in s 835BA (3) (Condition A- see paragraph 9 of this note) to certain paragraphs of Part 2 of Schedule 7 to Finance Act 2008.
69. The paragraph 9 deeming provision applies to
- paragraphs 100(1) (b), 101(1) (c) and 102(1) (e),
  - paragraph (b) of paragraph 118(3) so far as having effect for
    - a. the purposes of paragraph 118(1) (d), and
    - b. Paragraphs 124(1) (b), 126(7) (b), 127(1) (e) and 151(1) (b).