

1 Deemed 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 (“the relevant 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 UK resident for the relevant tax year.
- (4) Condition B is that the individual has been UK resident for at least 15 of the 20 tax years immediately preceding the relevant tax year.
- (5) But Condition B is not met if—
- (a) the individual is not UK resident for the relevant tax year, and
 - (b) there is no tax year beginning after 5 April 2017 and preceding the relevant tax year in which the person was UK resident.”
- (2) Schedule 1 contains—
- (a) provision applying section 835BA of ITA 2007, and
 - (b) further provision relating to this section.

2 Deemed 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 (“the relevant tax year”), 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 relevant tax year, and
 - (ii) for at least one of the four tax years ending with the relevant 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.”

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- (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) to (12).
- (10) The amendment to section 267(1) of IHTA 1984 made by subsection (1)(c) does not have effect in relation to a person if –
- (a) the person is not resident in the United Kingdom for the relevant tax year, and
- (b) there is no tax year beginning after 5 April 2017 and preceding the relevant tax year in which the person was resident in the United Kingdom.
- In this subsection “relevant tax year” is to be construed in accordance with section 267(1) of IHTA 1984 as amended by subsection (1).
- (11) The amendment to section 267(1) of IHTA 1984 made by subsection (1)(c) also does not have effect in determining –
- (a) whether settled property which became comprised in the settlement on or before that date 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.
- (12) 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.

SCHEDULES

SCHEDULE 1

Section 1

DEEMED DOMICILE: INCOME TAX AND CAPITAL GAINS TAX

PART 1

APPLICATION OF DEEMED DOMICILE RULE

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 individual makes an election 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.”
- (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 amendment made by this paragraph has 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 (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

- 10 (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.

ITA 2007

- 11 ITA 2007 is amended as follows.
- 12 (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.
- 13 (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.
- 14 (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 –
- “(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).
- (6) The amendments made by this paragraph have effect in relation to the tax year 2017-18 and subsequent tax years.
 This is subject to paragraphs 15 and 16.
- 15 (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 14(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.
- 16 (1) This paragraph applies in a case where section 10A of TCGA 1992 as substituted by paragraph 119 of Schedule 45 to 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 14(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 16(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.

- 17 (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.

PART 2

PROTECTION OF OVERSEAS TRUSTS

TCGA 1992

- 18 In Schedule 5 to TCGA 1992 (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, and
 - (e) no property or income is provided directly or indirectly for the purposes of the settlement by the settlor, or the trustees of any other settlement of which the settlor is a beneficiary or settlor, at a time in the period –
 - (i) beginning with the later of the creation of the settlement and the start of 6 April 2017, and
 - (ii) ending with the end of the particular tax year,
 when the settlor is 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 B in that section being met.
- (2) For the purposes of sub-paragraph (1)(e), ignore –
- (a) property or income provided under a transaction entered into at arm’s length,
 - (b) property or income provided in pursuance of a liability incurred by any person before 6 April 2017, and
 - (c) where the settlement’s expenses relating to taxation and administration for a tax year exceed its income for that year, property or income provided towards meeting that

excess if the value of any such property and income is not greater than the amount of the excess.”

19 (1) In TCGA 1992, after section 87C insert –

“87D Sections 87 and 87A: disregard of capital payments to non-residents

- (1) For the purposes of sections 87 and 87A as they apply in relation to a settlement, no account is to be taken of a capital payment (or a part of a capital payment) within subsection (2), but this is subject to subsection (3) and section 87E.
- (2) A capital payment is within this subsection if (and to the extent that) it is in a tax year received (or treated as received) from the trustees of the settlement by a beneficiary who at all times in that year is not resident in the United Kingdom, but this is subject to section 87F.
- (3) Subsection (1) does not apply in relation to a capital payment (or a part of a capital payment) if –
 - (a) the recipient beneficiary is a close member of the settlor’s family (see section 87H),
 - (b) the payment (or part) is received on or after 6 April 2017, and
 - (c) the settlor is resident in the United Kingdom in the tax year in which the payment (or part) is received.

87E Sections 87 and 87A: disregarded payments to temporary non-resident

- (1) If –
 - (a) as a result of section 87D, no account is taken of a capital payment (or a part of a capital payment) for the purposes of sections 87 and 87A,
 - (b) the recipient beneficiary is an individual who is temporarily non-resident, and
 - (c) the payment (or part) is received in the beneficiary’s temporary period of non-residence,the payment (or part) is treated for the purposes of sections 87 and 87A as received (by the beneficiary) in the beneficiary’s period of return, and account is to be taken of it accordingly for those purposes.
- (2) Part 4 of Schedule 45 to FA 2013 explains –
 - (a) when an individual is to be regarded as “temporarily non-resident”, and
 - (b) what “the temporary period of residence” and “the period of return” mean.

87F Sections 87 and 87A: disregarded payments in year settlement ends

- (1) This section applies in relation to a settlement if –
 - (a) in a particular tax year, the settlement ceases to exist,
 - (b) two or more beneficiaries (“the recipients”) in the year receive (or are treated as receiving) capital payments from the trustees, and
 - (c) at least one of the recipients is, and at least one is not, a non-resident beneficiary.

- (2) Those capital payments, so far as received by such of the recipients as are non-resident beneficiaries, are not within section 87D(2).
- (3) In this section “non-resident beneficiary” means a beneficiary who at all times in the year is not resident in the United Kingdom.

87G Cases where settlor liable for section 87 charge on closely-related beneficiary

- (1) Subsection (2) applies if in the case of a settlement—
 - (a) chargeable gains are treated by section 87 or 89(2) as accruing to an individual (“the beneficiary”) in a tax year,
 - (b) the beneficiary is a close member of the settlor’s family (see section 87H) at any time in the year,
 - (c) the settlor is resident in the United Kingdom at any time in the year, and
 - (d) either—
 - (i) the beneficiary is, at all times in the year, not resident in the United Kingdom, or
 - (ii) section 809B, 809D or 809E of ITA 2007 (remittance basis) apply to the beneficiary for the year and none of the gains is remitted to the United Kingdom in the year.
- (2) The settlor is chargeable to capital gains tax on the gains as if they were chargeable gains accruing to the settlor in the year.
- (3) Where any tax is chargeable on the settlor as a result of subsection (2) and is paid, the settlor is entitled to recover the amount of the tax from the beneficiary or from any person who is a trustee of the settlement.
- (4) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
 - (a) the amount of the gains concerned, and
 - (b) the amount of tax paid,and any such certificate is conclusive evidence of the facts stated in it.

87H Meaning of “close member of the settlor’s family”

- (1) For the purposes of sections 87D, 87G and 87I as they apply in relation to a settlement, a person is a close member of the settlor’s family if the person is—
 - (a) the settlor’s spouse or civil partner, or
 - (b) a child of the settlor, or of a person within paragraph (a), if the child has not reached the age of 18.
- (2) For the purposes of subsection (1)—
 - (a) two people living together as if they were spouses of each other are treated as if they were spouses of 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.

87I Non-UK resident settlements: attribution of gains to onward gifts

- (1) Subsection (2) applies if in the case of a settlement –
 - (a) a capital payment (“the original payment”) is received in a tax year by a person (“the original beneficiary”) in a tax year from the trustees of the settlement,
 - (b) there is no time in that year when the trustees are resident in the United Kingdom,
 - (c) either –
 - (i) the original beneficiary is not a close member of the settlor’s family at any time in that year, or
 - (ii) although there is a time in that year when the original beneficiary is a close member of the settlor’s family, the settlor is not resident in the United Kingdom in that year,
 - (d) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”) –
 - (i) after the original payment is received but before the end of 3 years beginning with the day containing the start time, or
 - (ii) before the original payment is received and, it is reasonable to assume, in anticipation of receiving the original payment,
 - (e) the subsequent recipient is resident in the United Kingdom in the tax year in which the onward payment is received by the subsequent recipient, and
 - (f) if a particular tax year is a tax year contained in the period beginning with the start of the tax year in which the original payment is received, and ending with the end of the tax year in which the onward payment is received by the subsequent beneficiary, either –
 - (i) the original beneficiary is, at all times in the particular year, not resident in the United Kingdom, or
 - (ii) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the original beneficiary for the particular tax year.
- (2) Sections 87, 87A and 89 and subsection (1)(a) have effect –
 - (a) as if the subsequent recipient were a beneficiary of the settlement who has received a capital payment from the trustees of the settlement –
 - (i) at the time the onward payment is made, or
 - (ii) if earlier, in the tax year in which the settlement ceases to exist, and
 - (b) as if the amount of that capital payment were the same as –
 - (i) the amount of the onward payment, or
 - (ii) if less, the amount of the original payment reduced by the tax-producing amount of any relevant payment,and the other provisions of this Part have effect accordingly.
- (3) For the purposes of subsection (1)(d) –

- (a) if the original payment is a capital payment other than one that is treated as received because of the operation of subsection (2), “the start time” is the time the original payment is received, and
 - (b) if the original payment is a capital payment that is treated as received because of the operation of subsection (2) on a previous occasion, “the start time” is the time given as the start time by this subsection on that occasion.
- (4) If the onward payment is made as part of any arrangements that amount in substance to arrangements for the whole or part of the amount of a capital payment actually made by the trustees to be received ultimately by a beneficiary who is not the recipient of that payment (which may be a payment other than the original payment), subsection (1)(d) has effect as if “but before the end of 3 years beginning with the day containing the start time” were omitted.
- (5) In subsections (2)(b)(ii) and (6) “relevant payment” means –
- (a) a gift made –
 - (i) by the subsequent recipient,
 - (ii) after the original payment is received, and
 - (iii) before the onward payment is made, or
 - (b) where chargeable gains are treated by section 87 or 89 as accruing to the original beneficiary as a result of the receipt of the original payment, any amount of those gains remitted to the United Kingdom in a tax year for which section 809B, 809D or 809E of ITA 2007 applies to the original beneficiary.
- (6) For the purposes of subsection (2)(b)(ii), the “tax-producing amount” of a relevant payment is –
- (a) if the relevant payment is within subsection (5)(a), the amount (if any) on which a person is chargeable to capital gains tax as a result of the operation of subsection (2) by reference to the making of that relevant payment, and
 - (b) if the relevant payment is within subsection (5)(b), the amount remitted.
- (7) In this section –
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
 - “gift” includes any benefit, and
 - “make”, in relation to a gift that is a benefit, means confer.

87J Sections 87 and 87A: disregard of payments to migrating beneficiary

- (1) For the purposes of section 87 and 87A as they apply in relation to a settlement for a particular tax year, no account is to be taken of a capital payment (or part of a capital payment) within subsection (2).
- (2) A capital payment is within this subsection –
 - (a) if it is received by a beneficiary of the settlement in or before the particular tax year,
 - (b) if the beneficiary is resident in the United Kingdom in the tax year in which it is received,

- (c) if the beneficiary is not resident in the United Kingdom in the particular tax year, and
 - (d) so far as it has not been matched (under section 87A as it applies for tax years before the particular tax year) with—
 - (i) the section 2(2) amount for any tax year before the particular tax year, but not earlier than the tax year 2017-18, in which the beneficiary is resident in the United Kingdom, or
 - (ii) the section 2(2) amount for any earlier tax year.”
- (2) In section 87B(1) (when remittance basis applies to gains treated as accruing by section 87) –
- (a) omit the “and” at the end of paragraph (a),
 - (b) in paragraph (b) (which refers to sections 809B, 809D and 809E of ITA 2007), after “809E” insert “of ITA 2007”, and
 - (c) after paragraph (b) insert “, and
 - (ba) the gains are not treated as accruing to the settlor by section 87G.”
- (3) In section 89(3) of TCGA 1992 (application of sections 87 to 87C in relation to migrant settlements), for “87C” substitute “87I”.
- (4) The new sections 87D and 87E have effect –
- (a) except as provided by the new section 87D(3), in relation to payments received in the tax year 2017-18 or a later tax year, and
 - (b) in the tax year 2017-18 and later tax years, also in relation to payments received before the tax year 2017-18.
- (5) The new section 87F has effect in relation to payments received in the tax year 2017-18 or a later tax year.
- (6) The new section 87G has effect in relation to chargeable gains treated as accruing in or after the tax year 2017-18 as a result of capital payments received, or treated as received, in or after that tax year.
- (7) The new section 87H, and the amendments made in sections 87B and 89, have effect for the tax year 2017-18 and later tax years.
- (8) The new section 87I has effect in relation to onward payments made on or after 6 April 2017, and does so even in cases where the original payment is received (or treated as received) before that date.
- (9) The new section 87J has effect where the particular tax year is the tax year 2017-18 or a later tax year.

ITTOIA 2005

- 20 Chapter 5 of Part 5 of ITTOIA 2005 (settlements) is amended as follows.
- 21 In section 619(1) (list of provisions in the Chapter charging tax) –
- (a) omit the “and” at the end of paragraph (c), and
 - (b) after paragraph (d) insert “, and
 - (e) benefits whose value is treated as income of the settlor or a close family member as a result of section 643A (benefits provided out of protected foreign-source income).”

- 22 In section 621 (income charged under the Chapter), for “income and capital sums” substitute “income, capital sums and benefits”.
- 23 In section 622 (person liable), at the end insert “, but this is subject to section 643A.”
- 24 In section 624 (income under a settlement where settlor retains an interest), in subsection (3) (which lists provisions containing exceptions) –
- (a) omit the “and” at the end of the entry for section 627, and
 - (b) after the entry for section 628 insert “, and
section 628A (exception for protected foreign-source income).”
- 25 After section 628 insert –

“628A Exception for protected foreign-source income

- (1) The rule in section 624(1) does not apply to income which arises under a settlement if it is protected foreign-source income for a tax year.
- (2) For this purpose, income arising under a settlement in a tax year is “protected foreign-source income” for the year if –
 - (a) it would be relevant foreign income if it were income of a UK resident individual,
 - (b) it is from property originating from the settlor (see section 645),
 - (c) when the settlement is created, the settlor is neither –
 - (i) domiciled in the United Kingdom, nor
 - (ii) regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007,
 - (d) the settlor –
 - (i) is not domiciled in the United Kingdom at any time in the year, and
 - (ii) is not at any time in the year regarded for the purposes of section 809B(1)(b) 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,
 - (e) the trustees of the settlement are not UK resident for the year, and
 - (f) the following condition is met.
- (3) The condition is that no property or income is provided directly or indirectly for the purposes of the settlement by the settlor, or by the trustees of any other settlement of which the settlor is a beneficiary or settlor, at a time in the period –
 - (a) beginning with the later of the creation of the settlement and the start of 6 April 2017, and
 - (b) ending with the end of the tax year,
 when the settlor is domiciled in the United Kingdom or regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect.

- (4) For the purposes of subsection (3), ignore –
- (a) property or income provided under a transaction entered into at arm’s length,
 - (b) property or income provided in pursuance of a liability incurred by any person before 6 April 2017, and
 - (c) where the settlement’s expenses relating to taxation and administration for a tax year exceed its income for that year, property or income provided towards meeting that excess if the value of any such property and income is not greater than the amount of the excess.”
- 26 (1) In section 629(5) (list of exceptions), at the end insert “or section 630A (exception for protected foreign-source income).”
- (2) After section 630 insert –
- “630A Exception for protected foreign-source income**
- (1) The rule in section 629(1) does not apply to income which arises under a settlement if it is protected foreign-source income for a tax year.
 - (2) Subsections (2) to (4) of section 628A have effect also for this purpose.”
- 27 (1) Section 635 (capital sums treated under section 633 as income: meaning of “available income”) is amended as follows.
- (2) In subsection (2), before “income” insert “unprotected”.
- (3) After subsection (4) insert –
- “(5) In subsection (2) “unprotected income” means income which is not protected foreign-source income, and section 628A(2) to (4) (meaning of “protected foreign-source income”) apply also for this purpose.”
- 28 In section 636 (meaning in section 635 of “undistributed”) –
- (a) in subsection (1), before “income”, in both places it occurs, insert “unprotected”, and
 - (b) in subsection (2), after “633” insert “and otherwise than under section 643A”.
- 29 After section 643 insert –

“Benefits provided out of protected foreign-source income

643A Benefits for close family members

- (1) Subsection (2) applies if –
 - (a) the trustees of a settlement are non-UK resident in a tax year,
 - (b) the trustees provide, in the year, a benefit to an individual who is a close member of the settlor’s family at any time in the year, and
 - (c) one of the following conditions is met –

Condition A is that the individual is not UK resident at any time in the year,

Condition B is that section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the year and none of the benefit is remitted in the year, and

Condition C is that neither of Conditions A and B is met and that, in addition, the individual is not liable to income tax on the amount or value of the benefit otherwise than under this section.

- (2) An amount equal to so much of the amount or value of the benefit as does not exceed the available protected income up to the end of the year is treated for income tax purposes as income of the individual for the year, subject to subsection (3).
- (3) If—
- (a) either—
 - (i) the individual is not UK resident at any time in the year, or
 - (ii) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the year and none of the benefit is remitted in the year, and
 - (b) the settlor is UK resident for the year, and
 - (c) there is no time in the year when the settlor is domiciled in the United Kingdom and no time in the year when the settlor is regarded for the purposes of section 809B(1)(b) 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,
- subsection (2) does not apply in relation to the benefit, but the amount that would have been treated as income under subsection (2) is instead treated for income tax purposes as income of the settlor for the year.
- (4) Subsections (2) and (3) do not apply to so much of the benefit as is taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad).
- (5) Where, in the case of a benefit, the amount or value of the benefit exceeds the amount treated as a person's income for a tax year under subsections (2) and (3), those subsections apply also for the following tax year in relation to the benefit, but as if the reference in subsection (2) to the amount or value of the benefit were a reference to the excess.
- (6) Where any tax for which the settlor is liable as a result of subsection (3) is paid, the settlor is entitled to recover the amount of the tax from the individual concerned or from any person who is a trustee of the settlement.
- (7) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
- (a) the amount of the income concerned, and
 - (b) the amount of tax paid,
- and any such certificate is conclusive evidence of the facts stated in it.

- (8) For the purposes of this section, a person is a close member of the family of the settlor of a settlement if the person is –
- (a) the settlor’s spouse or civil partner, or
 - (b) a child of the settlor, or of a person within paragraph (a), if the child has not reached the age of 18.
- (9) For the purposes of subsection (8) –
- (a) two people living together as if they were spouses of each other are treated as if they were spouses of 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.
- (10) For the purposes of subsection (2), there is available protected income up to the end of a tax year if –
- $$(PFSI - B - TOAA - X) > TI$$
- and, if there is available protected income up to the end of a tax year, its amount is given by –
- $$PFSI - B - TOAA - X - TI$$
- (11) In subsection (10) and this subsection –
- PFSI is the total amount of any protected foreign-source income arising to the settlement in the year, or in any earlier tax year, that would have been treated under section 624 or 629 as income of the settlor but for (as the case may be) section 628A or 630A,
- B is so much of PFSI as has been paid in the year, or in an earlier tax year, as income to beneficiaries other than close members of the settlor’s family,
- TOAA is so much of PFSI as is not part of B and has, in respect of benefits provided by the trustees in the year or in an earlier tax year, been taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad),
- X is so much of PFSI as has been applied by the trustees of the settlement in meeting trust expenses properly met out of PFSI, and
- TI is the total of all amounts which, in respect of other benefits provided by the trustees in the year or in an earlier tax year, have been treated as income under this section.
- (12) In subsection (11), in the definition of PFSI, “protected foreign-source income” has the meaning given by section 628A(2) to (4).

643B Attribution of deemed income to recipient of onward gift

- (1) Subsection (2) applies if –
- (a) an amount is treated under section 643A as income of an individual (“the original beneficiary”) for a tax year (“the initial year”),
 - (b) there is no time in the initial year when the trustees of the settlement concerned are resident in the United Kingdom,
 - (c) either –

- (i) the original beneficiary is not at any time in the initial year a close member of the family of the settlor of the settlement, or
 - (ii) although there is a time in the initial year when the original beneficiary is a close member of the settlor's family, the settlor is not resident in the United Kingdom in the initial year,
 - (d) the original beneficiary makes, directly or indirectly, a gift ("the onward payment") to a person ("the subsequent recipient") in the starting year or in any of the three following tax years,
 - (e) the subsequent recipient is resident in the United Kingdom in the tax year in which the onward payment is received by the subsequent recipient, and
 - (f) where a particular tax year is a tax year contained in the period beginning with the start of the initial tax year, and ending with the end of the tax year in which the onward payment is received by the subsequent recipient, either –
 - (i) the original beneficiary is, at all times in the particular tax year, not resident in the United Kingdom, or
 - (ii) section 809B, 809D or 809E (remittance basis) applies to the original beneficiary for the particular tax year.
- (2) Section 643A and subsection (1)(a) have effect –
- (a) as if an amount of protected income of the settlement were paid to the subsequent recipient in the tax year in which the onward payment is made, and
 - (b) as if the amount of that protected income were the same as –
 - (i) the amount of the onward payment, or
 - (ii) if less, the amount of the income mentioned in subsection (1)(a) reduced by the tax-producing amount of any relevant payment,
 and the other provisions relating to the charge to tax under section 643A have effect accordingly.
- (3) For the purposes of subsection (1)(d) –
- (a) if the income mentioned in subsection (1)(a) is treated as arising otherwise than because of the operation of subsection (2), "the starting year" is the tax year for which that income is treated as arising, and
 - (b) if the income mentioned in subsection (1)(a) is treated as arising because of the operation of subsection (2) on a previous occasion, "the starting year" is the tax year given as the starting year by this subsection on that occasion.
- (4) If the onward payment is made as part of any arrangements that amount in substance to arrangements for the whole or part of a benefit actually provided by the trustees of the settlement to be received ultimately by a beneficiary who is not the recipient of that benefit, subsection (1)(d) has effect as if for "of the three following tax years" there were substituted "any later tax year".
- (5) In subsection (2)(b)(ii) "relevant payment" means a gift made –
- (a) by the subsequent recipient,

- (b) in or after the initial year, and
 - (c) before the onward payment is made,
- and its “tax-producing amount” is the amount (if any) of income tax for which a person is liable as a result of the operation of subsection (2) by reference to the making of the relevant payment.

- (6) In this section –
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
 - “close member”, in relation to the family of the settlor of a settlement, is to be read in accordance with section 643A(8) and (9),
 - “gift” includes any benefit,
 - “make”, in relation to a gift that is a benefit, means confer, and
 - “protected income” means income forming part of PFSI as defined by section 643A(11).”

- 30 In section 645(1) (meaning of property originating from the settlor), for “section” substitute “sections 628A and”.

ITA 2007

- 31 Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) is amended as follows.

- 32 In section 721 (income of a person abroad that is treated as arising to a UK resident individual), for subsection (3B) (amount treated as arising) substitute –

- “(3B) The amount of the income treated as arising under subsection (1) is (subject to sections 724 and 725) given by the following rules –

Rule 1

The amount is equal to the amount of the income of the person abroad if the individual –

- (a) is domiciled in the United Kingdom at any time in the tax year, or
- (b) is at any time in the tax year regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.

Rule 2

In any other case, the amount is equal to so much of the income of the person abroad as is not protected foreign-source income (see section 721A).”

- 33 After section 721 insert –

“721A Meaning of “protected foreign-source income” in section 721

- (1) This section has effect for the purposes of rule 2 of section 721(3B) (cases where the individual: is not UK domiciled; and is not a non-UK domiciled person who is regarded as UK domiciled as a result of Condition A in section 835BA).

-
- (2) Income of the person abroad is “protected foreign-source income” if –
- (a) it would be relevant foreign income if it were the individual’s,
 - (b) it is from property originating from the individual,
 - (c) the person abroad is the trustees of a settlement,
 - (d) the trustees are non-UK resident for the tax year,
 - (e) when the settlement is created, the individual is neither –
 - (i) domiciled in the United Kingdom, nor
 - (ii) regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA, and
 - (f) no property or income is provided directly or indirectly for the purposes of the settlement by the individual, or by the trustees of any other settlement of which the individual is a beneficiary or settlor, at a time in the period –
 - (i) beginning with the later of the creation of the settlement and the start of 6 April 2017, and
 - (ii) ending with the end of the tax year,when the individual is domiciled in the United Kingdom or regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect.
- (3) Income of the person abroad is “protected foreign-source income” if –
- (a) it would be relevant foreign income if it were the individual’s,
 - (b) it is from property originating from the individual,
 - (c) the person abroad is a company,
 - (d) the trustees of a settlement –
 - (i) are participators in the person abroad, or
 - (ii) are participators in the first in a chain of two or more companies where the last company in the chain is the person abroad and where each company in the chain (except the last) is a participator in the next company in the chain,
 - (e) the income is retained by the person abroad but, if not retained, would be paid out in respect of the trustees’ direct or indirect participation in the person abroad,
 - (f) the trustees are not UK resident for the tax year,
 - (g) when the settlement is created, the individual is neither –
 - (i) domiciled in the United Kingdom, nor
 - (ii) regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA, and
 - (h) no property or income is provided directly or indirectly for the purposes of the settlement by the individual, or by the trustees of any other settlement of which the individual is a beneficiary or settlor, at a time in the period –

- (i) beginning with the later of the creation of the settlement and the start of 6 April 2017, and
- (ii) ending with the end of the tax year,
 when the individual is domiciled in the United Kingdom or regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect.
- (4) For the purposes of subsections (2)(f) and (3)(h), ignore –
- property or income provided under a transaction entered into at arm’s length,
 - property or income provided in pursuance of a liability incurred by any person before 6 April 2017, and
 - where the settlement’s expenses relating to taxation and administration for a tax year exceed its income for that year, property or income provided towards meeting that excess if the value of any such property and income is not greater than the amount of the excess.
- (5) Section 645(1), (3) and (4) of ITTOIA 2005 (meaning of property originating from a settlor) have effect for the purposes of subsections (2)(b) and (3)(b) as for the purposes of section 644 of that Act, but as if references to the settlor concerned were references to the individual.
- (6) In this section “participator”, in relation to a company, has the meaning given by section 454 of CTA 2010.”
- 34 In section 728 (income of a person abroad that is treated as arising to a UK resident individual), for subsection (1A) (amount treated as arising) substitute –
- “(1A) The amount of the income treated as arising under subsection (1) is (subject to subsection (2)) given by the following rules –
- Rule 1*
- The amount is equal to the amount of the income of the person abroad if the individual –
- is domiciled in the United Kingdom at any time in the tax year, or
 - is at any time in the tax year regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.
- Rule 2*
- In any other case, the amount is equal to so much of the income of the person abroad as is not protected foreign-source income (see section 729A).”
- 35 After section 729 insert –
- “729A Meaning of “protected foreign-source income” in section 728**
- (1) This section has effect for the purposes of rule 2 of section 728(1A) (cases where the individual: is not UK domiciled; and is not a non-UK domiciled person who is regarded as UK domiciled as a result of condition A in section 835BA).

-
- (2) Income of the person abroad is “protected foreign-source income” if –
- (a) it would be relevant foreign income if it were the individual’s,
 - (b) it is from property originating from the individual,
 - (c) the person abroad is the trustees of a settlement,
 - (d) the trustees are non-UK resident for the tax year,
 - (e) when the settlement is created, the individual is neither –
 - (i) domiciled in the United Kingdom, nor
 - (ii) regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA, and
 - (f) no property or income is provided directly or indirectly for the purposes of the settlement by the individual, or by the trustees of any other settlement of which the individual is a beneficiary or settlor, at a time in the period –
 - (i) beginning with the later of the creation of the settlement and the start of 6 April 2017, and
 - (ii) ending with the end of the tax year,when the individual is domiciled in the United Kingdom or regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect.
- (3) Income of the person abroad is “protected foreign-source income” if –
- (a) it would be relevant foreign income if it were the individual’s,
 - (b) it is from property originating from the individual,
 - (c) the person abroad is a company,
 - (d) the trustees of a settlement –
 - (i) are participators in the person abroad, or
 - (ii) are participators in the first in a chain of two or more companies where the last company in the chain is the person abroad and where each company in the chain (except the last) is a participator in the next company in the chain,
 - (e) the income is retained by the person abroad but, if not retained, would be paid out in respect of the trustees’ direct or indirect participation in the person abroad,
 - (f) the trustees are not UK resident for the tax year,
 - (g) when the settlement is created, the individual is neither –
 - (i) domiciled in the United Kingdom, nor
 - (ii) regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA, and
 - (h) no property or income is provided directly or indirectly for the purposes of the settlement by the individual, or by the trustees of any other settlement of which the individual is a beneficiary or settlor, at a time in the period –

- (i) beginning with the later of the creation of the settlement and the start of 6 April 2017, and
 - (ii) ending with the end of the tax year,

when the individual is domiciled in the United Kingdom or regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect.
 - (4) For the purposes of subsections (2)(f) and (3)(h), ignore –
 - (a) property or income provided under a transaction entered into at arm’s length,
 - (b) property or income provided in pursuance of a liability incurred by any person before 6 April 2017, and
 - (c) where the settlement’s expenses relating to taxation and administration for a tax year exceed its income for that year, property or income provided towards meeting that excess if the value of any such property and income is not greater than the amount of the excess.
 - (5) Section 645(1), (3) and (4) of ITTOIA 2005 (meaning of property originating from a settlor) have effect for the purposes of subsections (2)(b) and (3)(b) as for the purposes of section 644 of that Act, but as if references to the settlor concerned were references to the individual.
 - (6) In this section “participator”, in relation to a company, has the meaning given by section 454 of CTA 2010.”
- 36 (1) Section 731 (charge to tax on income treated as arising under section 732) is amended as follows.
- (2) In subsection (1), for “non-transferors” substitute “individuals”.
 - (3) After subsection (1) insert –
 - “(1A) But where the individual is non-UK resident for the tax year, there is a charge to tax under this section on any income only if section 733A provides for the liability for the tax under this section on that income to be the liability of someone other than the individual.”
 - (4) In subsection (3) (person liable for tax is person to whom income is treated as arising), at the end insert “, but this is subject to section 733A.”
- 37 (1) Section 732 (when income is treated as arising for the purposes of the charge under section 731) is amended in accordance with sub-paragraphs (2) and (3).
- (2) In subsection (1) (cases in which tax can be charged under section 731) –
 - (a) in paragraph (b), for “who is UK resident for a tax year receives a benefit in that tax year” substitute “receives a benefit in a tax year”, and
 - (b) omit paragraph (d) (but not the “and” at the end).
 - (3) In the heading, for “Non-transferors” substitute “Individuals”.
 - (4) In section 733(1) (income charged under section 731), in the first sentence of Step 2, at the end insert “, except that the deduction as respects an earlier year for which the individual was non-UK resident is to be limited to income

on which the tax under section 731 was as a result of section 733A the liability of someone other than the individual.”

38 After section 733 insert –

“733A Settlor liable for section 731 charge on closely-related beneficiary

- (1) Subsection (2) applies if –
 - (a) an amount of income is treated as arising to an individual under section 732 for a tax year,
 - (b) under section 735A (if it applied also for this purpose) that amount would be matched with an amount of relevant income that is protected foreign-source income for the purposes of rule 2 of section 721(3B) or 728(1A),
 - (c) the individual is in the year a close member (see subsection (5)) of the family of the settlor of the settlement concerned,
 - (d) there is no time in the year when the trustees of the settlement are resident in the United Kingdom,
 - (e) there is a time in the year when the settlor is resident in the United Kingdom,
 - (f) there is no time in the year when the settlor is domiciled in the United Kingdom and no time in the year when the settlor is regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met, and
 - (g) either –
 - (i) section 809B, 809D or 809E (remittance basis) applies to the individual for the year and none of the benefits mentioned in Step 1 in section 733(1) is remitted in the year, or
 - (ii) the individual is not resident in the United Kingdom at any time in the year.
- (2) The settlor is liable for the tax charged under section 731 on the amount mentioned in subsection (1)(a) of this section as if that amount were income arising to the settlor in the year.
- (3) Where any tax for which the settlor is liable as a result of subsection (2) is paid, the settlor is entitled to recover the amount of the tax from the individual or from any person who is a trustee of the settlement.
- (4) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying –
 - (a) the amount of the income concerned, and
 - (b) the amount of tax paid,
 and any such certificate is conclusive evidence of the facts stated in it.
- (5) For the purposes of subsection (1)(c), a person is a close member of the family of the settlor if the person is –
 - (a) the settlor’s spouse or civil partner, or
 - (b) a child of the settlor, or of a person within paragraph (a), if the child has not reached the age of 18.
- (6) For the purposes of subsection (5) –

- (a) two people living together as if they were spouses of each other are treated as if they were spouses of 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.

733B Attribution of deemed income to recipient of onward gift

- (1) Subsection (2) applies if –
 - (a) an amount of income is treated as arising under section 732 to an individual (“the original beneficiary”) in a tax year (“the initial year”),
 - (b) under section 735A (if it applied for this purpose) that amount would be matched with an amount of relevant income that is protected foreign-source income for the purposes of rule 2 of section 721(3B) or 728(1A),
 - (c) there is no time in the initial year when the trustees of the settlement concerned are resident in the United Kingdom,
 - (d) either –
 - (i) the original beneficiary is not at any time in the initial year a close member of the family of the settlor of the settlement, or
 - (ii) although there is a time in the initial year when the original beneficiary is a close member of the settlor’s family, the settlor is not resident in the United Kingdom in the initial year,
 - (e) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”) in the starting year or in any of the three following tax years,
 - (f) the subsequent recipient is resident in the United Kingdom in the tax year in which the onward payment is received by the subsequent recipient, and
 - (g) where a particular tax year is a tax year contained in the period beginning with the start of the initial tax year, and ending with the end of the tax year in which the onward payment is received by the subsequent recipient, either –
 - (i) the original beneficiary is, at all times in the particular tax year, not resident in the United Kingdom, or
 - (ii) section 809B, 809D or 809E (remittance basis) applies to the original beneficiary for the particular tax year.
- (2) Section 731 and subsection (1)(a) have effect –
 - (a) as if the subsequent recipient were an individual to whom income is treated as arising under section 732 for the tax year in which the onward payment is made, and
 - (b) as if the amount of that income were the same as –
 - (i) the amount of the onward payment, or
 - (ii) if less, the amount of the income mentioned in subsection (1)(a) reduced by the tax-producing amount of any relevant payment,
 and subsection (1)(b) has effect as if under section 735A that amount of that income would be matched with an amount of relevant income

that is protected foreign-source income for the purposes of rule 2 of section 721(3B) or 728(1A), and the other provisions relating to the charge to tax under section 731 have effect accordingly.

- (3) For the purposes of subsection (1)(e) –
- (a) if the income mentioned in subsection (1)(a) is treated as arising otherwise than because of the operation of subsection (2), “the starting year” is the tax year for which that income is treated as arising, and
 - (b) if the income mentioned in subsection (1)(a) is treated as arising because of the operation of subsection (2) on a previous occasion, “the starting year” is the tax year given as the starting year by this subsection on that occasion.
- (4) If the onward payment is made as part of any arrangements that amount in substance to arrangements for the whole or part of a benefit actually provided by the trustees of the settlement to be received ultimately by a beneficiary who is not the recipient of that benefit, subsection (1)(e) has effect as if for “of the three following tax years” there were substituted “any later tax year”.
- (5) In subsection (2)(b)(ii) “relevant payment” means a gift made –
- (a) by the subsequent recipient,
 - (b) in or after the initial year, and
 - (c) before the onward payment is made,
- and its “tax-producing amount” is the amount (if any) of income tax for which a person is liable as a result of the operation of subsection (2) by reference to the making of the relevant payment.
- (6) In this section –
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
 - “close member”, in relation to the family of the settlor of a settlement, is to be read in accordance with section 733A(5) and (6),
 - “gift” includes any benefit, and
 - “make”, in relation to a gift that is a benefit, means confer.”

Commencement of amendments in ITTOIA 2005 and ITA 2007

- 39 (1) Subject and according as follows, the amendments made by paragraphs 20 to 38 have effect for the tax year 2017-18 and subsequent tax years.
- (2) None of the references in new section 643A(11) to an earlier tax year includes any tax year earlier than the tax year 2017-18.
- (3) [...].

FA 2008

- 40 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.”

PART 3

CAPITAL GAINS TAX REBASING

- 41 (1) This paragraph applies to the disposal of an asset by an individual (“P”) where –
- (a) the asset was held by P on 5 April 2017,
 - (b) the disposal is made on or after 6 April 2017,
 - (c) the asset was not situated in the United Kingdom at any time in the relevant period, and
 - (d) P is a qualifying individual.
- (2) The relevant period is the period which –
- (a) begins with 16 March 2016 or, if later, the date on which P acquired the asset, and
 - (b) ends with 5 April 2017.
- (3) P is a qualifying individual if –
- (a) section 809H of ITA 2007 (claim for remittance basis by long-term UK resident: charge) applied in relation to P for any tax year before the tax year 2017-18,
 - (b) P is not an individual –
 - (i) who was born in the United Kingdom, and
 - (ii) whose domicile of origin was in the United Kingdom,
 - (c) P was not domiciled in the United Kingdom at any time in a relevant tax year, and
 - (d) P met condition B in section 835BA of ITA 2007 in relation to each relevant tax year.
- (4) The relevant tax years are –
- (a) the tax year 2017-18, and
 - (b) if the disposal was made after that tax year, all subsequent tax years up to and including that in which the disposal was made.
- (5) In computing, for the purpose of TCGA 1992, the gain or loss accruing on the disposal, it is to be assumed that P acquired the asset on 5 April 2017 for a consideration equal to its market value on that date.
- (6) Where under section 127 of TCGA 1992 (including that section as applied by sections 132 and 135 of that Act) an original and a new holding of shares or

- other securities are treated as the same asset, the condition in sub-paragraph (1)(c) applies to both the original and the new holding.
- (7) Words and expressions used in this paragraph and in TCGA 1992 are to be construed in accordance with that Act.
- 42 (1) This paragraph applies for the purposes of paragraph 41(1)(c) in the case of an asset which is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) of ITA 2007 applies.
- (2) The asset is to be regarded as not situated in the United Kingdom at any time in the relevant period –
- (a) if the asset is, under section 809X of ITA 2007, treated as not remitted to the United Kingdom at the time it is brought to, or received or used in, the United Kingdom, and
 - (b) the asset is not under section 809Y(1) of that Act treated as remitted to the United Kingdom at any time during the relevant period.
- 43 (1) An individual may make an election for paragraph 41 not to apply to a disposal made by the individual.
- (2) Sections 42 and 43 of TMA 1970 (procedure and time limit for claims), except section 42(1A) of that Act, apply in relation to an election under this paragraph as they apply in relation to a claim for relief.
- (3) An election under this paragraph is irrevocable.
- (4) All such adjustments are to be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under this paragraph.

PART 4

CLEANSING OF MIXED FUNDS

- 44 (1) This paragraph applies for the purposes of the application of section 809Q(3) of ITA 2007 in relation to an individual (“P”).
- (2) Section 809R(4) of ITA 2007 does not apply to an offshore transfer from a mixed fund where –
- (a) the transfer is made in the tax year 2017-18 or the tax year 2018-19,
 - (b) the transfer is a transfer of money,
 - (c) the mixed fund from which the transfer is made is an account (account A) and the transfer is made to another account (account B),
 - (d) the transfer is nominated by P for the purposes of this sub-paragraph,
 - (e) at the time of the nomination no other transfer from account A to account B has been so nominated, and
 - (f) P is a qualifying individual.
- (3) P is a qualifying individual if –
- (a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applied in relation to P for any tax year before the tax year 2017-18, and
 - (b) P is not an individual who –
 - (i) was born in the United Kingdom, and
 - (ii) whose domicile of origin was in the United Kingdom.

- (4) An offshore transfer to which sub-paragraph (2) applies is to be treated as containing such amount of such kind or kinds of income and capital in the mixed fund immediately before the transfer as may be specified in the nomination under sub-paragraph (2)(d).
- (5) An amount of a kind of income or capital specified under sub-paragraph (4) may not exceed the amount of that kind which is in the mixed fund immediately before the transfer.
- (6) In this paragraph “mixed fund” and “offshore transfer” have the same meanings as in section 809R(4) of ITA 2007.