
Changes to legislation: Finance Act 2008, Cross Heading: Chargeable gains is up to date with all changes known to be in force on or before 15 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 7

REMITTANCE BASIS

PART 1

MAIN PROVISIONS

Chargeable gains

- 55 TCGA 1992 is amended as follows.
- 56 (1) Section 3 (annual exempt amount) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Subsection (1) does not apply to an individual for a tax year if section 809B of ITA 2007 (claim for remittance basis to apply) applies to the individual for that year.”
- (3) In subsection (5C)—
- (a) after paragraph (a) insert—
- “(aa) if section 16ZB (certain chargeable gains charged on remittance basis) applies for that year, deducting the amount of the relevant gains (within the meaning of that section),”
- and
- (b) in paragraph (b), after “deducting” insert “ (from the amount mentioned in paragraph (a), as reduced under paragraph (aa)) ” .
- 57 In section 3A (reporting limits), after subsection (5) insert—
- “(5A) Subsection (1) does not apply to an individual for a tax year if—
- (a) section 809B of ITA 2007 (claim for remittance basis to apply), or
- (b) section 16ZB below (certain chargeable gains charged on remittance basis),
- applies to the individual for that year.”
- 58 In section 9 (residence etc), omit subsection (2).
- 59 In section 10A (temporary non-residents), after subsection (9) insert—
- “(9ZA) If—
- (a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the taxpayer for the year of return, and
- (b) the taxpayer is not domiciled in the United Kingdom in that year,
- any foreign chargeable gains falling within subsection (2)(a) which were remitted in an intervening year are treated as remitted in the year of return.

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For this purpose “foreign chargeable gains” has the meaning given by section 12(4).”

60 For section 12 substitute—

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

- (1) This section applies to foreign chargeable gains accruing to an individual in a tax year (“the foreign chargeable gains”) if—
 - (a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year, and
 - (b) the individual is not domiciled in the United Kingdom in that year.
- (2) Chargeable gains are treated as accruing to the individual in any tax year in which any of the foreign chargeable gains are remitted to the United Kingdom.
- (3) The amount of chargeable gains treated as accruing is equal to the full amount of the foreign chargeable gains so remitted in that year.
- (4) In this section “foreign chargeable gains” means chargeable gains accruing from the disposal of an asset which is situated outside the United Kingdom.
- (5) See Chapter A1 of Part 14 of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.”

61 In section 16 (computation of losses), omit subsection (4).

62 After that section insert—

“16ZA Losses: non-UK domiciled individuals

- (1) In this section “the relevant tax year”, in relation to an individual, means the first tax year for which—
 - (a) section 809B of ITA 2007 (claim for remittance basis) applies to the individual, and
 - (b) the individual is not domiciled in the United Kingdom.
- (2) An individual may make an election under this section for the relevant tax year (in which case sections 16ZB and 16ZC have effect in relation to the individual for the relevant tax year and all subsequent tax years).
- (3) If an individual does not make such an election, foreign losses accruing to the individual in—
 - (a) the relevant tax year, or
 - (b) any subsequent tax year except one in which the individual is domiciled in the United Kingdom,
 are not allowable losses.
- (4) Sections 42 and 43 of the Management Act (procedure and time limit for making claims), except section 42(1A) of that Act, apply in relation to an election under this section as they apply in relation to a claim for relief.
- (5) An election under this section is irrevocable.

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- (6) In this section “foreign loss” means a loss accruing from the disposal of an asset situated outside the United Kingdom.

16ZB Individual who has made election under section 16ZA: foreign chargeable gains remitted in tax year after tax year in which accrue

- (1) This section applies to an individual for a tax year (“the applicable tax year”) if—
- (a) the individual has made an election under section 16ZA,
 - (b) foreign chargeable gains accrued to the individual in or after the relevant tax year (within the meaning of section 16ZA) but before the applicable tax year, and
 - (c) by reason of the remission of any of the foreign chargeable gains to the United Kingdom, chargeable gains are treated under section 12 as accruing to the individual in the applicable tax year (“the relevant gains”).
- (2) Section 2(2) or (4) has effect for the applicable tax year as if the relevant gains had not accrued.
- (3) The amount on which the individual is charged to capital gains tax for the applicable tax year is (instead of the amount given by section 2(2) or (4)(b), as reduced under section 3) the sum of—
- (a) the adjusted taxable amount, and
 - (b) the amount of the relevant gains.
- (4) “The adjusted taxable amount” is—
- (a) if section 3(1) (annual exempt amount) does not apply to the individual for the applicable tax year, the amount given by section 2(2) or (4)(b) as it has effect by virtue of subsection (2), and
 - (b) otherwise, so much of that amount as exceeds the exempt amount for the applicable tax year (within the meaning of section 3).
- (5) In subsection (1) “foreign chargeable gains” has the meaning given by section 12(4).
- (6) For the purposes of subsection (1)(c) foreign chargeable gains are remitted to the United Kingdom if they are regarded as so remitted for the purposes of section 12.

16ZC Individual who has made election under section 16ZA and to whom remittance basis applies

- (1) This section applies to an individual for a tax year if—
- (a) the individual has made an election under section 16ZA for the tax year or any earlier tax year,
 - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the tax year, and
 - (c) the individual is not domiciled in the United Kingdom in the tax year.
- (2) The following steps apply for the purpose of calculating the amount on which the individual is to be charged to capital gains tax for the tax year.

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Step 1

Deduct any relevant allowable losses from the chargeable gains referred to in subsection (3) in the order in which they appear there (starting with paragraph (a) of that subsection).

If allowable losses are deductible from the chargeable gains referred to in subsection (3)(b) but are not enough to exhaust them all—

- (a) those chargeable gains are to be ordered according to the day on which they accrued,
- (b) the losses are to be deducted from those gains in reverse chronological order (starting with the last chargeable gain to accrue), and
- (c) if allowable losses are deductible from chargeable gains that accrued on a particular day but are not enough to exhaust all of the chargeable gains that accrued on that day, the amount deducted from each of those chargeable gains is the appropriate proportion of the losses.

In paragraph (c) “the appropriate proportion”, in relation to a chargeable gain, is the amount of that gain divided by the total amount of the chargeable gains that accrued on the day in question.

Step 2

Treat the amount referred to in section 2(2) or (4)(a) or 16ZB(3)(a) as being equal to—

- (a) the amount it would be if there were no relevant allowable losses, minus
 - (b) the total amount deducted under Step 1 from chargeable gains within subsection (3)(a) or (c).
- (3) The chargeable gains are—
- (a) foreign chargeable gains accruing to the individual in the tax year, to the extent that they are remitted to the United Kingdom in that year,
 - (b) foreign chargeable gains accruing to the individual in that year, to the extent that they are not so remitted in that year, and
 - (c) chargeable gains accruing to the individual in that year (other than foreign chargeable gains).
- (4) Chargeable gains treated as accruing under section 87 or 89(2) (read, where appropriate, with section 10A) are not within any paragraph of subsection (3).
- (5) Chargeable gains treated as accruing under section 12 are not within subsection (3)(c).
- (6) For the purposes of subsection (3) foreign chargeable gains are remitted to the United Kingdom if they are regarded as so remitted for the purposes of section 12.
- (7) In this section—
- “relevant allowable losses” means the allowable losses that section 2(2) provides may be deducted from chargeable gains accruing to the individual in the tax year, and

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“foreign chargeable gains” has the meaning given by section 12(4).

16ZD Section 16ZC: supplementary

- (1) This section applies if section 16ZC applies to an individual for a tax year.
- (2) Any allowable loss deducted under step 1 of section 16ZC(2) is to be regarded (for the purposes of section 2(2)(b)) as allowed as a deduction from chargeable gains accruing to the individual in the tax year.
- (3) If a deduction is made under step 1 of section 16ZC(2) from a foreign chargeable gain within section 16ZC(3)(b), the amount of the foreign chargeable gain is reduced by the amount deducted.”

63 In section 119A (increase in expenditure by reference to tax charged in relation to employment-related securities), after subsection (5) insert—

“(5A) See also section 119B (unremitted foreign securities income).”

64 After that section insert—

“119B Section 119A: unremitted foreign securities income

- (1) For the purposes of section 119A reduce the amount that counts as employment income by so much of that amount (if any) as is unremitted foreign securities income.
- (2) In this section “unremitted foreign securities income” means income that—
 - (a) is foreign securities income for the purposes of section 41A of ITEPA 2003 (employment income from ERS charged on remittance basis), and
 - (b) has not been remitted to the United Kingdom by the end of the tax year in which the disposal mentioned in section 119A(1) occurs.
- (3) The following provisions apply if any of the unremitted foreign securities income is remitted to the United Kingdom after the end of the tax year referred to in subsection (2)(b).
- (4) The person liable for the capital gains tax on any chargeable gains arising on the disposal may make a claim for section 119A(2) to have effect as if the remitted income had been remitted before the end of that tax year.
- (5) All adjustments (by way of repayment of tax, assessment or otherwise) are to be made which are necessary to give effect to a claim under subsection (4).
- (6) Those adjustments may be made at any time, despite anything to the contrary in any enactment relating to capital gains tax.”

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)