

# FINANCE ACT 2013

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## EXPLANATORY NOTES

### INTRODUCTION

#### *Section 219, Schedule 46: Ordinary Residence*

#### Details of the Schedule

#### Part 3

#### Capital gains tax: accruals basis of taxation

#### TCGA 1992

76. Paragraph 75 amends section 2 of TCGA. At present the charge to capital gains tax is on all gains for a year during any part of which the person is resident or ordinarily resident. From 2013-14 ordinary residence ceases to be a factor and the charge is on gains arising if the residence condition is met. In new subsection (1A) the residence condition is expressed separately for the various categories of person chargeable to capital gains tax. In particular, the condition for an individual is based on residence status for the tax year so as to be consistent with the wording of the statutory residence test. Section 2 is further amended by Part 3 of the statutory residence test to provide that for an individual a year of residence may be split into a UK part and overseas part in certain circumstances with the charge restricted according to the period in which the gains accrue.
77. Paragraph 76 amends section 10(1) of TCGA so that instead of a reference to being not resident and not ordinarily resident there is a reference to the residence condition in section 2(1A) not being met.
78. Paragraph 77 removes references to ordinarily resident from section 13 of TCGA.
79. Paragraph 78 amends section 16(3) of TCGA so that instead of a reference to being not resident and not ordinarily resident there is a reference to the residence condition in section 2(1A) not being met.
80. Paragraphs 79 to 81 remove references to ordinarily resident from sections 62(3), 65(3)(b) and 67(6)(a) of TCGA.
81. Paragraph 82 removes references to ordinarily resident from section 69 of TCGA. Section 69 is further amended by Part 3 of the statutory residence test.
82. Paragraphs 83 to 92 remove references to ordinarily resident from sections 76(1B)(a), 80(1), 81, 82(3)(b), 83(1), 83A, 84(1)(b), 85(1), 86 and 87 of TCGA.
83. Paragraph 93 removes references to ordinarily resident and ordinary residence from section 88(1) of TCGA.
84. Paragraph 94 removes references to ordinarily resident and ordinary residence from section 96 of TCGA.
85. Paragraph 95 removes a reference to ordinarily resident from section 97(1)(a) of TCGA.

*These notes refer to the Finance Act 2013 (c.29)  
which received Royal Assent on 17 July 2013*

86. Paragraph 96 removes a reference to ordinarily resident from section 99(1)(c) of TCGA. The ordinary residence status of a company is considered to be equivalent to its residence status.
87. Paragraphs 97 to 102 remove references to ordinarily resident from section 106(5A), 159, 166, 167, 168 and 169(3)(a) of TCGA.
88. Paragraph 103 amends section 199(2) of TCGA so that instead of a reference to being not resident and not ordinarily resident there is a reference to the residence condition in section 2(1A) not being met.
89. Paragraph 104 removes references to ordinarily resident from section 261 of TCGA.
90. Paragraph 105 removes a reference to ordinarily resident from paragraph 2(7)(a) of Schedule 1 to TCGA.
91. Paragraph 106 removes references to ordinarily resident from paragraph 5 of Schedule 4A to TCGA and amends the language of paragraph 6 to refer to the residence condition in section 2(1A). Since the condition in paragraph 6 looks back to the residence and ordinary residence status of the five previous years that condition is applied to years before 2013-14 as if the amendments in this paragraph had not been made.
92. Paragraph 107 removes references to ordinarily resident from paragraphs 4, 5, 9 and 10 of Schedule 4C to TCGA and amends the language of paragraph 1A(3) to refer to the residence condition in section 2(1A).
93. Paragraph 108 removes references to ordinarily resident from paragraphs 2A and 9 of Schedule 5 to TCGA.
94. Paragraph 109 removes references to ordinarily resident from paragraphs 2, 3, 4 and 5 of Schedule 5A to TCGA.
95. Paragraph 110 removes references to ordinarily resident from paragraphs 1, 3 and 19 of Schedule 5B to TCGA.
96. Paragraph 111 removes a reference to ordinarily resident from paragraph 8 of Schedule 7C to TCGA by substituting paragraph (a).
97. Paragraph 112 provides that the amendments made by Part 3 have effect for 2013-14 onwards unless otherwise stated.