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**Changes to legislation:** Finance (No. 2) Act 2017, PART 3 is up to date with all changes known to be in force on or before 02 April 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

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## SCHEDULES

### SCHEDULE 8

#### DEEMED DOMICILE: INCOME TAX AND CAPITAL GAINS TAX

#### 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) Sub-paragraph (5) applies notwithstanding section 58(1) of TCGA 1992 (disposals between spouses).

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- (7) Where under section 127 of TCGA 1992 (including that section as applied by sections 132, 135 and 136 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.
- (8) This Part of this Schedule has effect as if it were included in TCGA 1992.
- 42 (1) This paragraph applies for the purposes of paragraph 41(1)(c) in the case of an asset which, having been situated outside the United Kingdom, becomes situated in the United Kingdom before the end of the relevant period.
- (2) The asset is to be regarded as not situated in the United Kingdom at a time in the relevant period when—
- (a) it meets the condition in section 809Z(3)(a), (b) or (c) of ITA 2007 (public access),
  - (b) it meets the condition in section 809Z3(3)(a), (b) or (c) of ITA 2007 (repairs),
  - (c) the sole or principal purpose of its being situated in the United Kingdom is to sell it or put it up for sale, or
  - (d) in the case of clothing, footwear, jewellery or a watch, it is for the personal use of—
    - (i) P or a husband, wife or civil partner of P, or
    - (ii) a child or grandchild of a person within sub-paragraph (i), if the child or grandchild has not reached the age of 18.
- (3) The asset is to be regarded as not situated in the United Kingdom at any time in the relevant period if it is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) of ITA 2007 applies but—
- (a) by virtue of section 809X(5)(c) of ITA 2007 (notional remitted amount less than £1000) it is treated as not remitted to the United Kingdom, or
  - (b) by the end of the relevant period it has not failed to meet the temporary importation rule in section 809Z4 of ITA 2007.
- (4) Section 809M(3)(a) and (b) of ITA 2007 (persons living together) apply for the purposes of sub-paragraph (2)(d)(i).
- 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.

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

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

- Sch. A1 para. 8(6)(b) omitted by [2022 c. 3 Sch. 1 para. 32\(b\)](#)
- Sch. A1 para. 8(2) substituted by [2022 c. 3 Sch. 1 para. 32\(a\)](#)