



# Finance Act 2020

## 2020 CHAPTER 14

### PART 4

#### MISCELLANEOUS AND FINAL

##### *Coronavirus*

#### **109 Modifications of the statutory residence test in connection with coronavirus**

- (1) This section applies for the purposes of determining—
- (a) whether an individual was or was not resident in the United Kingdom for the tax year 2019-20 for the purposes of relevant tax, and
  - (b) if an individual was not so resident in the United Kingdom for the tax year 2019-20 (including as a result of this section), whether the individual was or was not resident in the United Kingdom for the tax year 2020-21 for the purposes of relevant tax.

“Relevant tax” has the meaning given by paragraph 1(4) of Schedule 45 to FA 2013 (statutory residence test).

- (2) That Schedule is modified in accordance with subsections (3) to (13).
- (3) Paragraph 8 (second automatic UK test: days at overseas homes) has effect as if after sub-paragraph (5) there were inserted—
- “(5A) For the purposes of sub-paragraphs (1)(b) and (4), a day does not count as a day when P is present at a home of P's in the UK if it is a day that would fall within the third case in paragraph 22(7) (if P were present in the UK at the end of it).”
- (4) Paragraph 22 (key concepts: days spent) has effect as if—
- (a) in sub-paragraph (2), for “two cases” there were substituted “three cases”;
  - (b) after sub-paragraph (6) there were inserted—

“(7) The third case is where—

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- (a) that day falls within the period beginning with 1 March 2020 and ending with 1 June 2020,
  - (b) on that day P is present in the UK for an applicable reason related to coronavirus disease, and
  - (c) in the tax year in question, P is resident in a territory outside the UK (“the overseas territory”).
- (8) The following are applicable reasons related to coronavirus disease—
- (a) that P is present in the UK as a medical or healthcare professional for purposes connected with the detection, treatment or prevention of coronavirus disease;
  - (b) that P is present in the UK for purposes connected with the development or production of medicinal products (including vaccines), devices, equipment or facilities related to the detection, treatment or prevention of coronavirus disease.
- (9) For the purposes of sub-paragraph (7)(c), P is resident in an overseas territory in the tax year in question if P is considered for tax purposes to be a resident of that territory in accordance with the laws of that territory.
- (10) The Treasury may by regulations made by statutory instrument—
- (a) amend sub-paragraph (7)(a) so as to replace the later of the dates specified in it with another date falling before 6 April 2021;
  - (b) amend this paragraph so as to add one or more applicable reasons related to coronavirus disease.
- (11) The powers under sub-paragraph (10) may be exercised on more than one occasion.
- (12) A statutory instrument containing regulations under sub-paragraph (10) is subject to annulment in pursuance of a resolution of the House of Commons.”
- (5) Paragraph 23 (key concepts: days spent and the deeming rule) has effect as if after sub-paragraph (5) there were inserted—
- “(5A) For the purposes of sub-paragraphs (3)(b) and (4), a day does not count as a qualifying day if it is a day that would fall within the third case in paragraph 22(7) (if P were present in the UK at the end of it).”
- (6) Paragraph 28(2) (rules for calculating the reference period) has effect as if—
- (a) in paragraph (b) the “and” at the end were omitted;
  - (b) after paragraph (b) there were inserted—
    - “(ba) absences from work at times during the period specified in an emergency volunteering certificate issued to P under Schedule 7 to the Coronavirus Act 2020 (emergency volunteering leave), and”;
  - (c) in paragraph (c), for “or (b)” there were substituted “, (b) or (ba) ”.
- (7) Paragraph 29 (significant breaks from UK or overseas work) has effect as if in sub-paragraphs (1)(b) and (2)(b), for “or parenting leave” there were substituted “,

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parenting leave or emergency volunteering leave under Schedule 7 to the Coronavirus Act 2020 ”.

(8) Paragraph 32 (family tie) has effect as if after sub-paragraph (4) there were inserted—

“(4A) But a day does not count as a day on which P sees the child if the day on which P sees the child would be a day falling within the third case in paragraph 22(7) (if P were present in the UK at the end of it).”

(9) Paragraph 34 (accommodation tie) has effect as if after sub-paragraph (1) there were inserted—

“(1A) For the purposes of sub-paragraph (1)—

- (a) if the place is available to P on a day that would fall within the third case in paragraph 22(7) (if P were present in the UK at the end of that day), that day is to be disregarded for the purposes of sub-paragraph (b), and
- (b) a night spent by P at the place immediately before or after a day that would fall within the third case in paragraph 22(7) (if P were present in the UK at the end of that day) is to be disregarded for the purposes of sub-paragraph (c).”

(10) Paragraph 35 (work tie) has effect as if after sub-paragraph (2) there were inserted—

“(3) But a day that would fall within the third case in paragraph 22(7) (if P were present in the UK at the end of it) does not count as a day on which P works in the UK.”

(11) Paragraph 37 (90-day tie) has effect as if—

- (a) the existing text were sub-paragraph (1);
- (b) after that sub-paragraph, there were inserted—

“(2) For the purposes of sub-paragraph (1), a day that would fall within the third case in paragraph 22(7) (if P were present in the UK at the end of it) does not count as a day P has spent in the UK in the year in question.”

(12) Paragraph 38 (country tie) has effect as if after sub-paragraph (3) there were inserted—

“(4) For the purposes of sub-paragraph (3), P is to be treated as not being present in the UK at the end of a day that would fall within the third case in paragraph 22(7) (if P were present in the UK at the end of that day).”

(13) Paragraph 145 (interpretation) has effect as if at the appropriate place there were inserted—

““coronavirus disease” has the same meaning as in the Coronavirus Act 2020 (see section 1(1) of that Act);”.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2020, Section 109.