



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 14

#### INCOME TAX LIABILITY: MISCELLANEOUS RULES

### CHAPTER 1

#### LIMITS ON LIABILITY TO INCOME TAX OF NON-UK RESIDENTS

##### *Limit for non-UK resident individuals, trustees etc*

#### **811 Limit on liability to income tax of non-UK residents**

- (1) This section applies to income tax to which—
  - (a) a non-UK resident, other than a company, is liable, or
  - (b) a non-UK resident company is liable as a trustee.
- (2) Subsection (1) is subject to section 812 (case where limit not to apply).
- (3) The non-UK resident's liability to income tax for a tax year is limited to the sum of amounts A and B.
- (4) Amount A is the sum of—
  - (a) any sums representing income tax deducted from the non-UK resident's disregarded income for the tax year (see section 813),
  - (b) any sums representing income tax that are treated as deducted from or paid in respect of that income, and
  - (c) any tax credits in respect of that income.
- (5) Amount B is the amount that, apart from this section, would be the non-UK resident's liability to income tax for the tax year, if the following were left out of account—
  - (a) the non-UK resident's disregarded income for the tax year, and

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- (b) any relief mentioned in subsection (6) to which the non-UK resident is entitled for the tax year as a result of—
  - (i) section 56(3) or 460(3) of this Act <sup>F1</sup>... (residence etc of claimants), or
  - (ii) double taxation arrangements.
- (6) The reliefs referred to in subsection (5) are—
  - (a) an allowance under Chapter 2 of Part 3 of this Act <sup>F2</sup>... (personal allowance and blind person's allowance),
  - (b) a tax reduction under Chapter 3 of Part 3 of this Act <sup>F2</sup>... (tax reductions for married couples and civil partners),
  - (c) relief under section 457 or 458 of this Act (payments to trade unions and police organisations),
  - (d) a tax reduction under section 459 of this Act <sup>F2</sup>... (payments for benefit of family members), and
  - (e) relief under section 266 of ICTA (life assurance premiums).

#### Textual Amendments

- F1** Words in s. 811(5) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(o\)\(iv\)](#)
- F2** Words in s. 811(6) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(o\)\(iv\)](#)

### 812 Case where limit not to apply

- (1) Section 811 does not apply to income tax to which non-UK resident trustees are liable for a tax year, if there is a beneficiary of the trust who is—
  - (a) an individual who is ordinarily UK resident, or
  - (b) a UK resident company.
- (2) For the purposes of subsection (1) a person is a beneficiary of the trust if—
  - (a) the person is an actual or potential beneficiary of the trust, and
  - (b) condition A or B is met in relation to the person.
- (3) Condition A is that the person is, or will or may become, entitled under the trust to receive some or all of any income under the trust.
- (4) Condition B is that some or all of any income under the trust may be paid to or used for the benefit of the person in the exercise of a discretion conferred by the trust.
- (5) The references in subsections (3) and (4) to any income under the trust include a reference to any capital under the trust so far as it represents amounts originally received by the trustees as income.

### 813 Meaning of “disregarded income”

- (1) For the purposes of this Chapter income arising to a non-UK resident is “disregarded income” if it is—
  - (a) disregarded savings and investment income (see section 825),
  - (b) disregarded annual payments (see section 826),
  - (c) disregarded pension income,

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- (d) disregarded social security income,
  - (e) disregarded transaction income (see section 814), or
  - (f) income of such other description as the Treasury may by regulations designate for the purposes of this section.
- (2) But income in relation to which the non-UK resident has a UK representative for the purposes of <sup>F3</sup>Chapter 2B] is not disregarded income.
- (3) Income is “disregarded pension income” if it is chargeable under Part 9 of ITEPA 2003 (pension income) because any of the following provisions of that Act applies to it—
- section 577 (UK social security pensions),
  - section 579A (pensions under registered pension schemes) (but see subsection (4) below),
  - section 609 (annuities for the benefit of dependants),
  - section 610 (annuities under non-registered occupational pension schemes), or
  - section 611 (annuities in recognition of another's services).
- (4) Income chargeable under Part 9 of ITEPA 2003 because section 579A of that Act applies to it is disregarded pension income only if the registered pension scheme in question—
- (a) falls within paragraph 1(1)(f) of Schedule 36 to FA 2004, and
  - (b) was, immediately before 6 April 2006, a retirement annuity contract to which section 605 of ITEPA 2003 applied.
- (5) Income is “disregarded social security income” if—
- (a) it is a taxable benefit listed in Table A in section 660 of ITEPA 2003, other than income support or jobseeker's allowance, and
  - (b) it is chargeable under Part 10 of that Act (social security income).

#### Textual Amendments

- F3** Words in s. 813(2) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 282](#) (with [Sch. 9 paras. 1-9, 22](#))

## 814 Meaning of “disregarded transaction income”

- (1) Subsection (2) applies if a non-UK resident carries on (alone or in partnership) a business through a broker in the United Kingdom.
- (2) Income is “disregarded transaction income”, subject to subsection (6), if—
- (a) it is transaction income, and
  - (b) the independent broker conditions are met in relation to the transaction in question.
- (3) Subsection (4) applies if a non-UK resident carries on (alone or in partnership) a business through an investment manager in the United Kingdom.
- (4) Income is “disregarded transaction income”, subject to subsection (6), if—
- (a) it is transaction income, and

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- (b) the independent investment manager conditions are met in relation to the transaction in question.
- (5) In this Chapter “transaction income”, in relation to a transaction carried out through a broker or investment manager in the United Kingdom on behalf of a non-UK resident, means income which arises to the non-UK resident from—
- (a) so much of the non-UK resident's business carried on (alone or in partnership) through the broker or investment manager as relates to the transaction, or
  - (b) property or rights which, as a result of the transaction, are used by, or held by or for, the broker or investment manager on behalf of the non-UK resident.
- (6) Income is not disregarded transaction income if it is chargeable to income tax in accordance with section 171(2) of FA 1993 (profits of the underwriting business of a member of Lloyd's).
- (7) This section needs to be read with—
- section 817 (the independent broker conditions),
  - sections 818 to 824 (the independent investment manager conditions),
  - section 827 (meaning of “investment manager” and “investment transaction”),
  - and
  - section 828 (transactions through brokers and investment managers).

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