



Income Tax Act 2007

2007 CHAPTER 3

PART 14

INCOME TAX LIABILITY: MISCELLANEOUS RULES

[^{F1}CHAPTER 2B

UK REPRESENTATIVE OF NON-UK RESIDENT]

[^{F1}The independent investment manager conditions

Textual Amendments

- F1** S. 835M and cross-heading inserted (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. 6 para. 11](#) (with [Sch. 9 paras. 1-9, 22](#))

835M The independent investment manager conditions

- (1) The independent investment manager conditions are met in relation to an investment transaction carried out on behalf of a non-UK resident by an investment manager in the United Kingdom if conditions A to E are met.
- (2) Condition A is that at the time of the transaction the investment manager is carrying on a business of providing investment management services.
- (3) Condition B is that the transaction is carried out in the ordinary course of that business.
- (4) Condition C is that, when the investment manager acts on behalf of the non-UK resident in relation to the transaction, the relationship between them, having regard to its legal, financial and commercial characteristics, is a relationship between persons carrying on independent businesses dealing with each other at arm's length.

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- (5) Condition D is that the requirements of the 20% rule are met (see section 835N).
- (6) Condition E is that the remuneration which the investment manager receives in respect of the transaction for the provision of investment management services to the non-UK resident is not less than is customary for that class of business.]

[^{F2}835N Investment managers: the 20% rule

- (1) The requirements of the 20% rule are met if conditions A and B are met.
- (2) Condition A is that, in relation to a qualifying period, it has been or is the intention of the investment manager and the persons connected with the investment manager that at least 80% of the non-UK resident's relevant disregarded income should consist of amounts to which none of them has a beneficial entitlement.
- (3) Condition B is that, so far as there is a failure to fulfil that intention, that failure—
 - (a) is attributable (directly or indirectly) to matters outside the control of the investment manager and persons connected with the investment manager, and
 - (b) does not result from a failure by any of them to take such steps as may be reasonable for mitigating the effect of those matters in relation to the fulfilment of that intention.]

Textual Amendments

- F2** S. 835N inserted (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. 6 para. 12](#) (with [Sch. 9 paras. 1-9, 22](#))

[^{F3}835O Meaning of “qualifying period”, “relevant disregarded income” and “beneficial entitlement”

- (1) This section applies for the purposes of this Chapter.
- (2) A “qualifying period” means—
 - (a) the tax year in which the transaction income mentioned in section 835I(2) is chargeable to tax, or
 - (b) a period of not more than 5 years comprising two or more tax years including that one.
- (3) The “relevant disregarded income” of the non-UK resident for a qualifying period is the total of the non-UK resident's income for the tax years comprised in the qualifying period which derives from investment transactions—
 - (a) carried out by the investment manager on the non-UK resident's behalf, and
 - (b) in relation to which the independent investment manager conditions are met, ignoring the requirements of the 20% rule.
- (4) A person has a “beneficial entitlement” to relevant disregarded income if the person has or may acquire a beneficial entitlement that is, or would be, attributable to the relevant disregarded income as a result of having an interest or other rights mentioned in subsection (5).
- (5) The interests and rights referred to in subsection (4) are—

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- (a) an interest (whether or not an interest giving a right to an immediate payment of a share in the profits or gains) in property in which the whole or any part of the relevant disregarded income is represented, or
- (b) an interest in, or other rights in relation to, the non-UK resident.]

Textual Amendments

F3 S. 835O inserted (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. 6 para. 13](#) (with [Sch. 9 paras. 1-9, 22](#))

[^{F4}835P Treatment of transactions where 20% rule not met

- (1) This section applies in the case of an investment transaction in relation to which the independent investment manager conditions are met, except for the requirements of the 20% rule.
- (2) This Chapter has effect as if the requirements of that rule were met in relation to the transaction, but only in relation to so much of the transaction income in relation to the transaction (see section 835I(2) and (3)) as does not represent an amount—
 - (a) which is relevant disregarded income of the non-UK resident, and
 - (b) to which the investment manager or a person connected with the investment manager has or has had any beneficial entitlement.]

Textual Amendments

F4 S. 835P inserted (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. 6 para. 14](#) (with [Sch. 9 paras. 1-9, 22](#))

[^{F5}835Q Application of 20% rule to collective investment schemes

- (1) This section applies if amounts arise or accrue to the non-UK resident as a participant in a collective investment scheme.
- (2) It applies for the purposes of determining whether the requirements of the 20% rule are met in relation to a transaction carried out for the purposes of the scheme (so far as the transaction is one in respect of which amounts so arise or accrue).
- (3) In applying this section make the following assumptions—
 - (a) that all the transactions carried out for the purposes of the scheme are carried out on behalf of a company (“the assumed company”) which is—
 - (i) constituted for the purposes of the scheme, and
 - (ii) non-UK resident, and
 - (b) that the participants do not have any rights in respect of the amounts arising or accruing in respect of those transactions, other than the rights which, if they held shares in the assumed company, would be their rights as shareholders.
- (4) If the scheme is such that the assumed company would not be regarded for tax purposes as carrying on a trade in the United Kingdom in relation to the tax year in which the transaction income mentioned in section 835I(2) is chargeable to tax, the requirements

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of the 20% rule are treated as met in relation to a transaction carried out for the purposes of the scheme.

- (5) If the scheme is such that the assumed company would be so regarded for tax purposes, sections 835N to 835P have effect in relation to a transaction carried out for the purposes of the scheme with the modifications in subsection (6).
- (6) The modifications are—
- (a) for references to the non-UK resident substitute references to the assumed company, and
 - (b) for references to the non-UK resident's relevant disregarded income for a qualifying period substitute references to the sum of the amounts that would, for tax years comprised in the qualifying period, be chargeable to tax on the assumed company as profits deriving from the transactions—
 - (i) carried out by the investment manager, and
 - (ii) assumed to be carried out on behalf of the company.
- (7) In this section—
- “collective investment scheme” has the meaning given by section 235 of FISMA 2000, and
- “participant”, in relation to a collective investment scheme, is construed in accordance with that section.]

Textual Amendments

- F5** S. 835Q inserted (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. 6 para. 15** (with Sch. 9 paras. 1-9, 22)

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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):

- s. 24B inserted by [2023 c. 30 Sch. 2 para. 10\(3\)](#)
- s. 788(7) inserted by [2007 c. 29 Sch. 21 para. 161\(b\)](#) (The amending provision was repealed before coming into force.)