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# SCHEDULES

## SCHEDULE 7

### REMITTANCE BASIS

#### PART 1

#### MAIN PROVISIONS

##### *Remittance basis\_general*

- 1 In Part 14 of ITA 2007 (income tax liability: miscellaneous rules), before Chapter 1 insert—

#### “CHAPTER A1

#### REMITTANCE BASIS

##### *Introduction*

#### Overview of Chapter

- 809A This Chapter provides for an alternative basis of charge in the case of individuals who are not domiciled in the United Kingdom or are not ordinarily UK resident.

##### *Application of remittance basis*

#### Claim for remittance basis to apply

- 809B(1) This section applies to an individual for a tax year if the individual—
- (a) is UK resident in that year,
  - (b) is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year, and
  - (c) makes a claim under this section for that year.
- (2) The claim must contain one or both of the following statements—
- (a) that the individual is not domiciled in the United Kingdom in that year;
  - (b) that the individual is not ordinarily UK resident in that year.
- (3) Sections 42 and 43 of TMA 1970 (procedure and time limit for making claims), except section 42(1A) of that Act, apply in relation to a claim under this section as they apply in relation to a claim for relief.

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**Claim for remittance basis by long-term UK resident: nomination of foreign income and gains to which section 809H(2) is to apply**

- 809(I) This section applies to an individual for a tax year if the individual—
- (a) is aged 18 or over in that year, and
  - (b) has been UK resident in at least 7 of the 9 tax years immediately preceding that year.
- (2) A claim under section 809B by the individual for that year must contain a nomination of the income or chargeable gains of the individual for that year to which section 809H(2) is to apply.
- (3) The income or chargeable gains nominated must be part (or all) of the individual's foreign income and gains for that year.
- (4) The income and chargeable gains nominated must be such that the relevant tax increase does not exceed £30,000.
- (5) “The relevant tax increase” is—
- (a) the total amount of income tax and capital gains tax payable by the individual for that year, minus
  - (b) the total amount of income tax and capital gains tax that would be payable by the individual for that year apart from section 809H(2).
- (6) See section 809Z7 for the meaning of an individual's foreign income and gains for a tax year.

**Application of remittance basis without claim where unremitted foreign income and gains under £2,000**

- 809(I) This section applies to an individual for a tax year if—
- (a) the individual is UK resident in that year,
  - (b) the individual is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year, and
  - (c) the amount of the individual's unremitted foreign income and gains for that year is less than £2,000.
- (2) The amount of an individual's “unremitted” foreign income and gains for a tax year is—
- (a) the total amount of what would (if this section applied) be the individual's foreign income and gains for that year, minus
  - (b) the total amount of those income and gains that are remitted to the United Kingdom in that year.

**Application of remittance basis without claim: other cases**

- 809(I) This section applies to an individual for a tax year if—
- (a) the individual is UK resident in that year,
  - (b) the individual is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year,
  - (c) the individual has no UK income or gains for that year,

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- (d) no relevant income or gains are remitted to the United Kingdom in that year, and
  - (e) either—
    - (i) the individual has been UK resident in not more than 6 of the 9 tax years immediately preceding that year, or
    - (ii) the individual is under 18 throughout that year.
- (2) For the purposes of subsection (1)(c) the individual's UK income and gains for the tax year are the individual's income and chargeable gains for that year other than what would (if this section applied) be the individual's foreign income and gains for that year.
- (3) For the purposes of subsection (1)(d) relevant income and gains are—
- (a) what would (if this section applied) be the individual's foreign income and gains for the tax year mentioned in subsection (1), and
  - (b) the individual's foreign income and gains for every other tax year for which section 809B or 809D or this section applies to the individual.

*Effect of section 809B, 809D or 809E applying*

**Effect on what is chargeable**

- 809(F) This section applies if section 809B, 809D or 809E applies to an individual for a tax year.
- (2) The individual's relevant foreign earnings for that year are charged in accordance with section 22 or 26 of ITEPA 2003.
  - (3) The individual's relevant foreign income for that year is charged in accordance with section 832 of ITTOIA 2005.
  - (4) If the individual is not domiciled in the United Kingdom in that year, the individual's foreign chargeable gains for that year are charged in accordance with section 12 of TCGA 1992.
  - (5) For the effect on amounts which count as employment income of the individual under certain provisions of Part 7 of ITEPA 2003 (employment-related securities), see Chapter 5A of Part 2 of that Act.
  - (6) Nothing in this section applies in relation to nominated income or chargeable gains (see section 809H).

**Claim for remittance basis: effect on allowances etc**

- 809(G) This section applies if section 809B (claim for remittance basis to apply) applies to an individual for a tax year.
- (2) For that year, the individual is not entitled to—
- (a) any allowance under Chapter 2 of Part 3 (personal allowance and blind person's allowance),
  - (b) any tax reduction under Chapter 3 of that Part (tax reductions for married couples and civil partners), or

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- (c) any relief under section 457, 458 or 459 (payments for life insurance etc).
- (3) See also section 3(1A) of TCGA 1992 (no annual exempt amount for chargeable gains).

### **Claim for remittance basis by long-term UK resident: charge**

809H) This section applies if—

- (a) section 809B (claim for remittance basis to apply) applies to an individual for a tax year (“the relevant tax year”),
  - (b) the individual is aged 18 or over in the relevant tax year, and
  - (c) the individual has been UK resident in at least 7 of the 9 tax years immediately preceding the relevant tax year.
- (2) Income tax is charged on nominated income, and capital gains tax is charged on nominated chargeable gains, as if section 809B did not apply to the individual for the relevant tax year (and neither did section 809D).
  - (3) “Nominated” income or chargeable gains means income or chargeable gains nominated under section 809C in the individual's claim under section 809B for the relevant tax year.
  - (4) If the relevant tax increase would otherwise be less than £30,000, subsection (2) has effect as if—
    - (a) in addition to the income and gains actually nominated under section 809C in the individual's claim under section 809B for the relevant tax year, an amount of income had been nominated so as to make the relevant tax increase equal to £30,000, and
    - (b) the individual's income for that year were such that such a nomination could have been made (if that is not the case).
  - (5) “The relevant tax increase” is—
    - (a) the total amount of income tax and capital gains tax payable by the individual for the relevant tax year, minus
    - (b) the total amount of income tax and capital gains tax that would be payable by the individual for the relevant tax year apart from subsection (2).
  - (6) Nothing in subsection (4) affects what is regarded, for the purposes of section 809I or 809J, as nominated under section 809C.

### **Remittance basis charge: income and gains treated as remitted**

809I) This section applies if—

- (a) any of an individual's nominated income and gains is remitted to the United Kingdom in a tax year, and
  - (b) any of the individual's remittance basis income and gains has not been remitted to the United Kingdom in or before that year.
- (2) Income tax and capital gains tax are charged, for that year and subsequent tax years, as if the income and chargeable gains treated under section 809J as remitted to the United Kingdom by the individual in that tax year had been

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so remitted (and income and chargeable gains of the individual that were actually remitted in that year had not been).

- (3) An individual's "nominated income and gains" are the total income and chargeable gains nominated by the individual under section 809C for the tax year mentioned in subsection (1)(a) or any earlier tax year.
- (4) An individual's "remittance basis income and gains" are the foreign income and gains of the individual for all the tax years (up to and including the tax year mentioned in subsection (1)(a)) for which section 809B, 809D or 809E applies to the individual, apart from the individual's nominated income and gains.

### **Section 809I: order of remittances**

809I(1) If section 809I applies, the following steps are to be taken for the purpose of determining the income or gains treated in a tax year ("the relevant tax year") as remitted to the United Kingdom by the individual.

#### *Step 1*

Find the total amount of—

- (a) the individual's nominated income and gains, and
- (b) the individual's remittance basis income and gains,

that have been remitted to the United Kingdom in the relevant tax year.

This amount is "the relevant amount".

#### *Step 2*

Find the amount of foreign income and gains of the individual for the relevant tax year (other than income or chargeable gains nominated under section 809C) that is within each of the categories of income and gains in paragraphs (a) to (h) of subsection (2).

If none of sections 809B, 809D and 809E apply to the individual for that year, treat those amounts as nil (and accordingly go to step 6).

#### *Step 3*

Find the earliest paragraph for which the amount determined under step 2 is not nil.

If that amount does not exceed the relevant amount, treat the individual as having remitted the income or gains within that paragraph (and for that tax year).

Otherwise, treat the individual as having remitted the relevant proportion of each kind of income or gains within that paragraph (and for that tax year).

"The relevant proportion" is the relevant amount divided by the amount determined under step 2 for that paragraph.

#### *Step 4*

Reduce the relevant amount by the amount taken into account under step 3.

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### *Step 5*

If the relevant amount (as reduced under step 4) is not nil, start again at step 3.

In step 3, read the reference to the earliest paragraph of the kind mentioned there as a reference to the earliest such paragraph which has not previously been taken into account under that step.

### *Step 6*

If the relevant amount (as reduced) is not nil once steps 3 to 5 have been undertaken in relation to all paragraphs of subsection (2) for which the amount determined under step 2 is not nil, start again at step 2.

In step 2, read the reference to the foreign income and gains of the individual for the relevant tax year as a reference to such of the foreign income and gains of the individual for the appropriate tax year as had not been remitted by the beginning of the relevant tax year.

“The appropriate tax year” is the latest tax year which is—

- (a) before the last tax year for which step 2 has been undertaken, and
- (b) a tax year for which section 809B, 809D or 809E applies to the individual.

(2) The kinds of income and gains are—

- (a) relevant foreign earnings (other than those subject to a foreign tax),
- (b) foreign specific employment income (other than income subject to a foreign tax),
- (c) relevant foreign income (other than income subject to a foreign tax),
- (d) foreign chargeable gains (other than gains subject to a foreign tax),
- (e) relevant foreign earnings subject to a foreign tax,
- (f) foreign specific employment income subject to a foreign tax,
- (g) relevant foreign income subject to a foreign tax, and
- (h) foreign chargeable gains subject to a foreign tax.

(3) In this section the individual's “nominated income and gains” are the total income and chargeable gains nominated by the individual under section 809C for the relevant tax year or any earlier tax year.

(4) In step 1 of subsection (1) the individual's “remittance basis income and gains” are the foreign income and gains of the individual for all the tax years (up to and including the relevant tax year) for which section 809B, 809D or 809E applies to the individual, apart from the individual's nominated income and gains.

(5) In step 6 of subsection (1) the reference to income or gains being remitted is—

- (a) as respects any tax year before section 809I applies, to income or gains being remitted to the United Kingdom, and
- (b) as respects any tax year in relation to which that section applies, to income or gains treated under this section as so remitted.

(6) In subsection (2) “foreign tax” means any tax chargeable under the law of a territory outside the United Kingdom.

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### *Remittance of income and gains: introduction*

#### **Sections 809L to 809Z6: introduction**

809K1) Sections 809L to 809Z6 apply for the purposes of—

- (a) this Chapter,
- (b) sections 22 and 26 of ITEPA 2003 (relevant foreign earnings charged on remittance basis),
- (c) section 41A of that Act (specific employment income from securities etc charged on remittance basis),
- (d) section 832 of ITTOIA 2005 (relevant foreign income charged on remittance basis), and
- (e) section 12 of TCGA 1992 (foreign chargeable gains charged on remittance basis).

(2) Those sections—

- (a) explain what is meant by income or chargeable gains being “remitted to the United Kingdom” (sections 809L to 809O),
- (b) provide for the calculation of the amount remitted (section 809P),
- (c) contain rules for attributing transfers from mixed funds to particular kinds of income and capital (sections 809Q to 809S),
- (d) contain supplementary provision for certain cases (sections 809T and 809U), and
- (e) treat income or chargeable gains as not remitted to the United Kingdom in certain cases (sections 809V to 809Z6).

### *Remittance of income and gains: meaning of “remitted to the United Kingdom”*

#### **Meaning of “remitted to the United Kingdom”**

809L1) An individual's income is, or chargeable gains are, “remitted to the United Kingdom” if—

- (a) conditions A and B are met,
- (b) condition C is met, or
- (c) condition D is met.

(2) Condition A is that—

- (a) money or other property is brought to, or received or used in, the United Kingdom by or for the benefit of a relevant person, or
- (b) a service is provided in the United Kingdom to or for the benefit of a relevant person.

(3) Condition B is that—

- (a) the property, service or consideration for the service is (wholly or in part) the income or chargeable gains,
- (b) the property, service or consideration—
  - (i) derives (wholly or in part, and directly or indirectly) from the income or chargeable gains, and

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- (ii) in the case of property or consideration, is property of or consideration given by a relevant person,
  - (c) the income or chargeable gains are used outside the United Kingdom (directly or indirectly) in respect of a relevant debt, or
  - (d) anything deriving (wholly or in part, and directly or indirectly) from the income or chargeable gains is used as mentioned in paragraph (c).
- (4) Condition C is that qualifying property of a gift recipient—
  - (a) is brought to, or received or used in, the United Kingdom, and is enjoyed by a relevant person,
  - (b) is consideration for a service that is enjoyed in the United Kingdom by a relevant person, or
  - (c) is used outside the United Kingdom (directly or indirectly) in respect of a relevant debt.
- (5) Condition D is that property of a person other than a relevant person (apart from qualifying property of a gift recipient)—
  - (a) is brought to, or received or used in, the United Kingdom, and is enjoyed by a relevant person,
  - (b) is consideration for a service that is enjoyed in the United Kingdom by a relevant person, or
  - (c) is used outside the United Kingdom (directly or indirectly) in respect of a relevant debt,

in circumstances where there is a connected operation.
- (6) In a case where subsection (4)(a) or (b) or (5)(a) or (b) applies to the importation or use of property, the income or chargeable gains are taken to be remitted at the time the property or service is first enjoyed by a relevant person by virtue of that importation or use.
- (7) In this section “relevant debt” means a debt that relates (wholly or in part, and directly or indirectly) to—
  - (a) property falling within subsection (2)(a),
  - (b) a service falling within subsection (2)(b),
  - (c) qualifying property dealt with as mentioned in subsection (4)(a),
  - (d) a service falling within subsection (4)(b),
  - (e) qualifying property dealt with as mentioned in subsection (5)(a), or
  - (f) a service falling within subsection (5)(b).
- (8) For the purposes of this section, the reference to a debt that relates to property or a service includes a debt for interest on money lent, where the lending relates to the property or service.
- (9) The cases in which income or chargeable gains are used in respect of a debt include cases where income or chargeable gains are used to pay interest on the debt.
- (10) This section is subject to sections 809V to 809Z6 (property treated as not remitted to the United Kingdom).



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### Meaning of “relevant person”

809M) This section applies for the purposes of sections 809L, 809N and 809O.

(2) A “relevant person” is—

- (a) the individual,
- (b) the individual's husband or wife,
- (c) the individual's civil partner,
- (d) a child or grandchild of a person falling within any of paragraphs (a) to (c), if the child or grandchild has not reached the age of 18,
- (e) a close company in which a person falling within any other paragraph of this subsection is a participator,
- (f) a company in which a person falling within any other paragraph of this subsection is a participator, and which would be a close company if it were resident in the United Kingdom,
- (g) the trustees of a settlement of which a person falling within any other paragraph of this subsection is a beneficiary, or
- (h) a body connected with such a settlement.

(3) For that purpose—

- (a) a man and woman living together as husband and wife are treated as if they were husband and wife,
- (b) two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other,
- (c) “close company” has the same meaning as in the Corporation Tax Acts (see sections 414 and 415 of ICTA),
- (d) “settlement” and “settlor” have the same meaning as in Chapter 2 of Part 9,
- (e) “beneficiary”, in relation to a settlement, means any person who receives, or may receive, any benefit under or by virtue of the settlement,
- (f) “trustee” has the same meaning as in section 993 (see, in particular, section 994(3)), and
- (g) a body is “connected with” a settlement if the body falls within section 993(3)(c), (d), (e) or (f) as regards the settlement.

### Section 809L: gift recipients, qualifying property and enjoyment

809N) This section applies for the purposes of determining whether or not income or chargeable gains of an individual are remitted to the United Kingdom by virtue of condition C in section 809L.

(2) A “gift recipient” means a person, other than a relevant person, to whom the individual makes a gift of money or other property that—

- (a) is income or chargeable gains of the individual, or
- (b) derives (wholly or in part, and directly or indirectly) from income or chargeable gains of the individual.

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- (3) The question of whether or not a person is a relevant person is to be determined by reference to the time when a gift is made.
- (4) But, if a person to whom a gift is made subsequently becomes a relevant person, the person ceases to be a gift recipient.
- (5) The individual “makes a gift of” property if the individual disposes of the property—
  - (a) for no consideration, or
  - (b) for consideration less than the full consideration in money or money's worth that would be given if the disposal were by way of a bargain made at arm's length;
 but, in a case falling in paragraph (b), the individual is to be taken to make a gift of only so much of the property as exceeds the consideration actually given.
- (6) A reference to the individual making a gift of property includes a case where—
  - (a) the individual retains an interest in the property, or
  - (b) an interest, right or arrangement enables or entitles the individual to benefit from the property.
- (7) “Qualifying property”, in relation to a gift recipient, is—
  - (a) the property that the individual gave to the gift recipient,
  - (b) anything that derives (wholly or in part, and directly or indirectly) from that property, or
  - (c) any other property, but only if it is dealt with as mentioned in section 809L(4)(a), (b) or (c) by virtue of an operation which is effected—
    - (i) with reference to the gift of the property to the gift recipient, or
    - (ii) with a view to enabling or facilitating the gift of the property to the gift recipient to be made.
- (8) In subsection (7)—
  - (a) the reference in paragraph (b) to anything deriving from property, and
  - (b) the reference in paragraph (c) to other property,
 includes a thing, or property, that does not belong to the individual but which the individual is enabled or entitled to benefit from by virtue of any interest, right or arrangement.
- (9) Enjoyment by a relevant person of property or a service is to be disregarded in any of these cases—
  - (a) if the property or service is enjoyed virtually to the entire exclusion of all relevant persons,
  - (b) if full consideration in money or money's worth is given by a relevant person for the enjoyment, or
  - (c) if the property or service is enjoyed by relevant persons in the same way, and on the same terms, as it may be enjoyed by the general public or by a section of the general public.

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### **Section 809L: dealings where there is a connected operation**

- 809L(1) This section applies for the purposes of determining whether or not income or chargeable gains of an individual are remitted to the United Kingdom by virtue of condition D in section 809L.
- (2) For the purposes of section 809L(5), the question of whether or not the person whose property is dealt with as mentioned in paragraph (a), (b) or (c) of section 809L(5) is a relevant person is to be determined by reference to the time when the property is so dealt with.
- (3) A “connected operation”, in relation to property dealt with as mentioned in section 809L(5)(a), (b) or (c), means an operation which is effected—
- (a) with reference to a qualifying disposition, or
  - (b) with a view to enabling or facilitating a qualifying disposition.
- (4) A “qualifying disposition” is a disposition that—
- (a) is made by a relevant person,
  - (b) is made to, or for the benefit of, the person whose property is dealt with as mentioned in section 809L(5)(a), (b) or (c), and
  - (c) is a disposition of money or other property that is, or derives (wholly or in part, and directly or indirectly) from, income or chargeable gains of the individual.
- (5) But a disposition of property is not a qualifying disposition if the disposition is, or is part of, the giving of full consideration in money or money's worth for the dealing that falls within section 809L(5)(a), (b) or (c).
- (6) Enjoyment by a relevant person of property or a service is to be disregarded in any of these cases—
- (a) if the property or service is enjoyed virtually to the entire exclusion of all relevant persons,
  - (b) if full consideration in money or money's worth is given by a relevant person for the enjoyment, or
  - (c) if the property or service is enjoyed by relevant persons in the same way, and on the same terms, as it may be enjoyed by the general public or by a section of the general public.

*Remittance of income and gains: amount remitted*

### **Section 809L: amount remitted**

- 809L(1) The amount of income or chargeable gains remitted to the United Kingdom is to be determined as follows.
- (2) If the property, service or consideration is the income or chargeable gains, the amount remitted is equal to the amount of the income or chargeable gains.
- (3) If the property, service or consideration derives from the income or chargeable gains, the amount remitted is equal to the amount of income or chargeable gains from which the property, service or consideration derives.

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- (4) If the income or chargeable gains are used as mentioned in section 809L(3)(c), the amount remitted is equal to the amount of income or chargeable gains used; but this is subject to subsection (10).
- (5) If anything deriving from the income or chargeable gains is used as mentioned in section 809L(3)(c), the amount remitted is equal to the amount of income or chargeable gains from which what is used derives; but this is subject to subsection (10).
- (6) In a case falling within section 809L(4)(a) or (b), the amount remitted is equal to the amount of the relevant income or chargeable gains.
- (7) In a case falling within section 809L(4)(c), the amount remitted is equal to the amount of the relevant income or chargeable gains; but this is subject to subsection (10).
- (8) In a case falling within section 809L(5)(a) or (b), the amount remitted is equal to the amount of the income or chargeable gains referred to in section 809O(4)(c).
- (9) In a case falling within section 809L(5)(c), the amount remitted is equal to the amount of the income or chargeable gains referred to in section 809O(4)(c); but this is subject to subsection (10).
- (10) If the debt is only partly in respect of the property or service, the amount remitted is (if it would otherwise be greater) limited to the amount the debt would be if it were wholly in respect of the property or service.
- (11) In subsections (6) and (7) “relevant income or chargeable gains” means—
  - (a) if the qualifying property falls within section 809N(7)(a), the income or gains—
    - (i) of which the qualifying property consists, or
    - (ii) from which the qualifying property derives;
  - (b) if the qualifying property falls within section 809N(7)(b), the income or gains—
    - (i) of which the property given to the gift recipient consisted, or
    - (ii) from which that property derived;
  - (c) if the qualifying property falls within section 809N(7)(c), the income or gains—
    - (i) of which the property given to the gift recipient consists, or
    - (ii) from which that property derives.
- (12) If the amount remitted (taken together with any amount previously remitted) would otherwise exceed the amount of the income or chargeable gains, the amount remitted is limited to the amount which (when taken together with any amount previously remitted) is equal to the amount of the income or chargeable gains.

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*Remittance of income and gains: transfers from mixed funds*

**Sections 809L and 809P: transfers from mixed funds**

809Q(1) This section applies for the purposes mentioned in subsection (2) where condition A in section 809L is met and—

- (a) the property or consideration for the service is (wholly or in part), or derives (wholly or in part, and directly or indirectly) from, a transfer from a mixed fund, or
  - (b) a transfer from a mixed fund, or anything deriving (wholly or in part, and directly or indirectly) from such a transfer, is used as mentioned in section 809L(3)(c).
- (2) The purposes referred to in subsection (1) are—
- (a) determining whether condition B in section 809L is met, and
  - (b) if it is met, determining (under section 809P) the amount of income or chargeable gains remitted.
- (3) The extent to which the transfer is of the individual's income or chargeable gains is to be determined as follows.

*Step 1*

For each of the categories of income and capital in paragraphs (a) to (i) of subsection (4), find (applying section 809R) the amount of income or capital of the individual for the relevant tax year in the mixed fund immediately before the transfer.

“The relevant tax year” is the tax year in which the transfer occurs.

*Step 2*

Find the earliest paragraph for which the amount determined under step 1 is not nil.

If that amount does not exceed the amount of the transfer, treat the transfer as containing the income or capital within that paragraph (and for that tax year).

Otherwise, treat the transfer as containing the relevant proportion of each kind of income or capital within that paragraph (and for that tax year).

“The relevant proportion” is the amount of the transfer divided by the amount determined under step 1 for that paragraph.

*Step 3*

Treat the amount of the transfer as reduced by the amount taken into account under step 2.

*Step 4*

If the amount of the transfer (as reduced under step 3) is not nil, start again at step 2.

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In step 2, read the reference to the earliest paragraph of the kind mentioned there as a reference to the earliest such paragraph which has not previously been taken into account under that step in relation to the transfer.

*Step 5*

If the amount of the transfer (as reduced under step 3) is not nil once steps 2 and 3 have been undertaken in relation to all paragraphs of subsection (4) for which the amount determined under step 1 is not nil, start again at step 1.

In step 1, read the reference to the relevant tax year as a reference to the tax year immediately before the last tax year for which step 1 has been undertaken in relation to the transfer.

- (4) The kinds of income and capital are—
- (a) employment income (other than income within paragraph (b), (c) or (f)),
  - (b) relevant foreign earnings (other than income within paragraph (f)),
  - (c) foreign specific employment income (other than income within paragraph (f)),
  - (d) relevant foreign income (other than income within paragraph (g)),
  - (e) foreign chargeable gains (other than chargeable gains within paragraph (h)),
  - (f) employment income subject to a foreign tax,
  - (g) relevant foreign income subject to a foreign tax,
  - (h) foreign chargeable gains subject to a foreign tax, and
  - (i) income or capital not within another paragraph of this subsection.
- (5) In subsection (4) “foreign tax” means any tax chargeable under the law of a territory outside the United Kingdom.
- (6) In this section “mixed fund” means money or other property which, immediately before the transfer, contains or derives from—
- (a) more than one of the kinds of income and capital mentioned in subsection (4), or
  - (b) income or capital for more than one tax year.
- (7) References in this section to the amount of the transfer include the market value of it.
- (8) References in this section and section 809R to anything deriving from income or capital within paragraph (i) of subsection (4) do not include—
- (a) income or gains within any of paragraphs (a) to (h) of that subsection, or
  - (b) anything deriving from such income or gains.

**Section 809Q: composition of mixed fund**

809R) This section applies for the purposes of step 1 of section 809Q(3) (composition of mixed fund).

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- (2) Treat property which derives wholly or in part (and directly or indirectly) from an individual's income or capital for a tax year as consisting of or containing that income or capital.
- (3) If a debt relating (wholly or in part, and directly or indirectly) to property is at any time satisfied (wholly or in part) by—
  - (a) an individual's income or capital for a tax year, or
  - (b) anything deriving (directly or indirectly) from such income or capital,from that time treat the property as consisting of or containing the income or capital if and to the extent that it is just and reasonable to do so.
- (4) Treat an offshore transfer from a mixed fund as containing the appropriate proportion of each kind of income or capital in the fund immediately before the transfer.

“The appropriate proportion” means the amount (or market value) of the transfer divided by the market value of the mixed fund immediately before the transfer.
- (5) A transfer from a mixed fund is an “offshore transfer” for the purposes of subsection (4) if and to the extent that section 809Q does not apply in relation to it.
- (6) Treat a transfer from a mixed fund as an “offshore transfer” (and section 809Q as not applying in relation to it, if it otherwise would do) if and to the extent that, at the end of a tax year in which it is made—
  - (a) section 809Q does not apply in relation to it, and
  - (b) on the basis of the best estimate that can reasonably be made at that time, section 809Q will not apply in relation to it.
- (7) In this section ‘mixed fund’ means money or other property containing or deriving from—
  - (a) more than one of the kinds of income and capital mentioned in section 809Q(4), or
  - (b) income or capital for more than one tax year.
- (8) If section 809Q applies in relation to part of a transfer, apply that section in relation to that part before applying subsection (4) in relation to the rest of the transfer.
- (9) If section 809Q applies in relation to more than one transfer from a mixed fund, when undertaking step 1 in relation to the second or any subsequent transfer take into account the effect of step 2 of section 809Q(3) (composition of transfer) as it applied in relation to each earlier transfer.

#### **Section 809Q: anti-avoidance**

- 809Q(1) This section applies if, by reason of an arrangement the main purpose (or one of the main purposes) of which is to secure an income tax advantage or capital gains tax advantage, a mixed fund would otherwise be regarded as containing income or capital within any of paragraphs (f) to (i) of section 809Q(4).

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- (2) Treat the mixed fund as containing so much (if any) of the income or capital as is just and reasonable.
- (3) “Arrangement” includes any scheme, understanding, transaction or series or transactions (whether or not enforceable).
- (4) “Income tax advantage” has the meaning given by section 683.
- (5) “Capital gains tax advantage” means—
  - (a) a relief from capital gains tax or increased relief from capital gains tax,
  - (b) a repayment of capital gains tax or increased repayment of capital gains tax,
  - (c) the avoidance or reduction of a charge to capital gains tax or an assessment to capital gains tax, or
  - (d) the avoidance of a possible assessment to capital gains tax.

*Remittance of income and gains: supplementary*

**Foreign chargeable gains accruing on disposal made other than for full consideration**

809(I) This section applies if—

- (a) foreign chargeable gains accrue to an individual on the disposal of an asset, and
  - (b) the individual does not receive consideration for the disposal of an amount equal to the market value of the asset.
- (2) For the purposes of this Chapter treat the asset as deriving from the chargeable gains.

**Deemed income or gains not to be regarded as remitted before time when they are treated as arising or accruing**

809U Where—

- (a) income or foreign chargeable gains are treated as arising or accruing, and
- (b) by virtue of anything done in relation to anything regarded as deriving from the income or chargeable gains, the income or chargeable gains would otherwise be regarded as remitted to the United Kingdom before the time when they are treated as arising or accruing,

treat the income or chargeable gains as remitted to the United Kingdom at that time.



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*Remittance of income and gains: property treated as not remitted*

**Money paid to the Commissioners**

809W(1) Money that is brought to the United Kingdom by way of one or more direct payments to the Commissioners is to be treated as not remitted to the United Kingdom—

- (a) if the payments are made in relation to a tax year to which section 809H applies, and
  - (b) if, or to the extent that, the payments do not exceed £30,000.
- (2) Subsection (1) does not apply to a payment if, or to the extent that, it is repaid by the Commissioners.

**Consideration for certain services**

809W(1) This section applies to income or chargeable gains if—

- (a) the income or gains would (but for subsection (2)) be regarded as remitted to the United Kingdom because conditions A and B in section 809L are met,
  - (b) condition A in section 809L is met because a service is provided in the United Kingdom (“the relevant UK service”), and
  - (c) condition B in section 809L is met because section 809L(3)(a) or (b) applies to the consideration for the relevant UK service (“the relevant consideration”).
- (2) The income or chargeable gains are to be treated as not remitted to the United Kingdom if the following conditions are met; but this is subject to subsection (5).
- (3) Condition A is that the relevant UK service relates wholly or mainly to property situated outside the United Kingdom.
- (4) Condition B is that the whole of the relevant consideration is given by way of one or more payments to one or more bank accounts held outside the United Kingdom by or on behalf of the person who provides the relevant UK service.
- (5) Subsection (2) does not apply if the relevant UK service relates (to any extent) to the provision in the United Kingdom of—
- (a) a benefit that is treated as deriving from the income by virtue of section 735, or
  - (b) a relevant benefit within the meaning of section 87B of TCGA 1992 that is treated as deriving from the chargeable gains by virtue of that section.
- (6) Sections 275 to 275C of TCGA 1992 (location of assets) apply for the purposes of subsection (3) as they apply for the purposes of TCGA 1992.

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### **Exempt property**

- 809~~X~~1) Exempt property which is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies is to be treated as not remitted to the United Kingdom.
- (2) Subsections (3) to (5) set out the cases in which property is exempt property.
- (3) Property is exempt property if it meets the public access rule (see sections 809Z and 809Z1).
- (4) Clothing, footwear, jewellery and watches that derive from relevant foreign income are exempt property if they meet the personal use rule (see section 809Z2).
- (5) Property of any description that derives from relevant foreign income is exempt property if—
- (a) the property meets the repair rule (see section 809Z3),
  - (b) the property meets the temporary importation rule (see section 809Z4), or
  - (c) the notional remitted amount (see section 809Z5) is less than £1,000.

### **Property that ceases to be exempt property treated as remitted**

- 809~~X~~1) Property that ceases to be exempt property is to be treated as having been remitted to the United Kingdom at the time it ceases to be exempt property.
- (2) Property ceases to be exempt property in either of the following cases.
- (3) The first case is where the whole or part of the exempt property is sold, or otherwise converted into money, whilst it is in the United Kingdom.
- (4) The second case is where the property—
- (a) is exempt property only because it meets one or more of the relevant rules,
  - (b) ceases to meet that rule, or all of those rules, whilst it is in the United Kingdom, and
  - (c) does not meet any other relevant rule.
- (5) In this section—
- “money” includes—
    - (a) a traveller's cheque,
    - (b) a promissory note,
    - (c) a bill of exchange, and
    - (d) any other—
      - (i) instrument that is evidence of a debt, or
      - (ii) voucher, stamp or similar token or document which is capable of being exchanged for money, goods or services, and
  - “relevant rule” means—
    - (a) the public access rule,
    - (b) the personal use rule,

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- (c) the repair rule, and
- (d) the temporary importation rule.

**Public access rule: general**

809(1) Property meets the public access rule if conditions A to D are met.

- (2) Condition A is that the property is—
  - (a) a work of art,
  - (b) a collectors' item, or
  - (c) an antique,within the meaning of Council Directive [2006/112/EC](#) (see, in particular, Annex IX to that Directive).
- (3) Condition B is that—
  - (a) the property is available for public access at an approved establishment,
  - (b) the property is to be available for public access at an approved establishment and, in connection with its being so available, is in transit to, or in storage at, public access rule premises, or
  - (c) the property has been available for public access at an approved establishment and, in connection with its having been so available, is in transit from, or in storage at, public access rule premises.
- (4) Property is “available for public access” at an approved establishment if the property is—
  - (a) on public display at the establishment,
  - (b) held by the establishment and made available to the public on request for viewing or for educational use, or
  - (c) held by the establishment for public exhibition in connection with the sale of the property.
- (5) An “approved establishment” is—
  - (a) an approved museum, gallery or other institution within the meaning of Group 9 of Schedule 2 to the Value Added Tax (Imported Goods) Relief Order 1984, or
  - (b) any other person, premises or institution designated (or of a description designated) by the Commissioners.
- (6) “Public access rule premises” are—
  - (a) premises in the United Kingdom at which the property is to be, or has been, available for public access, or
  - (b) other commercial premises in the United Kingdom used by the approved establishment for the storage of property in advance of its being, or after its having been, available for public access at the approved establishment.
- (7) Condition C is that, during the relevant period, the property meets condition B for no more than—
  - (a) two years, or
  - (b) such longer period as the Commissioners may specify.

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- (8) “The relevant period” means the period—
  - (a) beginning with the importation of the property, and
  - (b) ending when it ceases to be in the United Kingdom after that importation.
- (9) “Importation” means the property being brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies.
- (10) Condition D is that the property attracts a relevant VAT relief (see section 809Z1).

### **Public access rule: relevant VAT relief**

809Z(1) Property “attracts a relevant VAT relief” if any of conditions 1 to 4 is met.

- (2) Condition 1 is that article 5(1) of the Value Added Tax (Imported Goods) Relief Order 1984 applies in relation to the importation of the property by virtue of Group 9 of Schedule 2 to that Order (importation of works of art or collectors' pieces by museums etc).
- (3) Condition 2 is that article 5(1) would so apply if the following requirements were disregarded—
  - (a) the requirement that the importation be from a third country, and
  - (b) the requirement that the purpose of the importation be a purpose other than sale.
- (4) Condition 3 is that article 576(3)(a) of Commission Regulation ([EEC](#)) No [2454/93](#) (relief from import duties for works of art etc imported for the purposes of exhibition, with a view to possible sale) applies in relation to the importation of the property.
- (5) Condition 4 is that article 576(3)(a) would so apply if the requirement that the importation be from a third country were disregarded.
- (6) Where the property does not meet condition B in section 809Z at the time of its importation it is to be assumed for the purposes of this section that the property was imported on the day during the relevant period when the property first meets that condition.
- (7) “The relevant period” and “importation” have the same meaning as in section 809Z and “imported” is to be read accordingly.

### **Personal use rule**

809Z(1) Clothing, footwear, jewellery or watches meet the personal use rule if they—

- (a) are property of a relevant person, and
  - (b) are for the personal use of a relevant individual.
- (2) In this section—
- (a) “relevant person” has the meaning given by section 809M, and
  - (b) “relevant individual” means an individual who is a relevant person by virtue of section 809M(2)(a), (b), (c) or (d) (the individual with income or gains, or a husband, wife, civil partner, child or grandchild).

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### **Repair rule**

- 809Z(1) Property meets the repair rule for the whole of the relevant period if, during the whole of that period, the property meets the repair conditions.
- (2) Property meets the repair rule for a part of the relevant period if—
- (a) during the whole of that part of that period, the property meets the repair conditions, and
  - (b) during the whole of the other part of that period, or the whole of each other part of that period, the property meets the repair conditions or the public access rule.
- (3) Property meets the repair conditions if the property—
- (a) is under repair or restoration,
  - (b) is in transit from a place outside the United Kingdom to repair rule premises, in transit between such premises, or in storage at such premises, in advance of repair or restoration, or
  - (c) is in storage at such premises, in transit between such premises, or in transit from such premises to a place outside the United Kingdom, following repair or restoration.
- (4) “Repair rule premises” means—
- (a) premises in the United Kingdom that are to be used, or have been used, for the repair or restoration referred to in subsection (3)(b) or (c), or
  - (b) other commercial premises in the United Kingdom used by the restorer for the storage of property in advance of, or following, repair or restoration of property by the restorer.
- (5) “Restorer” means the person who is to carry out, or has carried out, the repair or restoration referred to in subsection (3)(b) or (c).
- (6) Property meets the repair conditions, or the public access rule, during the whole of a period, or the whole of part of a period, if the property meets those conditions or that rule—
- (a) on the whole of, or on part of, the first day of that period or part period,
  - (b) on the whole of, or on part of, the last day of that period or part period, and
  - (c) on the whole of each other day of that period or part period.
- (7) “The relevant period” has the same meaning as in section 809Z.

### **Temporary importation rule**

- 809Z(1) Property meets the temporary importation rule if the total number of countable days is 275 or fewer.
- (2) A “countable day” is a day on which, or on part of which, the property is in the United Kingdom by virtue of being brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies

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(whether the current case, or a past case, when the property was so brought, received or used).

- (3) A day is not a countable day if, on that day or any part of that day—
  - (a) the property meets the personal use rule,
  - (b) the property meets the repair rule, or
  - (c) the notional remitted amount in relation to the property is less than £1,000.
- (4) A day on which, or on part of which, the property meets the public access rule (the “relevant day”) is not a countable day if any of conditions A to C is met.
- (5) Condition A is that the property meets the public access rule during the whole of the period of importation in which the relevant day falls.
- (6) Condition B is that—
  - (a) the property does not meet the public access rule during the whole of the period of importation in which the relevant day falls, and
  - (b) that period of importation—
    - (i) begins with a period of no public access, and
    - (ii) ends with a period of public access which immediately follows that period of no public access.
- (7) Condition C is that—
  - (a) the property does not meet the public access rule during the whole of the period of importation in which the relevant day falls, and
  - (b) during the parts, or each of the parts of the period of importation during which the property does not meet the public access rule it meets the repair conditions.
- (8) Section 809Z3(6) applies for the purposes of this section.
- (9) “Period of importation” means a period that—
  - (a) begins when property is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies, and
  - (b) ends when the property ceases to be in the United Kingdom after having been so brought, received or used.
- (10) “Period of no public access” means a period which is not a period of public access and “period of public access” means a period during the whole of which property meets the public access rule.

### **Notional remitted amount**

- 809Z3(1) The “notional remitted amount”, in relation to property, is the amount of income that would be taken to be remitted to the United Kingdom in relation to the property (if section 809X did not apply in relation to the property).
- (2) If—
    - (a) property forms part of a set, and
    - (b) only part of the set is in the United Kingdom,

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the notional remitted amount is such part of the amount specified in subsection (3) as is just and reasonable having regard to the part of the set that actually is in the United Kingdom.

- (3) That amount is the amount that would be taken to be remitted to the United Kingdom if the complete set had been brought to, or received or used in, the United Kingdom, at the same time as the part in question.

### **Exempt property: other interpretation**

809Z(1) This section applies for the purposes of sections 809X to 809Z5.

- (2) “Property” does not include money.
- (3) In subsection (2) “money” includes—
- (a) a traveller’s cheque,
  - (b) a promissory note,
  - (c) a bill of exchange, and
  - (d) any other—
    - (i) instrument that is evidence of a debt, or
    - (ii) voucher, stamp or similar token or document which is capable of being exchanged for money, goods or services.
- (4) References to property being in the United Kingdom are references to the property—
- (a) being in the United Kingdom after being brought to, or received in, the United Kingdom in circumstances in which section 809L(2)(a) applies, or
  - (b) being used in the United Kingdom in circumstances in which section 809L(2)(a) applies.

### *Interpretation of Chapter*

### **Interpretation of Chapter**

809Z(1) This section applies for the purposes of this Chapter.

- (2) An individual’s “foreign income and gains” for a tax year are—
- (a) the individual’s relevant foreign earnings for that year,
  - (b) the individual’s foreign specific employment income for that year,
  - (c) the individual’s relevant foreign income for that year, and
  - (d) if the individual is not domiciled in the United Kingdom in that year, the individual’s foreign chargeable gains for that year.
- (3) An individual’s “relevant foreign earnings” for a tax year are—
- (a) if the individual is ordinarily UK resident in that year, the individual’s chargeable overseas earnings for that year, and
  - (b) otherwise, the individual’s general earnings within section 26(1) of ITEPA 2003 for that year (non-UK earnings).

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- (4) An individual's "foreign specific employment income" for a tax year is such of the individual's specific employment income for that year as is foreign securities income for the purposes of section 41A of ITEPA 2003.
- (5) An individual's "foreign chargeable gains" for a tax year are the foreign chargeable gains (within the meaning of section 12(4) of TCGA 1992) accruing to the individual in that year.
- (6) In subsection (3)(a) "chargeable overseas earnings" has the same meaning as in section 22 of ITEPA 2003 (see section 23 of that Act).
- (7) "The Commissioners" means the Commissioners for Her Majesty's Revenue and Customs."



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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)