

Status: Point in time view as at 21/07/2008.

Changes to legislation: Finance Act 2008, Cross Heading: Offshore income gains is up to date with all changes known to be in force on or before 20 June 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)

SCHEDULES

SCHEDULE 7

REMITTANCE BASIS

PART 2

NON-RESIDENT COMPANIES AND TRUSTS ETC

Offshore income gains

- 92 (1) Section 761 of ICTA (charge to income tax or corporation tax of offshore income gain) is amended as follows.
- (2) For subsection (5) substitute—
- “(5) Subsections (1)(b) and (1A) are subject to section 762ZB (income treated as arising: non-UK domiciled individuals to whom remittance basis applies).”
- (3) After subsection (7) insert—
- “(8) Nothing in subsection (7) affects the application of this section in relation to an offshore income gain treated as arising by virtue of section 762(3).”
- 93 (1) Section 762 of that Act (offshore income gains accruing to persons resident or domiciled abroad) is amended as follows.
- (2) In subsection (1), after paragraph (a) insert—
- “(aa) any reference to anything accruing is to be read as a reference to it arising (and similar references are to be read accordingly);”.
- (3) For subsections (2) to (5) substitute—
- “(2) If—
- (a) offshore income gains arise to the trustees of a settlement in a tax year, and
- (b) section 87 of the 1992 Act (gains of non-resident settlements) applies to the settlement for that year,
- the OIG amount for the settlement for that year is the amount of the offshore income gains.
- (3) Sections 87, 87A, 87C to 90 and 96 to 98 of, and Schedule 4C to, the 1992 Act apply in relation to OIG amounts as if—
- (a) references to section 2(2) amounts (except those in paragraph 7B(2)(b) and (4) of Schedule 4C) were to OIG amounts,
- (b) references to chargeable gains (except the one in paragraph 1(5) of Schedule 4C) were to offshore income gains,

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- (c) references to anything accruing were to it arising (and similar references, except the one in paragraph 1(5) of Schedule 4C, were read accordingly), and
 - (d) sections 87(4), 88(2) to (5), 89(4) and 97(6) and paragraphs 1(3A), 3 to 7, 8AA, 12 and 13 of Schedule 4C were omitted.
- (4) Section 87A of the 1992 Act applies for a tax year by virtue of subsection (3) before it applies for that year otherwise than by virtue of that subsection.
- (5) If, by virtue of subsection (1) or (3), offshore income gains are treated as arising to a person, for the purposes of section 761 as it applies in relation to the offshore income gains treat the person as having made the disposal in question.”
- (4) In subsection (6)—
- (a) for “subsection (2) above” substitute “ (3) ”,
 - (b) for “accrued” substitute “ arisen ”, and
 - (c) omit “Chapter 2 of Part 13 of ITA 2007 or”.

94 After that section insert—

“762ZA Offshore income gains: application of transfer of assets abroad provisions

- (1) Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) applies in relation to an offshore income gain arising to a person resident or domiciled outside the United Kingdom as if the offshore income gain were income becoming payable to the person.
- (2) Income treated as arising under that Chapter by virtue of subsection (1) is regarded as “foreign” for the purposes of section 726, 730 or 735 of that Act.
- (3) Subsection (1) does not apply in relation to an offshore income gain if (and to the extent that) it is treated, by virtue of section 762(1), as arising to a person resident or ordinarily resident in the United Kingdom.
- (4) The following provisions apply if section 762(2) applies in relation to an offshore income gain (“the relevant offshore income gain”).
- (5) If—
 - (a) by virtue of section 762(3) an offshore income gain is treated as arising in a tax year to a person resident or ordinarily resident in the United Kingdom, and
 - (b) it is so treated by reason of the relevant offshore income gain (or part of it),
 for that and subsequent tax years subsection (1) does not apply in relation to the relevant offshore income gain (or that part).
- (6) If, by virtue of subsection (1) as it applies in relation to the relevant offshore income gain, income is treated under Chapter 2 of Part 13 of ITA 2007 as arising in a tax year, reduce (with effect from the following tax year) the OIG amount in question by the amount of the income.

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762ZB Income treated as arising under section 761(1): remittance basis

- (1) This section applies to income treated as arising under section 761(1) to an individual in a tax year if—
 - (a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year, and
 - (b) the individual is not domiciled in the United Kingdom in that year.
 - (2) Treat the income as relevant foreign income of the individual.
 - (3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis)—
 - (a) treat any consideration obtained on the disposal of the asset as deriving from the income, and
 - (b) unless the consideration so obtained is of an amount equal to the market value of the asset, treat the asset as deriving from the income.
 - (4) In subsection (3)—
 - (a) “the asset” means the asset the disposal of which causes the income to be treated as arising, and
 - (b) “the disposal” means the disposal mentioned in paragraph (a).”
- 95 In Schedule 10 to TCGA 1992 (consequential amendments), omit paragraph 14(47)(c) and (48)(b) to (d).
- 96 In section 830(4) of ITTOIA 2005 (meaning of “relevant foreign income”), after paragraph (a) insert—
“(aa) section 762ZB(2) of ICTA (offshore income gains).”
- 97 In section 734 of ITA 2007 (reduction in amount charged: previous capital gains tax charge), after subsection (4) insert—
“(5) References in this section to chargeable gains treated as accruing to an individual include offshore income gains treated as arising to the individual (see section 762 of ICTA).”

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