

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Charge to corporation tax: basic provisions

Chapter 4: Non-UK resident companies: chargeable profits

Overview

Section 19: Chargeable profits

118. This section sets out what profits of the non-UK resident company are charged to tax. It is based on sections 11(1) to (2A) and 11AA(1) of ICTA.
119. *Subsection (2)* provides that income and chargeable gains form part of the non-UK resident company's chargeable profits only if they are of a type specified in *subsection (3)* and are attributable to the company's permanent establishment. This is a rather different approach to that in section 11(2A) of ICTA but, read with section 11AA(1) of ICTA, it seems that section 11(2A) of ICTA is merely identifying the types of income and gains that are capable of being attributed to the permanent establishment and not giving the amount of those income and gains.
120. Subsection (3)(c) brings into the chargeable profits of a company chargeable gains falling within section 10B of TCGA. The chargeable gains falling within that section are those accruing to a company on the disposal of assets situated in the United Kingdom. Such gains are relevant in this context if the assets in question are connected with the trade carried on by the company through the permanent establishment or are for use by or for the purposes of the establishment.
121. "Permanent establishment" is defined in section 148 of FA 2003 and appears in Schedule 4 (index of defined expressions).
122. Neither the words "subject to any exceptions provided for by the Corporation Tax Acts" nor the second sentence of section 11(2) of ICTA are rewritten as they are considered unnecessary.