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for the Finance Act 2013, PART 3. (See end of Document for details)*

SCHEDULES

SCHEDULE 45

STATUTORY RESIDENCE TEST

PART 3

SPLIT YEAR TREATMENT

Introduction

- 39 This Part of this Schedule—
- (a) explains when, as respects an individual, a tax year is a split year,
 - (b) defines the overseas part and the UK part of a split year, and
 - (c) amends certain enactments to provide for special charging rules in cases involving split years.
- 40 (1) The effect of a tax year being a split year is to relax the effect of paragraph 2(3) (which treats individuals who are UK resident “for” a tax year as being UK resident at all times in that year).
- (2) When and how the effect of paragraph 2(3) is relaxed is defined in the special charging rules introduced by the amendments made by this Part.
- (3) Subject to those special charging rules (and any other special charging rules for split years that may be introduced in the future), nothing in this Part alters an individual's residence status for a tax year or affects his or her liability to tax.
- 41 This Part—
- (a) does not apply in determining the residence status of personal representatives, and
 - (b) applies to only a limited extent in determining the residence status of the trustees of a settlement (see section 475 of ITA 2007 and section 69 of TCGA 1992, as amended by this Part).
- 42 The existence of special charging rules for cases involving split years is not intended to affect any question as to whether an individual would fall to be regarded under double taxation arrangements as a resident of the UK.

Definition of a “split year”

- 43 (1) As respects an individual, a tax year is a “split year” if—
- (a) the individual is resident in the UK for that year, and
 - (b) the circumstances of the case fall within—
 - (i) Case 1, Case 2 or Case 3 (cases involving actual or deemed departure from the UK), or

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

(ii) Case 4, Case 5, Case 6, Case 7 or Case 8 (cases involving actual or deemed arrival in the UK).

- (2) The 8 Cases are described in paragraphs 44 to 51.
- (3) In those paragraphs, the individual is referred to as “the taxpayer” and the tax year as “the relevant year”.
- (4) In applying Part 2 of this Schedule to those paragraphs, for “P” read “the taxpayer”.

Case 1: starting full-time work overseas

- 44 (1) The circumstances of a case fall within Case 1 if they are as described in sub-paragraphs (2) to (4).
- (2) The taxpayer was resident in the UK for the previous tax year (whether or not it was a split year).
- (3) There is at least one period (consisting of one or more days) that—
- (a) begins with a day that—
 - (i) falls within the relevant year, and
 - (ii) is a day on which the taxpayer does more than 3 hours' work overseas,
 - (b) ends with the last day of the relevant year, and
 - (c) satisfies the overseas work criteria.
- (4) The taxpayer is not resident in the UK for the next tax year because the taxpayer meets the third automatic overseas test for that year (see paragraph 14).
- (5) A period “satisfies the overseas work criteria” if—
- (a) the taxpayer works sufficient hours overseas, as assessed over that period,
 - (b) during that period, there are no significant breaks from overseas work,
 - (c) the number of days in that period on which the taxpayer does more than 3 hours' work in the UK does not exceed the permitted limit, and
 - (d) the number of days in that period falling within sub-paragraph (6) does not exceed the permitted limit.
- (6) A day falls within this sub-paragraph if—
- (a) it is a day spent by the taxpayer in the UK, but
 - (b) it is not a day that is treated under paragraph 23(4) as a day spent by the taxpayer in the UK.
- (7) To work out whether the taxpayer works “sufficient hours overseas” as assessed over a given period, apply paragraph 14(3) but with the following modifications—
- (a) for “P” read “the taxpayer”,
 - (b) for “year X” read “the period under consideration”,
 - (c) for “365 (or 366 if year X includes 29 February)” read “the number of days in the period under consideration”, and
 - (d) in paragraph 28(9)(b), as it applies for the purposes of step 3, for “30” read “the permitted limit”.
- (8) The permitted limit is—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (a) for sub-paragraphs (5)(c) and (7)(d), the number found by reducing 30 by the appropriate number, and
- (b) for sub-paragraph (5)(d), the number found by reducing 90 by the appropriate number.

(9) The appropriate number is the result of—

$$A \times \frac{B}{12}$$

where—

“A” is—

- (a) 30, for sub-paragraphs (5)(c) and (7)(d), or
- (b) 90, for sub-paragraph (5)(d), and

“B” is the number of whole months in the part of the relevant year before the day mentioned in sub-paragraph (3)(a).

Case 2: the partner of someone starting full-time work overseas

- 45
- (1) The circumstances of a case fall within Case 2 if they are as described in sub-paragraphs (2) to (6).
 - (2) The taxpayer was resident in the UK for the previous tax year (whether or not it was a split year).
 - (3) The taxpayer has a partner whose circumstances fall within Case 1 for—
 - (a) the relevant year, or
 - (b) the previous tax year.
 - (4) On a day in the relevant year, the taxpayer moves overseas so the taxpayer and the partner can continue to live together while the partner is working overseas.
 - (5) In the part of the relevant year beginning with the deemed departure day—
 - (a) the taxpayer has no home in the UK at any time, or has homes in both the UK and overseas but spends the greater part of the time living in the overseas home, and
 - (b) the number of days that the taxpayer spends in the UK does not exceed the permitted limit.
 - (6) The taxpayer is not resident in the UK for the next tax year.
 - (7) If sub-paragraph (3)(a) applies, the “deemed departure day” is the later of—
 - (a) the day mentioned in sub-paragraph (4), and
 - (b) the first day of what is, for the partner, the overseas part of the relevant year as defined for Case 1 (see paragraph 53).
 - (8) If sub-paragraph (3)(b) applies, the “deemed departure day” is the day mentioned in sub-paragraph (4).
 - (9) The permitted limit is the number found by reducing 90 by the appropriate number.
 - (10) The appropriate number is the result of—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

$$A \times \frac{B}{12}$$

where—

“A” is 90, and

“B” is the number of whole months in the part of the relevant year before the deemed departure day.

Case 3: ceasing to have a home in the UK

- 46 (1) The circumstances of a case fall within Case 3 if they are as described in sub-paragraphs (2) to (6).
- (2) The taxpayer was resident in the UK for the previous tax year (whether or not it was a split year).
- (3) At the start of the relevant year the taxpayer had one or more homes in the UK but—
- (a) there comes a day in the relevant year when P ceases to have any home in the UK, and
 - (b) from then on, P has no home in the UK for the rest of that year.
- (4) In the part of the relevant year beginning with the day mentioned in sub-paragraph (3) (a), the taxpayer spends fewer than 16 days in the UK.
- (5) The taxpayer is not resident in the UK for the next tax year.
- (6) At the end of the period of 6 months beginning with the day mentioned in sub-paragraph (3)(a), the taxpayer has a sufficient link with a country overseas.
- (7) The taxpayer has a “sufficient link” with a country overseas if and only if—
- (a) the taxpayer is considered for tax purposes to be a resident of that country in accordance with its domestic laws, or
 - (b) the taxpayer has been present in that country (in person) at the end of each day of the 6-month period mentioned in sub-paragraph (6), or
 - (c) the taxpayer's only home is in that country or, if the taxpayer has more than one home, they are all in that country.

Case 4: starting to have a home in the UK only

- 47 (1) The circumstances of a case fall within Case 4 if they are as described in sub-paragraphs (2) to (4).
- (2) The taxpayer was not resident in the UK for the previous tax year.
- (3) At the start of the relevant year, the taxpayer did not meet the only home test, but there comes a day in the relevant year when that ceases to be the case and the taxpayer then continues to meet the only home test for the rest of that year.
- (4) For the part of the relevant year before that day, the taxpayer does not have sufficient UK ties.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (5) The “only home test” is met if—
- (a) the taxpayer has only one home and that home is in the UK, or
 - (b) the taxpayer has more than one home and all of them are in the UK.
- (6) Paragraphs 17 to 20 (and Part 2 of this Schedule so far as it relates to those paragraphs) apply for the purposes of sub-paragraph (4) with the following adjustments—
- (a) references in those paragraphs and that Part to year X are to be read as references to the part of the relevant year mentioned in sub-paragraph (4), and
 - (b) each number of days mentioned in the first column of the Table in paragraphs 18 and 19 is to be reduced by the appropriate number.
- (7) The appropriate number is found by multiplying the number of days, in each case, by—

$$\frac{A}{12}$$

where “A” is the number of whole months in the part of the relevant year beginning with the day mentioned in sub-paragraph (3).

- (8) Sub-paragraph (6)(a) does not apply to the references to year X in paragraphs 32(1) (b) and 33 of this Schedule (which relate to the residence status of family members) so those references must continue to be read as references to year X.

Case 5: starting full-time work in the UK

- 48 (1) The circumstances of a case fall within Case 5 if they are as described in sub-paragraphs (2) and (3).
- (2) The taxpayer was not resident in the UK for the previous tax year.
- (3) There is at least one period of 365 days in respect of which the following conditions are met—
- (a) the period begins with a day that—
 - (i) falls within the relevant year, and
 - (ii) is a day on which the taxpayer does more than 3 hours' work in the UK,
 - (b) in the part of the relevant year before the period begins, the taxpayer does not have sufficient UK ties,
 - (c) the taxpayer works sufficient hours in the UK, as assessed over the period,
 - (d) during the period, there are no significant breaks from UK work, and
 - (e) at least 75% of the total number of days in the period on which the taxpayer does more than 3 hours' work are days on which the taxpayer does more than 3 hours' work in the UK.
- (4) To work out whether the taxpayer works “sufficient hours in the UK” as assessed over a given period, apply paragraph 9(2) but for “P” read “the taxpayer”.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (5) Paragraphs 17 to 20 (and Part 2 of this Schedule so far as it relates to those paragraphs) apply for the purposes of sub-paragraph (3)(b) with the following adjustments—
- (a) references in those paragraphs and that Part to year X are to be read as references to the part of the relevant year mentioned in sub-paragraph (3)(b), and
 - (b) each number of days mentioned in the first column of the Table in paragraphs 18 and 19 is to be reduced by the appropriate number.
- (6) The appropriate number is found by multiplying the number of days, in each case, by—

$$\frac{A}{12}$$

where “A” is the number of whole months in the part of the relevant year beginning with the day on which the 365-day period in question begins.

- (7) Sub-paragraph (5)(a) does not apply to the references to year X in paragraphs 32(1)(b) and 33 of this Schedule (which relate to the residence status of family members) so those references must continue to be read as references to year X.

Case 6: ceasing full-time work overseas

- 49 (1) The circumstances of a case fall within Case 6 if they are as described in sub-paragraphs (2) to (4).
- (2) The taxpayer—
- (a) was not resident in the UK for the previous tax year because the taxpayer met the third automatic overseas test for that year (see paragraph 14), but
 - (b) was resident in the UK for one or more of the 4 tax years immediately preceding that year.
- (3) There is at least one period (consisting of one or more days) that—
- (a) begins with the first day of the relevant year,
 - (b) ends with a day that—
 - (i) falls within the relevant year, and
 - (ii) is a day on which the taxpayer does more than 3 hours' work overseas, and
 - (c) satisfies the overseas work criteria.
- (4) The taxpayer is resident in the UK for the next tax year (whether or not it is a split year).
- (5) A period “satisfies the overseas work criteria” if—
- (a) the taxpayer works sufficient hours overseas, as assessed over that period,
 - (b) during that period, there are no significant breaks from overseas work,
 - (c) the number of days in that period on which the taxpayer does more than 3 hours' work in the UK does not exceed the permitted limit, and

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (d) the number of days in that period falling within sub-paragraph (6) does not exceed the permitted limit.
- (6) A day falls within this sub-paragraph if—
 - (a) it is a day spent by the taxpayer in the UK, but
 - (b) it is not a day that is treated under paragraph 23(4) as a day spent by the taxpayer in the UK.
- (7) To work out whether the taxpayer works “sufficient hours overseas” as assessed over a given period, apply paragraph 14(3) but with the following modifications—
 - (a) for “P” read “the taxpayer”,
 - (b) for “year X” read “the period under consideration”,
 - (c) for “365 (or 366 if year X includes 29 February)” read “the number of days in the period under consideration”, and
 - (d) in paragraph 28(9)(b), as it applies for the purposes of step 3, for “30” read “the permitted limit”.
- (8) The permitted limit is—
 - (a) for sub-paragraphs (5)(c) and (7)(d), the number found by reducing 30 by the appropriate number, and
 - (b) for sub-paragraph (5)(d), the number found by reducing 90 by the appropriate number.
- (9) The appropriate number is the result of—

$$A \times \frac{B}{12}$$

where—

“A” is—

- (a) 30, for sub-paragraphs (5)(c) and (7)(d), or
- (b) 90, for sub-paragraph (5)(d), and

“B” is the number of whole months in the part of the relevant year after the 365-day period in question ends.

Case 7: the partner of someone ceasing full-time work overseas

- 50
- (1) The circumstances of a case fall within Case 7 if they are as described in sub-paragraphs (2) to (6).
 - (2) The taxpayer was not resident in the UK for the previous tax year.
 - (3) The taxpayer has a partner whose circumstances fall within Case 6 for—
 - (a) the relevant year, or
 - (b) the previous tax year.
 - (4) On a day in the relevant year, the taxpayer moves to the UK so the taxpayer and the partner can continue to live together on the partner's return or relocation to the UK.
 - (5) In the part of the relevant year before the deemed arrival day—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (a) the taxpayer has no home in the UK at any time, or has homes in both the UK and overseas but spends the greater part of the time living in the overseas home, and
 - (b) the number of days that the taxpayer spends in the UK does not exceed the permitted limit.
- (6) The taxpayer is resident in the UK for the next tax year (whether or not it is a split year).
- (7) If sub-paragraph (3)(a) applies, the “deemed arrival day” is the later of—
- (a) the day mentioned in sub-paragraph (4), and
 - (b) the first day of what is, for the partner, the UK part of the relevant year as defined for Case 6 (see paragraph 54).
- (8) If sub-paragraph (3)(b) applies, the “deemed arrival day” is the day mentioned in sub-paragraph (4).
- (9) The permitted limit is the number found by reducing 90 by the appropriate number.
- (10) The appropriate number is the result of—

$$A \times \frac{B}{12}$$

where—

“A” is 90, and

“B” is the number of whole months in the part of the relevant year beginning with the deemed arrival day.

Case 8: starting to have a home in the UK

- 51 (1) The circumstances of a case fall within Case 8 if they are as described in sub-paragraphs (2) to (5).
- (2) The taxpayer was not resident in the UK for the previous tax year.
- (3) At the start of the relevant year, the taxpayer had no home in the UK but—
- (a) there comes a day when, for the first time in that year, the taxpayer does have a home in the UK, and
 - (b) from then on, the taxpayer continues to have a home in the UK for the rest of that year and for the whole of the next tax year.
- (4) For the part of the relevant year before the day mentioned in sub-paragraph (3)(a), the taxpayer does not have sufficient UK ties.
- (5) The taxpayer is resident in the UK for the next tax year and that tax year is not a split year as respects the taxpayer.
- (6) Paragraphs 17 to 20 (and Part 2 of this Schedule so far as it relates to those paragraphs) apply for the purposes of sub-paragraph (4) with the following adjustments—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (a) references in those paragraphs and that Part to year X are to be read as references to the part of the relevant year mentioned in sub-paragraph (4), and
 - (b) each number of days mentioned in the first column of the Table in paragraphs 18 and 19 is to be reduced by the appropriate number.
- (7) The appropriate number is found by multiplying the number of days, in each case, by—

$$\frac{A}{12}$$

where “A” is the number of whole months in the part of the relevant year beginning with the day mentioned in sub-paragraph (3)(a).

- (8) Sub-paragraph (6)(a) does not apply to the references to year X in paragraphs 32(1)(b) and 33 of this Schedule (which relate to the residence status of family members) so those references must continue to be read as references to year X.

General rules for construing Cases 1 to 8

- 52 (1) This paragraph applies for the purposes of paragraphs 44 to 51.
- (2) A reference to “the previous tax year” is to the tax year preceding the relevant year.
- (3) A reference to “the next tax year” is to the tax year following the relevant year.
- (4) “Partner”, in relation to the taxpayer, means—
- (a) a husband or wife or civil partner, ^{F1}or
 - (b) if the taxpayer and another person are living together ^{F2}as if they were a married couple or civil partners], that other person, ^{F3}...
 - ^{F3}(c)
- (5) If calculation of the appropriate number results in a number of days that is not a whole number, the appropriate number is to be rounded up or down as follows—
- (a) if the first figure after the decimal point is 5 or more, round the appropriate number up to the nearest whole number,
 - (b) otherwise, round it down to the nearest whole number.

Textual Amendments

- F1** Word in Sch. 45 para. 52(4)(a) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 36(3)(a)**
- F2** Words in Sch. 45 para. 52(4)(b) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 36(3)(b)**
- F3** Sch. 45 para. 52(4)(c) and word omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 36(3)(c)**

The overseas part

- 53 (1) “The overseas part” of a split year is the part of that year defined below—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (a) for the Case in question, or
 - (b) if the taxpayer's circumstances fall within more than one Case, for the Case which has priority (see paragraphs 54 and 55).
- (2) For Case 1, the overseas part is—
- (a) if there is only one period falling within paragraph 44(3), the part beginning with the first day of that period, and
 - (b) if there is more than one such period, the part beginning with the first day of the longest of those periods.
- (3) For Case 2, the overseas part is the part beginning with the deemed departure day as defined in paragraph 45(7) and (8).
- (4) For Case 3, the overseas part is the part beginning with the day mentioned in paragraph 46(3)(a).
- (5) For Case 4, the overseas part is the part before the day mentioned in paragraph 47(3).
- (6) For Case 5, the overseas part is—
- (a) if there is only one period falling within paragraph 48(3), the part before that period begins, and
 - (b) if there is more than one such period, the part before the first of those periods begins.
- (7) For Case 6, the overseas part is—
- (a) if there is only one period falling within paragraph 49(3), the part ending with the last day of that period, and
 - (b) if there is more than one such period, the part ending with the last day of the longest of those periods.
- (8) For Case 7, the overseas part is the part before the deemed arrival day as defined in paragraph 50(7) and (8).
- (9) For Case 8, the overseas part is the part before the day mentioned in paragraph 51(3)
- (a).

Priority between Cases 1 to 3

- 54 (1) This paragraph applies to determine which Case has priority where the taxpayer's circumstances for the relevant year fall within two or all of the following—
- Case 1 (starting full-time work overseas);
 - Case 2 (the partner of someone starting full-time work overseas);
 - Case 3 (ceasing to have a home in the UK).
- (2) Case 1 has priority over Case 2 and Case 3.
- (3) Case 2 has priority over Case 3.

Priority between Cases 4 to 8

- 55 (1) This paragraph applies to determine which Case has priority where the taxpayer's circumstances for the relevant year fall within two or more of the following—
- Case 4 (starting to have a home in the UK only);
 - Case 5 (starting full-time work in the UK);

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2013, PART 3. (See end of Document for details)*

- Case 6 (ceasing full-time work overseas);
- Case 7 (the partner of someone ceasing full-time work overseas);
- Case 8 (starting to have a home in the UK).

- (2) In this paragraph “the split year date” in relation to a Case means the final day of the part of the relevant year defined in paragraph 53(5) to (9) for that Case.
- (3) If Case 6 applies—
 - (a) if Case 5 also applies and the split year date in relation to Case 5 is earlier than the split year date in relation to Case 6, Case 5 has priority;
 - (b) otherwise, Case 6 has priority.
- (4) If Case 7 (but not Case 6) applies—
 - (a) if Case 5 also applies and the split year date in relation to Case 5 is earlier than the split year date in relation to Case 7, Case 5 has priority;
 - (b) otherwise, Case 7 has priority
- (5) If two or all of Cases 4, 5 and 8 apply (but neither Case 6 nor Case 7), the Case which has priority is the one with the earliest split year date.
- (6) But if, in a case to which sub-paragraph (5) applies, two or all of the Cases which apply share the same split year date and that date is the only, or earlier, split year date of the Cases which apply, the Cases with that split year date are to be treated as having priority.

The UK part

56 “The UK part” of a split year is the part of that year that is not the overseas part.

Special charging rules for employment income

57 ITEPA 2003 is amended as follows.

58 (1) In section 15 (earnings for year when employee UK resident), for subsection (1) substitute—

“(1) This section applies to general earnings for a tax year for which the employee is UK resident except that, in the case of a split year, it does not apply to any part of those earnings that is excluded.

(1A) General earnings are “excluded” if they—

- (a) are attributable to the overseas part of the split year, and
- (b) are neither—

- (i) general earnings in respect of duties performed in the United Kingdom, nor

- (ii) general earnings from overseas Crown employment subject to United Kingdom tax.”

(2) After subsection (3) insert—

“(4) Any attribution required for the purposes of subsection (1A)(a) is to be done on a just and reasonable basis.

(5) The following provisions of Chapter 5 of this Part apply for the purposes of subsection (1A)(b) as for the purposes of section 27(2)—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (a) section 28 (which defines “general earnings from overseas Crown employment subject to United Kingdom tax”), and
 - (b) sections 38 to 41 (which contain rules for determining the place of performance of duties of employment).
- (6) Subject to any provision made in an order under section 28(5) for the purposes of subsection (1A)(b), provisions made in an order under that section for the purposes of section 27(2) apply for the purposes of subsection (1A)(b) too.”
- 59 In section 22 (chargeable overseas earnings for year when remittance basis applies and employee outside section 26), for subsection (7) substitute—
- “(7) Section 15(1) does not apply to general earnings within subsection (1).”
- 60 (1) Section 23 (calculation of “chargeable overseas earnings”) is amended as follows.
- (2) In subsection (3), for step 1 substitute—
- “*Step 1* Identify—
- (a) in the case of a tax year that is not a split year, the full amount of the overseas earnings for that year, and
 - (b) in the case of a split year, so much of the full amount of the overseas earnings for that year as is attributable to the UK part of the year.”
- (3) In that subsection, in step 2, for “those earnings” substitute “ the earnings identified under step 1 ”.
- (4) After that subsection insert—
- “(4) Any attribution required for the purposes of step 1 or step 2 in subsection (3) is to be done on a just and reasonable basis.”
- 61 (1) Section 24 (limit on chargeable overseas earnings where duties of associated employment performed in UK) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) If the tax year is a split year as respects the employee, subsection (2) has effect as if for “the aggregate earnings for that year from all the employments concerned” there were substituted “ so much of the aggregate earnings for that year from all the employments concerned as is attributable to the UK part of that year ”.”
- (3) After subsection (3) insert—
- “(3A) Any attribution required for the purposes of subsection (2A) is to be done on a just and reasonable basis.”
- 62 (1) Section 26 (foreign earnings for year when remittance basis applies and employee meets section 26A requirement) is amended as follows.
- (2) In subsection (1), for the words from “if the general earnings” to the end substitute “if the general earnings meet all of the following conditions—
- (a) they are neither—
 - (i) general earnings in respect of duties performed in the United Kingdom, nor

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (ii) general earnings from overseas Crown employment subject to United Kingdom tax, and
- (b) if the tax year is a split year as respects the employee, they are attributable to the UK part of the year.”
- (3) After subsection (5) insert—
- “(5A) Any attribution required for the purposes of subsection (1)(b) is to be done on a just and reasonable basis.”
- (4) For subsection (6) substitute—
- “(6) Section 15(1) does not apply to general earnings within subsection (1).”
- 63 In section 232 (giving effect to mileage allowance relief), after subsection (6) insert—
- “(6A) If the earnings from which a deduction allowed under this section is deductible include earnings that are “excluded” within the meaning of section 15(1A)—
- (a) the amount of the deduction allowed is a proportion of the amount that would be allowed under this section if the tax year were not a split year, and
- (b) that proportion is equal to the proportion that the part of the earnings that is not “excluded” bears to the total earnings.”
- 64 (1) Section 329 (deduction from earnings not to exceed earnings) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) If the earnings from which a deduction allowed under this Part is deductible include earnings that are “excluded” within the meaning of section 15(1A)—
- (a) the amount of the deduction allowed is a proportion of the amount that would be allowed under this Part if the tax year were not a split year, and
- (b) that proportion is equal to the proportion that the part of the earnings that is not “excluded” bears to the total earnings.”
- (3) In subsection (2), after “those earnings” insert “ (or, in a case within subsection (1A), the part of those earnings that is not “excluded”) ”.
- (4) In subsection (3), after “the earnings” insert “ (or, in a case within subsection (1A), the part of the earnings that is not “excluded”) ”.
- 65 (1) Section 394 (charge on employer-financed retirement benefits) is amended as follows.
- (2) In subsection (4C), omit “or” at the end of paragraph (b) and after that paragraph insert—
- “(ba) an amount which would count as employment income of the employee or former employee under that Chapter but for the application of section 554Z5 (overlap with earlier relevant step), or”.
- (3) In that subsection, for paragraph (c) substitute—
- “(c) an amount which would be within paragraph (a), (b) or (ba) apart from—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (i) the employee or former employee having been non-UK resident for any tax year, or
 - (ii) any tax year having been a split year as respects the employee or former employee.”
- 66 (1) Section 421E (income relating to securities: exclusions about residence etc) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Chapters 2, 3 and 4 do not apply in relation to employment-related securities if the acquisition occurs in a tax year that is not a split year as respects the employee and—
- (a) the earnings from the employment for that tax year are not general earnings to which section 15, 22 or 26 applies (earnings for year when employee UK resident), or
 - (b) had there been any earnings from the employment for that tax year, they would not have been general earnings to which any of those sections applied.
- (1A) Chapters 2, 3 and 4 do not apply in relation to employment-related securities if the acquisition occurs in the UK part of a tax year that is a split year as respects the employee and—
- (a) the earnings from the employment attributable to that part of the year are not general earnings to which section 15, 22 or 26 applies, or
 - (b) had there been any earnings from the employment attributable to that part of the year, they would not have been general earnings to which any of those sections applied.
- (1B) Chapters 2, 3 and 4 do not apply in relation to employment-related securities if the acquisition occurs in the overseas part of a tax year that is a split year as respects the employee.”
- (3) After subsection (2) insert—
- “(2A) But Chapters 3A to 3D do apply in relation to employment-related securities in relation to which they are disapplied by subsection (2) if—
- (a) the acquisition takes place in the overseas part of a tax year that is a split year as respects the employee,
 - (b) the tax year is a split year because the circumstances of the case fall within Case 1, Case 2 or Case 3 as described in Part 3 of Schedule 45 to FA 2013 (split year treatment: cases involving actual or deemed departure from the United Kingdom), and
 - (c) had it not been a split year—
 - (i) the earnings from the employment for that tax year (or some of them) would have been general earnings to which section 15, 22 or 26 applied, or
 - (ii) if there had been any earnings from the employment for that tax year, they (or some of them) would have been general earnings to which any of those sections applied.”
- 67 In section 474 (cases where Chapter 5 of Part 7 does not apply), for subsection (1) substitute—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- “(1) This Chapter (apart from sections 473 and 483) does not apply in relation to an employment-related securities option if the acquisition occurs in a tax year that is not a split year as respects the employee and—
- (a) the earnings from the employment are not general earnings to which section 15, 22 or 26 applies (earnings for year when employee UK resident), or
 - (b) had there been any earnings from the employment, they would not have been general earnings to which any of those sections applied.
- (1A) This Chapter (apart from sections 473 and 483) does not apply in relation to an employment-related securities option if the acquisition occurs in the UK part of a tax year that is a split year as respects the employee and—
- (a) the earnings from the employment attributable to that part of the year are not general earnings to which section 15, 22 or 26 applies (earnings for year when employee UK resident), or
 - (b) had there been any earnings from the employment attributable to that part of the year, they would not have been general earnings to which any of those sections applied.
- (1B) This Chapter (apart from sections 473 and 483) does not apply in relation to an employment-related securities option if the acquisition occurs in the overseas part of a tax year that is a split year as respects the employee.”
- 68 (1) Section 554Z4 (residence issues) is amended as follows.
- (2) For subsections (3) to (5) substitute—
- “(3) Subsection (4) applies if the value of the relevant step, or a part of it, is “for”—
- (a) a tax year for which A is non-UK resident, or
 - (b) a tax year that is a split year as respects A.
- (4) The value, or the part of it, is to be reduced—
- (a) in a case within subsection (3)(a), by so much of the value, or the part of it, as is not in respect of UK duties, and
 - (b) in a case within subsection (3)(b), by so much of the value, or the part of it, as is both—
 - (i) attributable to the overseas part of the tax year, and
 - (ii) not in respect of UK duties.
- (5) The extent to which—
- (a) the value, or the part of it, is not in respect of UK duties, or
 - (b) so much of the value, or the part of it, as is attributable to the overseas part of the tax year is not in respect of UK duties,
- is to be determined on a just and reasonable basis.”
- (3) After subsection (5) insert—
- “(5A) Any attribution required for the purposes of subsection (4)(b)(i) is to be done on a just and reasonable basis.
- (5B) “UK duties” means duties performed in the United Kingdom.”

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- 69 In section 554Z6 (overlap with certain earnings), in subsection (1)(a), after “UK resident” insert “ (and, in the case of a tax year that is a split year as respects A, are not “excluded” by virtue of section 15(1A)(a) and (b)(i)) ”.
- 70 In section 554Z9 (remittance basis: A is ordinarily UK resident), in subsection (5)—
- (a) in paragraph (b), after “that income” insert “ (or of so much of it as is attributable to the UK part of the relevant tax year, if it was a split year as respects A) ”, and
 - (b) in paragraph (c), after “tax year” insert “ (or the UK part of it) ”.
- 71 (1) Section 554Z10 (remittance basis: A is not ordinarily resident) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
 - “(a) the value of the relevant step, or a part of it, is “for” a tax year (“the relevant tax year”) as determined under section 554Z4.”.
 - (3) For subsection (2) substitute—
 - “(2) The overseas portion of (as the case may be)—
 - (a) A's employment income by virtue of section 554Z2(1), or
 - (b) the relevant part of A's employment income by virtue of that section, is “taxable specific income” in a tax year so far as the overseas portion is remitted to the United Kingdom in that year.”
 - (4) After that subsection insert—
 - “(2A) The overseas portion” of A's employment income by virtue of section 554Z2(1), or of the relevant part of that income, is so much of that income, or of the relevant part of it, as is not in respect of UK duties.
 - (2B) “UK duties” means duties performed in the United Kingdom.”
 - (5) In subsection (3), for “this purpose” substitute “ the purposes of this section ”.
 - (6) For subsection (4) substitute—
 - “(4) The extent to which—
 - (a) the employment income, or the relevant part of it, is not in respect of UK duties, or
 - (b) so much of the employment income, or of the relevant part of it, as is attributable to the UK part of the relevant tax year is not in respect of UK duties,
 is to be determined on a just and reasonable basis.”

Special charging rules for pension income

- 72 (1) Section 575 of ITEPA 2003 (foreign pensions: taxable pension income) is amended as follows.
- (2) In subsection (1), after “subsections” insert “ (1A), ”.
 - (3) After that subsection insert—
 - “(1A) If the person liable for the tax under this Part is an individual and the tax year is a split year as respects that individual, the taxable pension income for the

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

tax year is the full amount of the pension income arising in the UK part of the year, subject to subsections (2) and (3) and section 576A.”

^{F4}(4)

Textual Amendments

F4 Sch. 45 para. 72(4) omitted (with effect in accordance with Sch. 3 para. 2(6) of the amending Act) by virtue of [Finance Act 2017 \(c. 10\)](#), [Sch. 3 para. 2\(4\)\(d\)](#)

PAYE income

73 (1) Section 690 of ITEPA 2003 (employee non-residents etc) is amended as follows.

(2) In subsection (1), omit “only”.

(3) After that subsection insert—

“(1A) This section also applies in relation to an employee in a tax year if it appears to an officer of Revenue and Customs that—

- (a) the tax year is likely to be a split year as respects the employee, and
- (b) the employee works or will work in the United Kingdom and also works or is likely to work outside the United Kingdom.”

Special charging rules for trading income

74 ITTOIA 2005 is amended as follows.

75 In section 6 (territorial scope of charge to tax), after subsection (2) insert—

“(2A) If the tax year is a split year as respects a UK resident individual, this section has effect as if, for the overseas part of that year, the individual were non-UK resident.”

76 (1) Section 17 (effect of becoming or ceasing to be UK resident) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies if—

- (a) an individual carries on a trade otherwise than in partnership, and
- (b) there is a change of residence.

(1A) For the purposes of this section there is a “change of residence” if—

- (a) the individual becomes or ceases to be UK resident, or
- (b) a tax year is, as respects the individual, a split year.

(1B) The change of residence occurs—

- (a) in a case falling within subsection (1A)(a), at the start of the tax year for which the individual becomes or ceases to be UK resident, and
- (b) in a case falling within subsection (1A)(b), at the start of whichever of the UK part or the overseas part of the tax year is the later part.”

(3) In subsection (2), at the beginning insert “ If this section applies and the individual does not actually cease permanently to carry on the trade immediately before the change of residence occurs, ”.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- 77 In section 243 (post-cessation receipts: extent of charge to tax), after subsection (5) insert—
- “(6) If the tax year is a split year as respects a UK resident individual, this section has effect as if, for the overseas part of that year, the individual were non-UK resident.”
- 78 In section 849 (calculation of firm's profits or losses), after subsection (3) insert—
- “(3A) For any tax year that is a split year as respects the partner, this section has effect as if the partner were non-UK resident in the overseas part of the year.”
- 79 (1) Section 852 (carrying on by partner of notional trade) is amended as follows.
- (2) For subsection (6) substitute—
- “(6) If there is a change of residence, the partner is treated as permanently ceasing to carry on one notional trade when that change of residence occurs and starting to carry on another immediately afterwards.”
- (3) After subsection (7) insert—
- “(8) Subsections (1A) and (1B) of section 17 apply for the purposes of subsection (6).”
- 80 (1) Section 854 (carrying on by partner of notional business) is amended as follows.
- (2) For subsection (5) substitute—
- “(5) If there is a change of residence, the partner is treated as permanently ceasing to carry on one notional business when that change of residence occurs and starting to carry on another immediately afterwards.”
- (3) After that subsection insert—
- “(5A) Subsections (1A) and (1B) of section 17 apply for the purposes of subsection (5).”

Special charging rules for property income

- 81 In section 270 of ITTOIA 2005 (profits of property businesses: income charged), after subsection (2) insert—
- “(3) If, as respects an individual carrying on an overseas property business, the tax year is a split year—
- (a) tax is charged under this Chapter on so much of the profits referred to in subsection (1) as arise in the UK part of the tax year, and
- (b) the portion of the profits arising in the overseas part of the tax year is, accordingly, not chargeable to tax under this Chapter.
- (4) In determining how much of the profits arise in the UK part of the tax year—
- (a) determine first how much of the non-CAA profits arise in the UK part by apportioning the non-CAA profits between the UK part and the overseas part on a just and reasonable basis, and
- (b) then adjust the portion of the non-CAA profits arising in the UK part by deducting any CAA allowances for the year and adding any CAA charges for the year.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

(5) In subsection (4)—

“CAA allowances” means allowances treated under section 250 or 250A of CAA 2001 (capital allowances for overseas property businesses) as an expense of the business;

“CAA charges” means charges treated under either of those sections as a receipt of the business;

“non-CAA profits” means profits before account is taken of any CAA allowances or CAA charges.”

Special charging rules for savings and investment income

- 82 Part 4 of ITTOIA 2005 (savings and investment income) is amended as follows.
- 83 In section 368 (territorial scope of charges in respect of savings and investment income), after subsection (2) insert—
- “(2A) If income arising to an individual who is UK resident arises in the overseas part of a split year, it is to be treated for the purposes of this section as arising to a non-UK resident.”
- 84 In section 465 (person liable for tax on gains from life insurance etc: individuals), after subsection (1) insert—
- “(1A) But if the tax year is a split year as respects the individual, the individual is not liable for tax under this Chapter in respect of gains arising in the overseas part of that year (subject to section 465B).”
- 85 In section 467 (person liable: UK resident trustees), in subsection (4), after paragraph (a) insert—
- “(aa) is UK resident but the gain arises in the overseas part of a tax year that is, as respects the person who created the trusts, a split year.”
- 86 (1) Section 528 (reduction in amount charged under Chapter 9 of Part 4: non-UK resident policy holders) is amended as follows.
- (2) The amendments made by sub-paragraphs (3) to (6) apply to section 528 as substituted by paragraph 3 of Schedule 8 to this Act, and have effect in relation to policies and contracts in relation to which that section as so substituted has effect.
- (3) In subsection (1)(b), for the words from “on which” to the end substitute “ that are foreign days ”.
- (4) After subsection (1) insert—
- “(1A) Foreign days” are—
- (a) days falling within any tax year for which the individual is not UK resident, and
- (b) days falling within the overseas part of any tax year that is a split year as respects the individual.”
- (5) In subsection (3), in the definition of “A”, for “days falling within subsection (1)(b)” substitute “ foreign days ”.
- (6) In subsection (8), for “subsection (1)(b)” substitute “ subsection (1A)(a) and (b) ”.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (7) The amendments made by sub-paragraphs (8) to (10) apply to section 528 as in force immediately before the substitution mentioned in sub-paragraph (2) so far as that section as so in force continues to have effect after the substitution.
- (8) In subsection (1), for the words from “the policy holder” to the end substitute “ there are one or more days in the policy period that are foreign days. ”
- (9) After that subsection insert—
- “(1A) Foreign days” are—
- (a) days on which the policy holder is not UK resident, and
- (b) days falling within the overseas part of any tax year that is a split year as respects the policy holder (if the policy holder is an individual).”
- (10) In subsection (3), in the definition of “A”, for the words from “on which” to the end substitute “ in the policy period that are foreign days, and ”.
- 87 (1) Section 528A (reduction in amount charged on basis of non-UK residence of deceased person), as inserted by paragraph 3 of Schedule 8 to this Act, is amended as follows.
- (2) In subsection (1)(b), for the words from “on which” to the end substitute “ that were foreign days ”.
- (3) In subsection (2)—
- (a) in paragraph (b), for the words from “on which” to the end substitute “ that were foreign days, and ”, and
- (b) for paragraph (c), substitute—
- “(c) the deceased died—
- (i) in a tax year for which the deceased was UK resident but not one that was a split year as respects the deceased, or
- (ii) in the UK part of a tax year that was a split year as respects the deceased.”
- (4) After that subsection insert—
- “(2A) Foreign days” are—
- (a) days falling within any tax year for which the deceased was not UK resident, and
- (b) days falling within the overseas part of any tax year that was a split year as respects the deceased.”
- (5) In subsection (4), in the definition of “A”, for the words from “are days falling” to the end substitute “ were foreign days, and ”.
- (6) In subsection (8), for “subsection (1)(b) or (2)(b)” substitute “ subsection (2A)(a) and (b) ”.
- 88 (1) Section 536 (top slicing relieved liability: one chargeable event) is amended as follows.
- (2) The amendment made by sub-paragraph (3) applies to section 536 as amended by paragraph 5 of Schedule 8 to this Act, and has effect in accordance with paragraph 7 of that Schedule.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2013, PART 3. (See end of Document for details)*

(3) For subsection (7) substitute—

“(7) If in the case of the individual the gain is reduced under section 528—

- (a) divide the number of foreign days in the material interest period (as determined in accordance with that section, including subsections (7) and (8)) by 365,
- (b) if the result is not a whole number, round it down to the nearest whole number, and
- (c) reduce N, for steps 1 and 3 in subsection (1), by the number found by applying paragraphs (a) and (b).”

(4) The amendment made by sub-paragraph (5) applies to section 536 as in force immediately before it is amended by paragraph 5 of Schedule 8 to this Act, so far as that section as so in force continues to have effect after it is so amended.

(5) For subsection (7) substitute—

“(7) If the gain is from such a policy—

- (a) divide the number of foreign days in the policy period (as defined in section 528) by 365,
- (b) if the result is not a whole number, round it down to the nearest whole number, and
- (c) reduce N, for steps 1 and 3 in subsection (1), by the number found by applying paragraphs (a) and (b).”

Special charging rules for miscellaneous income

89 In section 577 (territorial scope of charges in respect of miscellaneous income), after subsection (2) insert—

“(2A) If income arising to an individual who is UK resident arises in the overseas part of a split year, it is to be treated for the purposes of this section as arising to a non-UK resident.”

Special charging rules for relevant foreign income charged on remittance basis

90 In section 832 of ITTOIA 2005 (relevant foreign income charged on remittance basis), for subsection (2) substitute—

“(2) For any tax year for which the individual is UK resident, income tax is charged on the full amount of so much (if any) of the relevant foreign income as is remitted to the United Kingdom—

- (a) in that year, or
- (b) in the UK part of that year, if that year is a split year as respects the individual.”

91 (1) Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) is amended as follows in consequence of the amendment made by the preceding paragraph.

(2) In section 726 (non-UK domiciled individuals to whom remittance basis applies), after subsection (4) insert—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

“(5) In the application of section 832 of ITTOIA 2005 to the foreign deemed income, subsection (2) of that section has effect with the omission of paragraph (b).”

- (3) In section 730 (non-UK domiciled individuals to whom remittance basis applies), after subsection (4) insert—

“(5) In the application of section 832 of ITTOIA 2005 to the foreign deemed income, subsection (2) of that section has effect with the omission of paragraph (b).”

- (4) In section 735 (non-UK domiciled individuals to whom remittance basis applies), after subsection (4) insert—

“(5) In the application of section 832 of ITTOIA 2005 to the foreign deemed income, subsection (2) of that section has effect with the omission of paragraph (b).”

Special charging rules for capital gains

92 TCGA 1992 is amended as follows.

- 93 (1) Section 2 (persons and gains chargeable to capital gains tax, and allowable losses) is amended as follows.

- (2) After subsection (1A) (inserted by Schedule 46 to this Act) insert—

“(1B) If the year is a split year as respects an individual, the individual is not chargeable to capital gains tax in respect of any chargeable gains accruing to the individual in the overseas part of that year.

(1C) But subsection (1B)—

- (a) does not apply to chargeable gains in respect of which the individual would have been chargeable to capital gains tax under section 10, had the individual been not resident in the UK for the year, and
- (b) is without prejudice to section 10A.”

- (3) In subsection (2)—

- (a) after “the year of assessment” insert “ or, where subsection (1B) applies, the UK part of that year ”, and
- (b) in paragraph (a), after “that year of assessment” insert “ or that part (as the case may be) ”.

94 (1) Section 3A (reporting limits) is amended as follows.

- (2) In subsection (1)—

- (a) in paragraph (a), after “year of assessment” insert “ or, if that year is a split year as respects the individual, the UK part of that year ”, and
- (b) in paragraph (b), after “in that year” insert “ or, as the case may be, that part of the year ”.

- (3) In subsection (2), after “year of assessment” insert “ (or the UK part of such a year) ”.

95 (1) Section 12 (non-UK domiciled individuals to whom remittance basis applies) is amended as follows.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

- (2) After subsection (2) insert—
- “(2A) If that tax year is a split year as respects the individual, the chargeable gains are treated as accruing to the individual in the part of the year (the overseas part or the UK part) in which the foreign chargeable gains are so remitted.”
- (3) In subsection (3), after “that year” insert “ or, where applicable, that part of the year ”.
- 96 In section 13 (attribution of gains to members of non-resident companies), after subsection (3) insert—
- “(3A) Subsection (2) does not apply in the case of a participator who is an individual if—
- (a) the tax year in which the chargeable gain accrues to the company is a split year as respects the participator, and
 - (b) the chargeable gain accrues to the company in the overseas part of that year.”
- 97 In section 16 (computation of losses), after subsection (3) insert—
- “(3A) If the person is an individual and the year is a split year as respects that individual, subsection (3) also applies to a loss accruing to the individual in the overseas part of that year.”
- 98 In section 16ZB (individual who has made election under section 16ZA: foreign chargeable gains remitted in tax year after tax year in which accrue), in subsection (1)(c), after “tax year” insert “ or a part of the applicable tax year ”.
- 99 (1) Section 16ZC (individual who has made election under section 16ZA and to whom remittance basis applies) is amended as follows.
- (2) In subsection (3)—
- (a) in paragraph (a), after “that year” insert “ or, if that year is a split year as respects the individual, in the UK part of that year ”, and
 - (b) in paragraph (b), after “that year” insert “ or they are so remitted in that year but it is a split year as respects the individual and they are so remitted in the overseas part of the year ”.
- (3) In subsection (7), in the definition of “relevant allowable losses”, after “tax year” insert “ or a part of the tax year ”.
- 100 In section 86 (attribution of gains to settlors with interest in non-resident or dual resident settlements), in subsection (4)(a), after “the year” insert “ or if, as respects the settlor, the year is a split year, in the UK part of that year ”.
- F⁵101

Textual Amendments

F5 Sch. 45 para. 101 omitted (with effect in accordance with Sch. 10 para. 1(13) of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 1\(11\)](#)

Trustees of a settlement

- 102 In section 69 of TCGA 1992 (trustees of settlements), after subsection (2D) insert—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

“(2DA) A trustee who is resident in the United Kingdom for a tax year is to be treated for the purposes of subsections (2A) and (2B) as if he or she were not resident in the United Kingdom for that year if—

- (a) the trustee is an individual,
- (b) the individual becomes or ceases to be a trustee of the settlement during the tax year,
- (c) that year is a split year as respects the individual, and
- (d) in that year, the only period when the individual is a trustee of the settlement falls wholly within the overseas part of the year.

(2DB) Subsection (2DA) is subject to subsection (2D) and, accordingly, an individual who is treated under subsection (2DA) as not resident is, in spite of that, to be regarded as resident whenever the individual acts as mentioned in subsection (2D).”

103 In section 475 of ITA 2007 (residence of trustees), after subsection (6) insert—

“(7) Subsection (8) applies if—

- (a) an individual becomes or ceases to be a trustee of the settlement during a tax year,
- (b) that year is a split year as respects the individual, and
- (c) the only period in that year when the individual is a trustee of the settlement falls wholly within the overseas part of the year.

(8) The individual is to be treated for the purposes of subsections (4) and (5) as if he or she had been non-UK resident for the year (and hence for the period in that year when he or she was a trustee of the settlement).

(9) But subsection (8) is subject to subsection (6) and, accordingly, an individual who is treated under subsection (8) as having been non-UK resident is, in spite of that, to be treated as UK resident whenever the individual acts as mentioned in subsection (6).”

Definitions in enactments relating to income tax and CGT

104 (1) Section 288 of TCGA 1992 (interpretation) is amended as follows.

(2) In subsection (1), insert the following definition in the appropriate place—

““split year”, as respects an individual, means a tax year that, as respects that individual, is a split year within the meaning of Part 3 of Schedule 45 to the Finance Act 2013 (statutory residence test: split year treatment);”.

(3) After subsection (1ZA) insert—

“(1ZB) A reference in this Act to “the overseas part” or “the UK part” of a split year is to be read in accordance with Part 3 of Schedule 45 to the Finance Act 2013 (statutory residence test: split year treatment).”

105 In Part 2 of Schedule 1 to ITEPA 2003 (index of defined expressions), insert the following entries in the appropriate places—

“the overseas part	section 989 of ITA 2007”,
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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)

	“split year	section 989 of ITA 2007”, and
	“the UK part	section 989 of ITA 2007”.
106	In Part 2 of Schedule 4 to ITTOIA 2005 (index of defined expressions), insert the following entries in the appropriate places—	
	“the overseas part	section 989 of ITA 2007”,
	“split year	section 989 of ITA 2007”, and
	“the UK part	section 989 of ITA 2007”.
107	In section 989 of ITA 2007 (definitions for purposes of Income Tax Acts), insert the following definitions in the appropriate places—	
	““the overseas part”, in relation to a split year, has the meaning given in Part 3 of Schedule 45 to FA 2013 (statutory residence test: split year treatment);”,	
	““split year”, in relation to an individual, means a tax year that, as respects that individual, is a split year within the meaning of Part 3 of Schedule 45 to FA 2013 (statutory residence test: split year treatment);”, and	
	““the UK part”, in relation to a split year, has the meaning given in Part 3 of Schedule 45 to FA 2013 (statutory residence test: split year treatment);”.	
108	In Schedule 4 to that Act (index of defined expressions), insert the following entries in the appropriate places—	
	“the overseas part	section 989”,
	“split year	section 989”, and
	“the UK part	section 989”.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2013, PART 3.