

Mr Chancellor of the Exchequer	40
Page 162, line 15 [<i>Schedule 7</i>], after ‘property’, insert ‘service’.	
Mr Chancellor of the Exchequer	41
Page 162, line 17 [<i>Schedule 7</i>], leave out from ‘property’ to end of line 21 and insert ‘, service or consideration—	
(i) derives (wholly or in part, and directly or indirectly) from the income or chargeable gains, and	
(ii) in the case of property or consideration, is property of or consideration given by a relevant person.’.	
Mr Chancellor of the Exchequer	42
Page 163 [<i>Schedule 7</i>], leave out lines 14 to 16.	
Mr Chancellor of the Exchequer	43
Page 166, line 16 [<i>Schedule 7</i>], after ‘property’, insert ‘, service’.	
Mr Chancellor of the Exchequer	44
Page 166, line 19 [<i>Schedule 7</i>], after ‘property’, insert ‘, service’.	
Mr Chancellor of the Exchequer	45
Page 166, line 21 [<i>Schedule 7</i>], after ‘property’, insert ‘, service’.	
Mr Chancellor of the Exchequer	46
Page 169, line 2 [<i>Schedule 7</i>], at end insert—	
‘(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.’.	
Mr Chancellor of the Exchequer	47
Page 169 [<i>Schedule 7</i>], leave out lines 6 to 16 and insert—	

- (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.'

Mr Chancellor of the Exchequer

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Page 169 [*Schedule 7*], leave out lines 23 and 24.

Mr Chancellor of the Exchequer

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Page 169, line 34 [*Schedule 7*], at end insert—

- (7A) 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.
- (7B) 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.'

Mr Chancellor of the Exchequer

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Page 170, line 22 [*Schedule 7*], leave out 'sections 809L to 809R' and insert 'this Chapter'.

Mr Chancellor of the Exchequer

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Page 171, line 5 [*Schedule 7*], leave out 'taken to be' and insert 'regarded as'.

Mr Chancellor of the Exchequer

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Page 171, line 15 [*Schedule 7*], after 'met', insert '; but this is subject to subsection (4A)'.

Mr Chancellor of the Exchequer

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Page **171**, line **21** [*Schedule 7*], at end insert—

- ‘(4A) 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.’

Mr Chancellor of the Exchequer

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Page **179**, line **29** [*Schedule 7*], leave out ‘sections 809L to 809R’ and insert ‘Chapter A1 of Part 14’.

Mr Chancellor of the Exchequer

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Page **180**, line **18** [*Schedule 7*], ‘sections 809L to 809R’ and insert ‘Chapter A1 of Part 14’.

Mr Chancellor of the Exchequer

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Page **181**, line **34** [*Schedule 7*], leave out from ‘purposes of’ to ‘treat’ in line 35 and insert ‘Chapter A1 of Part 14 of ITA 2007 (remittance basis)’.

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Page **182**, line **1** [*Schedule 7*], leave out ‘those sections’ and insert ‘that Chapter’.

Mr Chancellor of the Exchequer

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Page **182**, line **11** [*Schedule 7*], at end insert—

- ‘(11) See Chapter A1 of Part 14 of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.’.

Mr Chancellor of the Exchequer

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Page **188**, line **37** [*Schedule 7*], leave out ‘sections 809L to 809R’ and insert ‘Chapter A1 of Part 14’.

Mr Chancellor of the Exchequer

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Page **191**, line **4** [*Schedule 7*], leave out ‘sections 809L to 809T’ and insert ‘Chapter A1 of Part 14’.

Mr Chancellor of the Exchequer

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Page **191**, line **19** [*Schedule 7*], leave out from ‘in’ to end of line 20 and insert ‘—

- (a) the relevant tax year, or
- (b) any subsequent tax year except one in which the individual is domiciled in the United Kingdom, are not allowable losses.’.

Mr Chancellor of the Exchequer

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- Page **197**, line **25** [*Schedule 7*], leave out sub-paragraphs (2) to (4) and insert—
- (2) If, before 6 April 2008, property (including money) consisting of or deriving from an individual’s relevant foreign income was brought to or received or used in the United Kingdom by or for the benefit of a relevant person, treat the relevant foreign income as not remitted to the United Kingdom on or after that date (if it otherwise would be regarded as so remitted).
 - (3) If, before 12 March 2008, property (other than money) consisting of or deriving from an individual’s relevant foreign income was acquired by a relevant person, treat the relevant foreign income as not remitted to the United Kingdom on or after 6 April 2008 (if it otherwise would be regarded as so remitted).’.

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Page **197**, line **40** [*Schedule 7*], leave out ‘to (4)’ and insert ‘and (3)’.

Mr Chancellor of the Exchequer

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Page **197**, line **43** [*Schedule 7*], leave out sub-paragraph (6).

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Page **198**, line **28** [*Schedule 7*], after ‘Kingdom’, insert ‘(“the interest”)’.

Mr Chancellor of the Exchequer

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Page **198**, line **29** [*Schedule 7*], leave out ‘was secured on that interest’ and insert ‘, or of payments made under a guarantee of that repayment (“the guarantee”)', was secured on the interest.’.

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Page 198, line 35 [*Schedule 7*], after ‘made’, insert ‘, or any term of the guarantee.’.

Mr Chancellor of the Exchequer

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Page 198, line 36 [*Schedule 7*], leave out paragraphs (b) and (c) and insert—
(b) repayment of the debt, or of payments made under the guarantee, ceases to be secured on the interest,
(c) repayment of any other debt is secured on the interest or is guaranteed by the guarantee, or’.

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Page 199, line 5 [*Schedule 7*], leave out sub-paragraph (i).

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Page 199, line 8 [*Schedule 7*], leave out from ‘loan’ to end of line 9 and insert ‘, or of payments made under a guarantee of that repayment, was secured on the interest.’.

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Page 199, line 14 [*Schedule 7*], at end insert—
(6) In this paragraph “guarantee” includes an indemnity, and “guaranteed” is to be read accordingly.’.

Mr Chancellor of the Exchequer

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Page 199, line 29 [*Schedule 7*], after ‘gain’, insert ‘—
(a) ’.

Mr Chancellor of the Exchequer

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Page 199, line 32 [*Schedule 7*], at end insert ‘, and
(b) 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).”’.

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Page 200, line 30 [<i>Schedule 7</i>], leave out from ‘Kingdom’ to ‘as’ in line 31.	
Mr Chancellor of the Exchequer	75
Page 201, line 18 [<i>Schedule 7</i>], leave out from ‘purposes of’ to end of line 19 and insert ‘Chapter A1 of Part 14 of ITA 2007 (remittance basis)—’.	
Mr Chancellor of the Exchequer	76
Page 203, line 37 [<i>Schedule 7</i>], leave out from ‘purposes of’ to end of line 38 and insert ‘Chapter A1 of Part 14 of ITA 2007 (remittance basis)—’.	
Mr Chancellor of the Exchequer	77
Page 206, line 20 [<i>Schedule 7</i>], leave out from ‘purposes of’ to ‘treat’ in line 21 and insert ‘Chapter A1 of Part 14 of ITA 2007 (remittance basis),’.	
Mr Chancellor of the Exchequer	78
Page 207, line 25 [<i>Schedule 7</i>], leave out from ‘if’ to ‘transfer’ in line 28 and insert ‘the trustees of a settlement (“the transferor settlement”)’.	
Mr Chancellor of the Exchequer	79
Page 212, line 38 [<i>Schedule 7</i>], leave out paragraph 124.	
Mr Chancellor of the Exchequer	80
Page 223, line 1 [<i>Schedule 7</i>], leave out from ‘purposes of’ to end of line 2 and insert ‘Chapter A1 of Part 14 (remittance basis)—’.	
Mr Chancellor of the Exchequer	81
Page 223, line 7 [<i>Schedule 7</i>], after ‘to’, insert ‘(or exceeding)’.	
Mr Chancellor of the Exchequer	82
Page 223, line 41 [<i>Schedule 7</i>], leave out from ‘purposes of’ to ‘treat’ in line 42 and insert ‘Chapter A1 of Part 14 (remittance basis),’.	

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Page 224, line 18 [*Schedule 7*], leave out from ‘purposes of’ to ‘treat’ in line 19 and insert ‘Chapter A1 of Part 14 (remittance basis)’.

Mr Chancellor of the Exchequer

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Page 224, line 40 [*Schedule 7*], leave out from ‘purposes of’ to ‘treat’ in line 41 and insert ‘Chapter A1 of Part 14 (remittance basis)’.

Mr Chancellor of the Exchequer

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Page 225, line 9 [*Schedule 7*], after ‘gains’, insert ‘or offshore income gains’.

Mr Chancellor of the Exchequer

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Page 225, line 45 [*Schedule 7*], at end insert—

‘(4A) For those purposes treat income for a period as arising immediately before the end of the period.’

Mr Chancellor of the Exchequer

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Page 226, line 2 [*Schedule 7*], at end insert—

‘General

172 For the purposes of this Part of this Schedule, the market value of any asset is its market value for the purposes of TCGA 1992.’

EXPLANATORY NOTE

**CLAUSE 23 SCHEDULE 7: REMITTANCE BASIS:
AMENDMENTS 40 TO 87**

**Government amendments to provisions relating to the
residence and domicile changes**

INTRODUCTION

1. Amendments 40 to 87 propose a number of changes to various elements of the residence and domicile provisions in the Finance Bill.
2. Sixteen of the amendments arise from commitments made during the passage of the Finance Bill through the Public Bill Committee to reconsider some issues in light of proposed Opposition amendments. These changes make it clear that payments of the £30,000 Remittance Basis Charge from overseas employment income are not taxable remittances.
3. Twenty six amendments arise from ongoing discussions with representative bodies and include changes to:
 - Extend the provision of grandfathering treatment to mortgages;

- Ensure that non-domiciled individuals who have claimed the remittance basis receive loss relief on the disposal of foreign assets after becoming UK domiciled;
 - Make the rules on the treatment of mixed funds clearer and more comprehensive; and,
 - Clarify the transitional rules for funds brought into the UK before 6 April 2008.
4. The remaining six amendments relate to minor changes required in order to clarify the legislation to ensure it works as intended.

DETAIL OF THE AMENDMENTS

5. Amendments 40 to 45 plus 52 and 53 ensure that benefits chargeable by virtue of section 735 Income Tax Act 2007 (ITA) (transfer of assets abroad) and section 87B Taxation of Chargeable Gains Act 1992 (TCGA) (remittance basis for chargeable gains attributed to beneficiaries of non-UK resident trusts) are chargeable to tax when remitted to the UK.
6. Amendments 40 and 43 to 45 add a third category, “services”, to the two existing categories of “property” and

“consideration for services” to take account of a benefit in relation to which a remittance is treated as being made to the UK. The insertions are to new section 809L(3) and section 809P(2) and (4) (twice).

7. Amendment 41 substitutes new wording into section 809L(3)(b) to extend Condition B of section 809L to cover services. Amendment 42 deletes subsection (9) of section 809L in consequence of the other changes.
8. Amendments 52 and 53 amend section 809W (consideration for certain services) to ensure that where benefits chargeable by virtue of section 735 ITA or section 87B TCGA are provided in the UK they are not eligible for the exemption under section 809W, where the provision of those benefits forms part of a wider package of services relating to property situated wholly or mainly outside the UK.
9. Amendment 53 draws a distinction between services that relate to the provision of a benefit (which are not eligible for the exemption under section 809W) and services that relate to a benefit, but do not relate to the provision of that benefit.
10. Amendments 46 to 49 make changes to the mixed fund rules. Amendment 46 inserts a new sub section (8) into section 809Q. This ensures that the income and gains in a

mixed fund are treated as income and gains within the fund and not as deriving from capital.

11. Amendment 47 replaces the existing subsections (2) and (3) in section 809R with new subsections. The new subsections make it clear that property which derives from income or capital for a tax year is treated as income or capital for that year. So for example if £100 of interest and £50 of capital is used to buy an asset in Year 1 and that asset is sold in Year 3 for £180, the disposal proceeds are a mixed fund. The property (asset and then its disposal proceeds) derive from the interest and the capital and do not lose their character as interest and capital for Year 1. The mixed fund is treated as containing the £100 of interest and £50 of capital for Year 1 and £30 of gain for Year 3.
12. Amendments 48 and 49 insert new subsections (7A) and (7B) into section 809R. New subsection (7A) inserts a new definition of “mixed fund” into 809R. This clarifies what a mixed fund is for the purposes of this section. New subsection (7B) clarifies the order to apply the section 809Q rules or offshore transfer rules when one transfer comprises both a transfer to which section 809Q does or will apply, and also an offshore transfer.

13. Amendments 50, 51, 54 to 60, 75 to 77, 80 and 82 to 84 make a number of changes to Schedule 7. The amendments standardise the various cross-references in the schedule to make it clear and consistent. In particular these changes are being made to make it clear that payments of the £30,000 Remittance Basis Charge from overseas employment income is not a remittance.
14. Amendment 61 provides for loss relief to be allowed on the disposal of foreign assets by individuals who become domiciled in the UK after claiming the remittance basis when they were non-domiciled, but without having made an election under section 16ZA TCGA.
15. Amendments 62, 63 and 64 make changes to the transitional and commencement rules to ensure they operate in the way intended and do not result in tax which should not be charged coming back into charge in certain circumstances. For example, if ceased source income was remitted to the UK before 6 April 2008, it will not be charged to tax under the new rules, even if it is used to buy an asset which is subsequently exported and re-imported to the UK.
16. Amendments 65 to 71 deal with the grandfathering rules for offshore mortgages. Amendment 69 makes a minor change to the 'grandfathering' provisions in relation to remortgages.

By deleting sub-paragraph (4)(c)(i) of paragraph 90 the amendment ensures that relief is available where money in a remortgaging exercise is transferred directly from one overseas bank to another and is not actually "received in the UK", as the current wording requires.

17. Amendments 65 to 68 and 70 to 71 serve to extend the original grandfathering provisions for mortgages, to cover cases where payments of interest on the loan were guaranteed under the terms of a bank guarantee, which was itself secured on the property.
18. These amendments respond to representations that the provisions as originally drafted would not cover cases where the offshore loan was not secured directly on the property. Instead the repayments of the loan were guaranteed and the guarantee was then secured on the property in question, rather than repayment of the debt for the loan being secured directly on the interest in the property.
19. The various conditions for the relief that apply to conventional mortgages will apply to these arrangements also, with any necessary changes. In particular -
 - Amendments 65 & 66 provide that the arrangements must have been in place before 12 March 2008.

- Amendments 67 & 68 ensure that relief will cease if payments under the guarantee cease to be secured on the interest in the property, or if the guarantee is extended to cover repayment of any other debt.
20. Amendment 70 ensures that the extension covers remortgaging arrangements involving payments under a guarantee.
21. Amendments 72 and 73 provide for the insertion of a new subsection, subsection (8), into section 761 Income and Corporation Taxes Act 1988 (ICTA). The effect of the new subsection is to clarify the relationship between sections 761 and 762 ICTA in relation to offshore income gains of trustees attributable to beneficiaries under section 87 TCGA.
22. Amendment 74 removes the reference to “and not resident or ordinarily resident in the United Kingdom” in subsection (1) of new section 762ZA ICTA, which applies the anti-avoidance rules on the transfer of assets abroad in relation to offshore income gains. The amendment ensures that the full amount of tax is payable on income where an individual seeks to use a company or other person abroad to reduce their exposure to income tax.

23. Amendments 78 and 79 substitute new wording into section 90(1) TCGA and delete paragraph 124 respectively. The changes are made in order to apply section 90 TCGA to transferor trusts to which section 87 TCGA has never applied but which have section 2(2) amounts as a consequence of an earlier transfer of settled property.
24. Amendment 81 clarifies the operation of new section 670A ITTOIA by inserting additional wording into subsection (3)(a)(ii). The effect of the amendment is to confine the application of subsection (3)(a)(ii) to remittances of accrued income profits where a transferor of foreign securities receives less than the market value of the securities.
25. Amendment 85 inserts additional wording into new section 735A ITA to provide that offshore income gains are included in the new matching rules for remittance basis users under the transfer of assets abroad rules.
26. Amendment 86 provides an additional rule when matching benefits for remittance basis users under the transfer of assets abroad rules in new section 735A ITA. It provides that where income or benefits are periodic in nature, for example profits of a trade or the provision of an annual benefit, they are to be treated as arising immediately before the end of the period in which they arise.

27. Amendment 87 inserts paragraph 172 into the schedule. Paragraph 172 applies the definition of “market value” at section 272 of the Taxation of Chargeable Gains Act 1992 to a number of transitional provisions in Part 2 of the schedule.