

Reforms to ordinary residence

Who is likely to be affected?

Individuals who currently claim the remittance basis of taxation on the grounds of being not-ordinarily resident and individuals who currently benefit from Overseas Workday Relief (OWR) for three full tax years will be affected. However, transitional rules will minimise any impact on these individuals. OWR will also be available to non-domiciles who come to the UK regardless of their intention to settle in the UK.

General description of the measure

This measure will abolish the concept of Ordinary Residence and will retain OWR and place it on a statutory footing. OWR will be available to non-domiciled arrivers who come to the UK and have not been UK resident in the previous three tax years regardless of their intention to settle in the UK.

Policy objective

This measure will support the aim of simplifying the tax system. It will also provide greater certainty and clarity to individuals.

Background to the measure

The measure was announced at Budget 2012. Draft legislation was published in June 2012 which included a test attempting to replicate the intention to settle test for individuals claiming OWR. However, respondents during consultation expressed that this test was vague and subjective and suggested an alternative policy of offering OWR to all arrivers regardless of their intention to settle in the UK. On 11 December 2012, the Government published draft legislation containing these new rules on OWR.

Detailed Proposal

Operative Date

The legislation will have effect on and after 6 April 2013.

Current law

The UK does not have a statutory definition of Ordinary Residence. The rules are provided in guidance by HM Revenue & Customs (HMRC). An individual who has always lived in the UK will be ordinarily resident. Individuals who come to live in the UK will be ordinarily resident if it is clear that they intend to stay for longer than three years. Under current rules, OWR is available to individuals who are resident but not-ordinarily resident in the UK (broadly meaning that they intend to remain in the UK for less than three years).

Proposed revisions

Legislation will be introduced in Finance Bill 2013 to abolish Ordinary Residence and to place OWR on a statutory footing. OWR will be available to individuals who come to the UK regardless of their intention to settle in the UK and will be available for the tax year that they become UK resident and the following two tax years. It will be restricted to non-domiciles who have not been resident in the UK in the previous three tax years prior to coming to work in the UK. The transitional rules will ensure that individuals who would currently benefit from

OWR for three full tax years will continue to be able to benefit for this amount of time if they are claiming OWR when the new rules come into force in April 2013.

Retaining OWR will ensure that employers can continue to benefit from a significant administrative easement for short-term secondees. Restricting the relief to non-domiciles may create a disincentive for some employers to deploy domiciles to the UK, but very few domiciles currently use the relief so any impact is expected to be minimal.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	-	negligible	negligible	negligible	negligible	negligible
This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2013.						
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals and households	<p>Abolishing ordinary residence will be a major simplification to the current rules and will lessen the administrative burden for individuals. At present, it is possible to claim the remittance basis on the grounds of being not ordinarily resident. This will not be possible after the reforms are introduced. Data from the financial year 2008-09 shows that around 300 individuals claimed the remittance basis on the grounds of not being ordinarily resident. However, transitional rules will minimise any impact on individuals who currently benefit from being not ordinarily resident.</p> <p>The vast majority of individuals who currently benefit from OWR will not lose access under the new rules. These reforms will widen the availability of the relief to all arrivars regardless of the length of time they intend to stay in the UK. However, as OWR is currently available for three full tax years, there will be a number of individuals who will not benefit from OWR for as long as they would have done under current rules. There will also be transitional rules for anyone who is still in receipt of OWR when the rules come in force in April 2013.</p>					
Equalities impacts	There is no impact on groups with protected characteristics.					
Impact on business including civil society organisations	This measure is expected to have a negligible impact on businesses because is it directed at individuals rather than organisations. A small number of employers may be actively engaged in ensuring optimal tax status for their employees, and in these cases there may be some one-off costs in terms of familiarisation with the new provisions and a negligible change in ongoing administrative costs. This measure is expected to have no impact on civil society organisations.					
Operational impact (£m) (HMRC or other)	Simplification will result in some efficiencies for HMRC in undertaking and checking calculations, but these will not be significant.					
Other impacts	Other impacts have been considered and none have been identified.					

Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups.

Further advice

If you have any questions about these changes, please contact the offshore personal tax team (email: offshorepersonal.taxteam@hmrc.gsi.gov.uk).

1 Ordinary residence

- (1) Schedule 1 contains provision removing or replacing rules relating to ordinary residence.
- (2) The Treasury may by order make further provision removing or replacing rules relating to ordinary residence with respect to—
 - (a) income tax,
 - (b) capital gains tax, and
 - (c) (so far as the ordinary residence status of individuals is relevant to them) inheritance tax and corporation tax.
- (3) An order under subsection (2) may take effect from the start of the tax year in which the order is made.
- (4) The Treasury may by order make any incidental, supplemental, consequential, transitional or saving provision in consequence of Schedule 1 or in consequence of any further provision made under subsection (2).
- (5) An order under this section may—
 - (a) make different provision for different purposes, and
 - (b) make provision amending, repealing or revoking any provision made by or under an Act (whenever passed or made).
- (6) An order under this section is to be made by statutory instrument.
- (7) A statutory instrument containing an order under subsection (2) (whether alone or with other provisions) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.
- (8) Subject to subsection (7), a statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of the House of Commons.

SCHEDULE 1

Section 1

ORDINARY RESIDENCE

PART 1

INCOME TAX AND CAPITAL GAINS TAX: REMITTANCE BASIS OF TAXATION

Remittance basis restricted to non-doms

- 1 Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.
- 2 In section 809A (overview of Chapter), omit “or are not ordinarily UK resident”.
- 3 In section 809B (claim for remittance basis to apply) –
 - (a) in subsection (1)(b), omit “or is not ordinarily UK resident in that year”, and
 - (b) omit subsection (2).
- 4 In section 809D (application of remittance basis without claim where unremitted foreign income and gains under £2,000) –
 - (a) in subsection (1)(b), omit “or is not ordinarily UK resident in that year”, and
 - (b) in subsection (1A), omit “the individual is not domiciled in the United Kingdom in that year and”.
- 5 In section 809E (application of remittance basis without claim: other cases), in subsection (1)(b), omit “or is not ordinarily UK resident in that year”.

Treatment of relevant foreign earnings

- 6 ITEPA 2003 is amended as follows.
- 7 (1) In section 22 (chargeable overseas earnings for year where remittance basis applies and employee ordinarily UK resident), in subsection (1), for paragraph (b) substitute –
 - “(b) the employee does not meet the requirement of section 26A for that year.”
- (2) Accordingly –
 - (a) in the heading of that section, for “**ordinarily UK resident**” substitute “**outside section 26**”, and
 - (b) in the italicised heading before that section, for “*UK ordinarily resident employees*” substitute “*employees outside section 26*”.
- 8 In section 23 (calculation of “chargeable overseas earnings”), in subsection (2), for paragraph (aa) substitute –
 - “(aa) the employee does not meet the requirement of section 26A for that year.”

- 9 (1) In section 26 (foreign earnings for year when remittance basis applies and employee not ordinarily UK resident), in subsection (1), for “is not ordinarily UK resident in” substitute “meets the requirement of section 26A for”.
- (2) Accordingly –
- (a) in the heading of that section, for “**not ordinarily UK resident**” substitute “**meets section 26A requirement**”, and
- (b) in the italicised heading before that section, for “*not UK ordinarily resident*” substitute “*employees who meet section 26A requirement*”.
- 10 After that section insert –
- “26A Section 26: requirement for 3-year period of non-residence**
- (1) An employee meets the requirement of this section for a tax year if the employee was –
- (a) non-UK resident for the previous 3 tax years, or
- (b) UK resident for the previous tax year but non-UK resident for the 3 tax years before that, or
- (c) UK resident for the previous 2 tax years but non-UK resident for the 3 tax years before that, or
- (d) non-UK resident for the previous tax year, UK resident for the tax year before that and non-UK resident for the 3 tax years before that.
- (2) The residence status of the employee before the 3 years of non-UK residence is not relevant for these purposes.”
- 11 (1) Section 41C (foreign securities income) is amended as follows.
- (2) In subsection (4), for paragraph (b) substitute –
- “(b) the individual does not meet the requirement of section 26A for the year (reading references there to the employee as references to the individual),”.
- (3) In subsection (6), for paragraph (b) substitute –
- “(b) the individual meets the requirement of section 26A for the year (reading references there to the employee as references to the individual), and”.
- 12 In section 271 (limited exemption of removal benefits and expenses: general), in subsection (2) –
- (a) in paragraph (a), for “ordinarily UK resident” substitute “outside section 26”, and
- (b) in paragraph (b), for “not ordinarily UK resident” substitute “meets section 26A requirement”.
- 13 (1) In section 554Z9 (remittance basis: A is ordinarily UK resident), in subsection (1), for paragraph (c) substitute –
- “(c) A does not meet the requirement of section 26A for the relevant tax year (reading references there to the employee as references to A),”.
- (2) Accordingly, in the heading of that section, for “**A is ordinarily UK resident**” substitute “**A does not meet section 26A requirement**”.

- 14 (1) In section 554Z10 (remittance basis: A is not ordinarily resident), in subsection (1), for paragraph (c) substitute –
- “(c) A meets the requirement of section 26A for the relevant tax year (reading references there to the employee as references to A).”
- (2) Accordingly, in the heading of that section, for “**A is not ordinarily resident**” substitute “**A meets section 26A requirement**”.
- 15 (1) Section 690 (employee non-resident etc) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute –
- “(a) is either non-UK resident for the tax year or is UK resident but meets the requirement of section 26A for the tax year, and”.
- (3) In subsection (2A), for “not ordinarily resident in” substitute “meets the requirement of section 26A for”.

Consequential amendments

- 16 In section 266A of ICTA (life assurance premiums paid by employer), in subsection (8) –
- (a) in paragraph (a), for “employee resident and ordinarily resident, but not domiciled, in UK” substitute “remittance basis applies and employee outside section 26”, and
- (b) in paragraph (b), for “employee resident, but not ordinarily resident, in UK” substitute “remittance basis applies and employee meets section 26A requirement”.
- 17 In section 12 of TCGA 1992 (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute –
- “(1) This section applies to foreign chargeable gains accruing to an individual in a tax year (“the foreign chargeable gains”) if section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year.”
- 18 In section 87B of that Act (section 87: remittance basis), in subsection (1) –
- (a) insert “and” at the end of paragraph (a),
- (b) omit “and” at the end of paragraph (b), and
- (c) omit paragraph (c).
- 19 In section 726 of ITA 2007 (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute –
- “(1) This section applies in relation to income treated under section 721 as arising to an individual in a tax year (“the deemed income”) if section 809B, 809D or 809E (remittance basis) applies to the individual for that year.”
- 20 In section 730 of that Act (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute –
- “(1) This section applies in relation to income treated under section 728 as arising to an individual in a tax year (“the deemed income”) if section 809B, 809D or 809E (remittance basis) applies to the individual for that year.”

- 21 In section 735 of that Act (non-UK domiciled individuals to whom remittance basis applies), as substituted by Part 4 of Schedule [] to this Act, for subsection (1) substitute –
- “(1) This section applies to an individual for the relevant tax year if section 809B, 809D or 809E (remittance basis) applies to the individual for that year.”
- 22 In section 809F of that Act (effect on what is chargeable), in subsection (4), for “If the individual is not domiciled in the United Kingdom in that year, the” substitute “The”.
- 23 In section 809YD of that Act (chargeable gains accruing on sales of exempt property), in subsection (3), omit “and P is not domiciled in the United Kingdom in that year”.
- 24 In section 809Z7 of that Act (interpretation of Chapter) –
- (a) in subsection (2)(d), omit “if the individual is not domiciled in the United Kingdom in that year,”, and
- (b) in subsection (3)(a), for “is ordinarily UK resident in” substitute “does not meet the requirement of section 26A of ITEPA 2003 for”.

Commencement

- 25 The amendments made by this Part of this Schedule have effect in relation to an individual’s foreign income and gains for the tax year 2013-14 or any subsequent tax year.

Savings

- 26 (1) This paragraph applies to an individual who –
- (a) was not resident in the United Kingdom for the tax year 2010-11,
- (b) is resident there for the tax year 2012-13, but
- (c) is not ordinarily resident there at the end of the tax year 2012-13.
- (2) Enactments relating to income tax or capital gains tax have effect, in relation to any eligible foreign income and gains of the individual, as if the amendments made by this Part of this Schedule had not been made.
- (3) “Eligible foreign income and gains” means –
- (a) if the individual was resident in the United Kingdom for the tax year 2011-12, foreign income and gains for the tax year 2013-14,
- (b) otherwise, foreign income and gains for the tax year 2013-14 and the tax year 2014-15.
- (4) Where, by virtue of this paragraph, it is necessary to determine whether an individual is (or is not) ordinarily resident in the United Kingdom at a time on or after 6 April 2013, the question is to be determined as it would have been in the absence of this Schedule.

Interpretation

- 27 References in this Part of this Schedule to an individual’s “foreign income and gains” for a tax year are to be read in accordance with section 809Z7 of ITA 2007 (interpretation of remittance basis rules).

PART 2

INCOME TAX: ARISING BASIS OF TAXATION

ICTA

- 28 In section 614 of ICTA (exemptions and reliefs in respect of income from investments etc of certain pension schemes) –
- (a) in subsection (4), for “not domiciled, ordinarily resident or resident” substitute “not domiciled and not resident”, and
 - (b) in subsection (5), for “not domiciled, ordinarily resident or resident” substitute “not domiciled and not resident”.

ITEPA 2003

- 29 ITEPA 2003 is amended as follows.
- 30 In section 56 (application of Income Tax Acts in relation to deemed employment), in subsection (5) –
- (a) for paragraph (a) substitute –
 - “(a) the worker being resident or domiciled outside the United Kingdom or meeting the requirement of section 26A,”, and
 - (b) in paragraph (b), omit “or ordinarily resident”.
- 31 In section 61G (application of Income Tax Acts in relation to deemed employment), in subsection (5) –
- (a) for paragraph (a) substitute –
 - “(a) the worker being resident or domiciled outside the United Kingdom or meeting the requirement of section 26A,”, and
 - (b) in paragraph (b), omit “or ordinarily resident”.
- 32 In section 328 (the income from which deductions may be made), in subsection (5), omit the entry for Chapter 6 of Part 5 and the word “and” immediately preceding it.
- 33 In section 341 (travel at start or finish of overseas employment), in subsection (3), for “resident and ordinarily resident in the United Kingdom” substitute “UK resident”.
- 34 In section 342 (travel between employments where duties performed abroad), in subsection (6), for “resident and ordinarily resident in the United Kingdom” substitute “UK resident”.
- 35 In section 370 (travel costs where duties performed abroad: employee’s travel), in subsection (6), omit “in which the employee is ordinarily UK resident”.
- 36 In section 376 (foreign accommodation and subsistence costs and expenses (overseas employments)), in subsection (1)(b), for “resident and ordinarily resident in the United Kingdom” substitute “UK resident”.
- 37 (1) Section 378 (deductions from seafarers’ earnings: eligibility) is amended as follows.

- (2) In subsection (1), for “relevant taxable earnings or EEA-resident earnings” substitute “relevant general earnings”.
- (3) For subsection (5) substitute –
- “(5) “Relevant general earnings” means –
- (a) taxable earnings under section 15, 22 or 26, or
- (b) general earnings –
- (i) to which section 27 applies, and
- (ii) which are for a period in which the employee is liable under the law of an EEA State (other than the United Kingdom) to tax in that State by reason of domicile or residence.”
- (4) Omit subsection (6).
- 38 In section 413 (exception in certain cases of foreign service), in subsection (3A), before paragraph (a) insert –
- “(za) for service in or after the tax year 2013-14, earnings for a tax year that are earnings to which section 15 applies and to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year.”.
- 39 (1) In section 681A (foreign benefits of consular employees), for subsection (4) substitute –
- “(4) Condition C is that –
- (a) the officer or employee is a permanent employee of that state, or
- (b) the officer or employee was non-UK resident for each of the 2 tax years preceding the tax year in which the officer or employee became a consular officer or employee in the United Kingdom of that state.”
- (2) The amendment made by this paragraph does not apply to a person who became a consular officer or employee in the United Kingdom before 6 April 2013.
- 40 (1) In Schedule 2 (approved share incentive plans), in paragraph 8(2), omit paragraph (b) and the “and” immediately before it.
- (2) The amendments made by this paragraph do not apply to plans that have been approved before the day on which this Act is passed.
- 41 (1) In Schedule 3 (approved SAYE option schemes), in paragraph 6(2) –
- (a) insert “and” at the end of paragraph (c), and
- (b) omit paragraph (ca), including the “and” at the end of it.
- (2) The amendments made by this paragraph do not apply to schemes that have been approved before the day on which this Act is passed.
- 42 In Schedule 5 (enterprise management incentives), in paragraph 27(3)(b), omit “and ordinarily resident”.

ITTOIA 2005

- 43 ITTOIA 2005 is amended as follows.

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- 44 In section 154A (certain non-UK residents with interest on 3½% War Loan 1952 Or After), in subsection (1)(a), omit “ordinarily”.
- 45 In section 459 (transfer of assets abroad), in subsection (2), for “an individual ordinarily UK resident” substitute “a UK resident individual”.
- 46 In section 468 (non-UK resident trustees and foreign institutions), for subsection (2) substitute –
- “(2) Chapter 2 of Part 13 of ITA 2007 (which prevents avoidance of tax where a UK resident individual benefits from a transfer of assets) applies with the modifications specified in subsection (3) or (4).”
- 47 In section 569 (anti-avoidance: transfer of assets abroad), in subsection (2), for “an individual ordinarily UK resident” substitute “a UK resident individual”.
- 48 (1) In section 636 (calculation of undistributed income), in subsection (2)(b), for “, resident and ordinarily resident” substitute “and resident”.
- (2) The amendment made by this paragraph does not apply in calculating income arising under a settlement in tax years ending before 6 April 2013.
- 49 In section 648 (income arising under a settlement), in subsection (1)(b), for “, resident and ordinarily resident” substitute “and resident”.
- 50 In section 651 (meaning of “UK estate” and “foreign estate”), in subsection (3), omit “or not ordinarily UK resident”.
- 51 In section 664 (the aggregate income of the estate), in subsection (2)(b)(i), omit “who was ordinarily UK resident”.
- 52 (1) Section 715 (interest from FOTRA securities held on trust) is amended as follows.
- (2) In subsection (1)(b), for “person not ordinarily UK resident” substitute “non-UK resident person”.
- (3) In subsection (2) –
- (a) for “person not ordinarily UK resident” substitute “non-UK resident person”, and
- (b) for “is ordinarily UK resident at the time when” substitute “is UK resident for the tax year in which”.
- (4) In relation to a FOTRA security issued before 6 April 2013, the amendments made by this paragraph apply only if the security was acquired by the trust on or after that date.
- 53 (1) In section 771 (relevant foreign income of consular officers and employees), for subsection (4) substitute –
- “(4) Condition C is that –
- (a) the officer or employee is a permanent employee of that state, or
- (b) the officer or employee was non-UK resident for each of the 2 tax years preceding the tax year in which the officer or employee became a consular officer or employee in the United Kingdom of that state.”

- (2) The amendment made by this paragraph does not apply to a person who became a consular officer or employee in the United Kingdom before 6 April 2013.

ITA 2007

- 54 ITA 2007 is amended as follows.
- 55 In section 465 (overview of Chapter 2 and interpretation), in subsection (4), omit “and ordinary residence”.
- 56 (1) Section 475 (residence of trustees) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) This section applies for income tax purposes and explains how to work out, in relation to the trustees of a settlement, whether or not the single person mentioned in section 474(1) is UK resident.”
- (3) In subsection (2), for “both UK resident and ordinarily UK resident” substitute “UK resident”.
- (4) In subsection (3), for “both non-UK resident and not ordinarily UK resident” substitute “non-UK resident”.
- 57 (1) Section 476 (how to work out whether settlor meets condition C) is amended as follows.
- (2) In subsection (2)(b), omit “, ordinarily UK resident”.
- (3) In subsection (3)(b), omit “, ordinarily UK resident”.
- (4) The amendment made by sub-paragraph (2) does not apply if the person died before 6 April 2013.
- (5) The amendment made by sub-paragraph (3) does not apply if the settlement was made before 6 April 2013.
- 58 In section 643 (non-residents), in subsection (1), omit “and is not ordinarily UK resident during that year”.
- 59 In section 718 (meaning of “person abroad” etc), in subsection (2)(b), for “neither UK resident nor ordinarily UK resident” substitute “non-UK resident”.
- 60 In section 720 (charge to tax on income treated as arising under section 721), in subsection (1), omit “ordinarily”.
- 61 (1) Section 721 (individuals with power to enjoy income as a result of relevant transactions) is amended as follows.
- (2) In subsection (1), for “conditions A and B” substitute “conditions A to C”.
- (3) After subsection (3) insert –
- “(3A) Condition C is that the individual is UK resident for the tax year.”
- (4) In subsection (5), for paragraph (b) substitute –
- “(b) whether the individual is UK resident for the tax year in which the relevant transfer is made (if different from the tax year mentioned in subsection (1)), or”.

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- 62 In section 727 (charge to tax on income treated as arising under section 728), in subsection (1), omit “ordinarily”.
- 63 (1) Section 728 (individuals receiving capital sums as a result of relevant transactions) is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (a), omit the “and” at the end of sub-paragraph (iii), and
 - (b) at the end of paragraph (b) insert “, and
 - (c) the individual is UK resident for the tax year.”
- (3) In subsection (3), for paragraph (b) substitute –
- “(b) whether the individual is UK resident for the tax year in which the relevant transfer abroad is made (if different from the tax year mentioned in subsection (1)), or”.
- 64 In section 732 (non-transferors receiving benefit as a result of relevant transactions), as substituted by Part 4 of Schedule [] to this Act, in subsection (4), for paragraph (a) substitute –
- “(a) the individual is UK resident for the tax year in which the benefit is received,”.
- 65 (1) In section 749 (restrictions on particulars to be provided by relevant lawyers), in subsection (2), omit “ordinarily”.
- (2) The amendment made by this paragraph applies only if the transfer is made or, in the case of an associated operation, the transfer is made and the associated operation is effected on or after 6 April 2013.
- 66 In section 812 (case where limit on liability of non-UK residents is not to apply), in subsection (1)(a), omit “ordinarily”.
- 67 (1) In section 834 (residence of personal representatives), in subsection (3), omit “, ordinarily UK resident”.
- (2) The amendment made by this paragraph does not apply if D died before 6 April 2013.
- 68 (1) In section 858 (declarations of non-UK residence: individuals) –
- (a) in subsection (3)(a) and (b), for “not ordinarily UK resident” substitute “non-UK resident”, and
 - (b) in subsection (4), omit “ordinarily”.
- (2) The amendments made by this paragraph apply to the making of declarations on or after 6 April 2014, and any declarations made before that date continue to have effect in respect of interest paid on or after that date as if those amendments had not been made.
- 69 (1) In section 859 (declarations of non-UK residence: Scottish partnerships) –
- (a) in subsection (3), for “not ordinarily UK resident” substitute “non-UK resident”, and
 - (b) in subsection (4), omit “ordinarily”.
- (2) The amendments made by this paragraph apply to the making of declarations on or after 6 April 2014, and any declarations made before that date continue to have effect in respect of interest paid on or after that date as if those amendments had not been made.

- 70 (1) In section 860 (declarations of non-UK residence: personal representatives), in subsection (3), for “not ordinarily UK resident” substitute “non-UK resident”.
- (2) The amendment made by this paragraph applies only if the deceased died on or after 6 April 2014.
- 71 (1) Section 861 (declarations of non-UK residence: settlements) is amended as follows.
- (2) In subsection (3)(b)(i) and (iii), omit “ordinarily”.
- (3) In subsection (4) –
- (a) in paragraphs (b) and (d), omit “ordinarily”, and
 - (b) in paragraph (f), for “an ordinarily” substitute “a”.
- (4) The amendments made by this paragraph apply to the making of declarations on or after 6 April 2014, and any declarations made before that date continue to have effect in respect of interest paid on or after that date as if those amendments had not been made.

Commencement

- 72 (1) The amendments made by this Part of this Schedule have effect for the purposes of a person’s liability to income tax for the tax year 2013-14 or any subsequent tax year.
- (2) Sub-paragraph (1) is without prejudice to any provision in this Part of the Schedule about the application of a particular amendment.

Savings

- 73 (1) This paragraph applies to an individual who –
- (a) was not resident in the United Kingdom for the tax year 2010-11,
 - (b) is resident there for the tax year 2012-13, but
 - (c) is not ordinarily resident there at the end of the tax year 2012-13.
- (2) The provisions listed in sub-paragraph (3) have effect, in relation to such an individual and a qualifying tax year, as if the amendments made to or with respect to those provisions by this Part of this Schedule had not been made.
- (3) The provisions are –
- (a) section 413 of ITEPA 2003 (exception for payments and benefits on termination of employment etc in certain cases involving foreign service),
 - (b) section 414 of that Act (reduction in other cases of foreign service), and
 - (c) Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad).
- (4) But, in the case of provisions within paragraph (a) or (b) of sub-paragraph (3), this paragraph applies only if service in the employment in question began before the start of the tax year 2013-14.
- (5) “Qualifying tax year” means –
- (a) if the individual was resident in the United Kingdom for the tax year 2011-12, the tax year 2013-14,
 - (b) otherwise, each of the tax year 2013-14 and the tax year 2014-15.

- (6) Where, by virtue of this paragraph, it is necessary to determine whether an individual is (or is not) ordinarily resident in the United Kingdom at a time on or after 6 April 2013, the question is to be determined as it would have been in the absence of this Schedule.

PART 3

CAPITAL GAINS TAX: ACCRUALS BASIS OF TAXATION

TCGA 1992

- 74 TCGA 1992 is amended as follows.
- 75 (1) Section 2 (persons and gains chargeable to capital gains tax, and allowable losses) is amended as follows.
- (2) In subsection (1), for the words from “during any part” to the end substitute “if the residence condition is met”.
- (3) After that subsection insert—
- “(1A) The residence condition is—
- (a) in the case of an individual, that the individual is resident in the United Kingdom for the year in question,
- (b) in the case of personal representatives of a deceased person, that the single and continuing body mentioned in section 62(3) is resident in the United Kingdom,
- (c) in the case of the trustees of a settlement, that the single person mentioned in section 69(1) is resident in the United Kingdom during any part of the year in question, and
- (d) in any other case, that the person is resident in the United Kingdom when the gain accrues.”
- 76 In section 10 (non-resident with United Kingdom branch or agency), in subsection (1), for “in which he is not resident and not ordinarily resident in the United Kingdom but” substitute “if the residence condition is not met (see section 2(1A)) but the person”.
- 77 (1) Section 13 (attribution of gains to members of non-resident companies) is amended as follows.
- (2) In subsection (2), omit “or ordinarily resident”.
- (3) In subsection (10), for “neither resident nor ordinarily resident” substitute “not resident”.
- (4) In subsection (13)(b), omit “or ordinarily resident”.
- 78 In section 16 (computation of losses), in subsection (3), for “during no part of which he is resident or ordinarily resident in the United Kingdom” substitute “where the residence condition is not met (see section 2(1A))”.
- 79 In section 62 (death: general provisions), in subsection (3), omit “, ordinary residence,”.
- 80 In section 65 (liability for tax of trustees or personal representatives), in subsection (3)(b), for “become neither resident nor ordinarily resident” substitute “cease to be resident”.

- 81 In section 67 (provisions applicable where section 79 of the Finance Act 1980 has applied), in subsection (6)(a), in paragraph (b) of the substituted subsection (1), for “becomes neither resident nor ordinarily resident” substitute “ceases to be resident”.
- 82 (1) Section 69 (trustees of settlements) is amended as follows.
- (2) In subsection (2), omit “and ordinarily resident”.
- (3) In subsection (2B)(c), omit “, ordinarily resident”.
- (4) In subsection (2E), for the words from “and ordinarily resident” to the end substitute “in the United Kingdom, then for the purposes of this Act it is treated as being not resident in the United Kingdom”.
- 83 In section 76 (disposal of interests in settled property), in subsection (1B)(a), for “neither resident nor ordinarily resident” substitute “not resident”.
- 84 In section 80 (trustees ceasing to be resident in UK), in subsection (1), for “neither resident nor ordinarily resident” substitute “not resident”.
- 85 (1) Section 81 (death of trustee: special rules) is amended as follows.
- (2) In subsection (1)(b), omit “and ordinarily resident”.
- (3) In subsection (3)(b), omit “and ordinarily resident”.
- (4) In subsection (4)(b), omit “and ordinarily resident”.
- (5) In subsection (5)(a), omit “and ordinarily resident”.
- 86 In section 82 (past trustees: liability for tax), in subsection (3)(b), for “become neither resident nor ordinarily resident” substitute “cease to be resident”.
- 87 In section 83 (trustees ceasing to be liable to UK tax), in subsection (1), omit “and ordinarily resident”.
- 88 (1) Section 83A (trustees both resident and non-resident in a year of assessment) is amended as follows.
- (2) In subsection (3)(a), omit “and ordinarily resident”.
- (3) In subsection (4) –
- (a) in paragraph (a), for “neither resident nor ordinarily resident” substitute “not resident”, and
- (b) in paragraph (b), omit “and ordinarily resident”.
- 89 In section 84 (acquisition by dual resident trustees), in subsection (1)(b), omit “and ordinarily resident”.
- 90 In section 85 (disposal of interests in non-resident settlements), in subsection (1), for “neither resident nor ordinarily resident” substitute “not resident”.
- 91 (1) Section 86 (attribution of gains to settlors with interest in non-resident or dual resident settlements) is amended as follows.
- (2) In subsection (1)(c), for the words from “either resident” to the end substitute “resident in the United Kingdom for the year”.
- (3) For subsection (2) substitute –
- “(2) The condition as to residence is that –

- (a) there is no time in the year when the trustees are resident in the United Kingdom, or
 - (b) there is such a time but, whenever the trustees are resident in the United Kingdom during the year, they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.”
- (4) In subsection (3), omit “and ordinarily resident”.
- 92 (1) Section 87 (non-UK resident settlements: attribution of gains to beneficiaries) is amended as follows.
 - (2) In subsection (1), for the words from “the trustees” to the end substitute “there is no time in that year when the trustees are resident in the United Kingdom”.
 - (3) In subsection (4)(a), omit “and ordinarily resident”.
- 93 In section 88(1) (gains of dual resident settlements) –
 - (a) in paragraph (a), omit “and ordinarily resident”, and
 - (b) in paragraph (b), omit “and ordinary residence”.
- 94 (1) Section 96 (payments by and to companies) is amended as follows.
 - (2) In subsection (3), omit “or ordinarily resident”.
 - (3) In subsection (4), in each of paragraphs (a) and (b), omit “or ordinarily resident”.
 - (4) In subsection (5)(b), omit “or ordinary residence”.
- 95 In section 97 (supplementary provisions), in subsection (1)(a), for “neither resident nor ordinarily resident” substitute “not resident”.
- 96 In section 99 (application of Act to unit trust schemes), in subsection (1)(c), omit “and ordinarily resident”.
- 97 In section 106A(5A) (identification of securities: capital gains tax) –
 - (a) in paragraph (a), for “neither resident nor ordinarily resident” substitute “not resident”, and
 - (b) in paragraph (b), omit “or ordinarily resident”.
- 98 (1) Section 159 (non-residents: roll-over relief) is amended as follows.
 - (2) In subsection (2)(b), omit “or ordinarily resident”.
 - (3) In subsection (5), in the definition of “dual resident”, omit “or ordinarily resident”.
- 99 (1) Section 166 (gifts to non-residents) is amended as follows.
 - (2) In subsection (1), for “neither resident nor ordinarily resident” substitute “not resident”.
 - (3) In subsection (2)(a), omit “or ordinarily resident”.
- 100 (1) Section 167 (gifts to foreign-controlled companies) is amended as follows.
 - (2) In subsection (2)(a), for “neither resident nor ordinarily resident” substitute “not resident”.

- (3) In subsection (3), for the words from “or ordinarily resident” to “nor ordinarily resident” substitute “in the United Kingdom is to be regarded as not resident”.
- 101 (1) Section 168 (emigration of donee) is amended as follows.
- (2) In subsection (1)(b), for “becomes neither resident nor ordinarily resident” substitute “ceases to be resident”.
- (3) In subsection (4), for “becoming neither resident nor ordinarily resident” substitute “ceasing to be resident”.
- (4) In subsection (5) –
- (a) in paragraph (a), for “becoming neither resident nor ordinarily resident” substitute “ceasing to be resident”, and
- (b) in paragraph (b), omit “or ordinarily resident”.
- 102 In section 169 (gifts into dual resident trusts), in subsection (3)(a), omit “and ordinarily resident”.
- 103 In section 199 (exploration or exploitation assets: deemed disposals), in subsection (2), for “who is not resident and not ordinarily resident in the United Kingdom” substitute “in respect of whom the residence condition (see section 2(1A)) is not met”.
- 104 (1) Section 261 (section 260 relief: gifts to non-residents) is amended as follows.
- (2) In subsection (1), for “neither resident nor ordinarily resident” substitute “not resident”.
- (3) In subsection (2)(a), omit “or ordinarily resident”.
- 105 In Schedule 1 (application of exempt amount and reporting limits in cases involving settled property), in paragraph 2(7)(a), omit “and ordinarily resident”.
- 106 (1) Schedule 4A (disposal of interest in settled property: deemed disposal of underlying assets) is amended as follows.
- (2) In paragraph 5(1) and (2), omit “and ordinarily resident”.
- (3) In paragraph 6(1) –
- (a) for “in the relevant” substitute “as respects the relevant”, and
- (b) for the words from “either” to the end substitute “met the residence condition set out in section 2(1A)”.
- (4) If any of the previous 5 years of assessment mentioned in paragraph 6(1) of Schedule 4A ends before 6 April 2013, the test in that paragraph is to be applied, as respects any such year ending before that date, as if that paragraph had not been amended by sub-paragraph (3).
- 107 (1) Schedule 4C (transfers of value: attribution of gains to beneficiaries) is amended as follows.
- (2) In paragraph 1A(3), for the words from “the beneficiary” to the end substitute “, as respects that year, the beneficiary meets the residence condition set out in section 2(1A)”.
- (3) In paragraph 4 –
- (a) in sub-paragraph (1), omit “and ordinarily resident”, and

- (b) in sub-paragraph (2), omit “and ordinarily resident”.
- (4) In paragraph 5(1) –
 - (a) in paragraph (a), omit “and ordinarily resident”, and
 - (b) in paragraph (b), omit “and ordinary residence”.
- (5) In paragraph 9(3)(a)(i), omit “and ordinarily resident”.
- (6) In paragraph 10(1), omit “and ordinarily resident”.
- 108 (1) Schedule 5 (attribution of gains to settlors with interest in non-resident or dual resident settlement) is amended as follows.
 - (2) In paragraph 2A(4) –
 - (a) in paragraph (a), for “become on or after 17th March 1998 neither resident nor ordinarily resident” substitute “cease on or after 17 March 1998 to be resident”, and
 - (b) in paragraph (b), omit “and ordinarily resident”.
 - (3) In paragraph 9(4) –
 - (a) in paragraph (a), for “become on or after 19th March 1991 neither resident nor ordinarily resident” substitute “cease on or after 19 March 1991 to be resident”, and
 - (b) in paragraph (b), omit “and ordinarily resident”.
 - (4) The amendments made by this paragraph apply to changes in the residence status of trustees on or after 6 April 2013.
- 109 (1) Schedule 5A (settlements with foreign element: information) is amended as follows.
 - (2) In paragraph 2(1) –
 - (a) in paragraph (c), for “neither resident nor ordinarily resident” substitute “not resident”, and
 - (b) in paragraph (d), omit “and ordinarily resident”.
 - (3) In paragraph 3 –
 - (a) in sub-paragraph (1) –
 - (i) in paragraph (a), for “neither resident nor ordinarily resident” substitute “not resident”, and
 - (ii) in paragraph (b), omit “and ordinarily resident”, and
 - (b) in sub-paragraph (3), for “either resident or ordinarily resident” substitute “resident”.
 - (4) In paragraph 4 –
 - (a) in sub-paragraph (1) –
 - (i) in paragraph (a), for “neither resident nor ordinarily resident” substitute “not resident”, and
 - (ii) in paragraph (b), omit “and ordinarily resident”, and
 - (b) in sub-paragraph (3), for “either resident or ordinarily resident” substitute “resident”.
 - (5) In paragraph 5(1) –
 - (a) in paragraph (a), for the words from “become” to “ordinarily resident” substitute “cease at any time (the relevant time) on or after the commencement day to be resident”, and

- (b) in paragraph (b), omit “and ordinarily resident”.
- (6) The amendments made by this paragraph apply as follows –
 - (a) the amendments made by sub-paragraph (2) apply in relation to transfers of property made on or after 6 April 2013,
 - (b) the amendments made by sub-paragraphs (3) and (4) apply in relation to settlements created on or after that date, and
 - (c) the amendments made by sub-paragraph (5) apply to changes in the residence status of trustees on or after that date.
- 110 (1) Schedule 5B (enterprise investment scheme: re-investment) is amended as follows.
 - (2) In paragraph 1 –
 - (a) in sub-paragraph (1)(d), omit “or ordinarily resident”, and
 - (b) in sub-paragraph (4)(a), omit “or ordinarily resident”.
 - (3) In paragraph 3(3)(b), omit “or ordinarily resident”.
 - (4) In paragraph 19(1), in the definition of “non-resident”, for “neither resident nor ordinarily resident” substitute “not resident”.
 - (5) The amendments made by this paragraph apply in cases where the accrual time is on or after 6 April 2013 (even if the qualifying investment was made before that date).
- 111 In Schedule 7C (reliefs for transfers to approved share plans), in paragraph 8, for paragraph (a) substitute –
 - “(a) the claimant would be chargeable to capital gains tax under section 2(1) (persons and gains chargeable to capital gains tax) in respect of the gain, or”.

Commencement

- 112 (1) The amendments made by this Part of this Schedule have effect in relation to a person’s liability to capital gains tax for the tax year 2013-14 or any subsequent tax year.
- (2) Sub-paragraph (1) is without prejudice to any provision in this Part of this Schedule about the application of a particular amendment.

PART 4

OTHER AMENDMENTS

FA 1916

- 113 In FA 1916, omit section 63 (exemption from taxation of municipal securities issued in America).

F(No.2)A 1931

- 114 (1) In section 22 of F(No.2)A 1931 (provisions in cases where Treasury has power to borrow money), in subsection (1)(a) and (b), omit “ordinarily”.
- (2) Nothing in sub-paragraph (1) limits the power conferred by section 60(1) of FA 1940.

- (3) Subject to sub-paragraph (5), the amendment made by sub-paragraph (1) does not affect a pre-commencement security (nor the availability of the relevant exemption).
- (4) Sub-paragraph (5) applies to a person who becomes the beneficial owner of a pre-commencement security (or an interest in such a security) on or after 6 April 2013.
- (5) If obtaining the relevant exemption is conditional on being not ordinarily resident in the United Kingdom, any enactment conferring the exemption is to have effect (in relation to a person to whom this sub-paragraph applies) as if obtaining the exemption were conditional instead on being not resident in the United Kingdom.
- (6) In this paragraph –
 - “pre-commencement security” means a FOTRA security (as defined in section 713 of ITTOIA 2005) issued before the day on which this Act is passed;
 - “the relevant exemption”, in relation to a pre-commencement security, means the exemption for which provision is made in the exemption condition (as defined in that section).

TMA 1970

- 115 In section 98 (special returns etc), in subsection (4E)(d), omit “ordinarily”.
- 116 In Schedule 1A (claims etc not included in returns), in paragraph 2(6), omit “or not ordinarily resident”.

IHTA 1984

- 117 (1) Section 157 of IHTA 1984 (non-residents’ bank accounts) is amended as follows.
- (2) For subsection (2) substitute –
 - “(2) This section applies to a person who is not domiciled and not resident in the United Kingdom immediately before his death.”
 - (3) In subsection (3), for “, resident or ordinarily resident” substitute “or resident”.
 - (4) In subsection (4) –
 - (a) in paragraph (a), omit “or ordinarily resident”, and
 - (b) in paragraph (b), omit “or ordinarily resident” and “and ordinarily resident”.
 - (5) The amendments made by this paragraph do not apply if the person dies before 6 April 2013.

FA 2004

- 118 FA 2004 is amended as follows.
- 119 In section 185G (disposal by person holding directly), in subsection (3)(a), omit “, ordinarily resident”.

- 120 In section 205 (short service refund lump sum charge), in subsection (3), omit “, ordinarily resident”.
- 121 In section 205A (serious ill-health lump sum charge), in subsection (3), omit “, ordinarily resident”.
- 122 In section 206 (special lump sum death benefits charge), in subsection (3), omit “, ordinarily resident”.
- 123 In section 207 (authorised surplus payments charge), in subsection (3), omit “, ordinarily resident”.
- 124 In section 208 (unauthorised payments charge), in subsection (4), omit “, ordinarily resident”.
- 125 In section 209 (unauthorised payments surcharge), in subsection (5), omit “, ordinarily resident”.
- 126 In section 217 (persons liable to lifetime allowance charge), in subsection (5), omit “, ordinarily resident”.
- 127 In section 237A (liability of individual to annual allowance charge), in subsection (2), omit “, ordinarily resident”.
- 128 In section 237B (liability of scheme administrator), in subsection (8), omit “, ordinarily resident”.
- 129 In section 239 (scheme sanction charge), in subsection (4), omit “, ordinarily resident”.
- 130 In section 242 (de-registration charge), in subsection (3), omit “, ordinarily resident”.

FA 2005

- 131 In section 30 of FA 2005 (qualifying trust gains: special capital gains tax treatment), in subsection (1), for paragraph (c) substitute –
 - “(c) the trustees are resident in the United Kingdom during any part of the tax year, and”.

F(No.2)A 2005

- 132 (1) F(No.2)A 2005 is amended as follows.
 - (2) In section 7 (charge to income tax on lump sum), in subsection (3), omit “, ordinarily resident”.
 - (3) In section 18 (section 17(3): specific powers), in subsection (1)(f) and (g), omit “ordinarily”.

CTA 2009

- 133 CTA 2009 is amended as follows.
- 134 (1) In section 900 (which relates to roll-over relief for disposals of pre-FA 2002 assets), in subsection (2), omit “or ordinarily UK resident”.
- (2) The amendment made by this paragraph applies in relation to gains accruing or treated as accruing on or after 6 April 2013.

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- 135 (1) In section 936 (meaning of “UK estate” and “foreign estate”), in subsection (3), omit “or not ordinarily UK resident”.
- (2) The amendment made by this paragraph applies if the tax year in question begins on or after 6 April 2013.
- 136 (1) In section 947 (aggregate income of the estate), in subsection (2)(b)(i), omit “who was ordinarily UK resident”.
- (2) The amendment made by this paragraph applies if the tax year in question begins on or after 6 April 2013.
- 137 (1) In section 1009 (conditions relating to employee’s income tax position), in subsection (5)(a), omit “and ordinarily UK resident”.
- (2) The amendment made by this paragraph applies in relation to shares acquired on or after 6 April 2013.
- 138 (1) In section 1017 (condition relating to employee’s income tax position), in subsection (4)(a), omit “and ordinarily UK resident”.
- (2) The amendment made by this paragraph applies in relation to options obtained on or after 6 April 2013.
- 139 (1) In section 1025 (additional relief available if shares acquired are restricted shares), in subsection (5)(a), omit “and ordinarily UK resident”.
- (2) The amendment made by this paragraph applies in relation to restricted shares acquired on or after 6 April 2013.
- 140 (1) In section 1032 (meaning of “chargeable event”), in subsection (5)(a), omit “and ordinarily UK resident”.
- (2) The amendment made by this paragraph applies in relation to convertible shares acquired on or after 6 April 2013.

CTA 2010

- 141 (1) Section 1034 of CTA 2010 (purchase by unquoted trading company of own shares: requirements as to residence) is amended as follows.
- (2) In subsections (1) and (2), omit “and ordinarily resident”.
- (3) In subsection (3), omit “and ordinary residence” in both places.
- (4) Omit subsection (4).
- (5) The amendments made by this paragraph do not apply in relation to a purchase by an unquoted trading company of its own shares if the purchase takes place before 6 April 2013.

TIOPA 2010

- 142 In section 363A of TIOPA 2010 (residence of offshore funds which are undertakings for collective investment in transferable securities), in subsection (3), for “neither resident nor ordinarily resident” substitute “not resident”.

Constitutional Reform and Governance Act 2010

- 143 (1) In section 41 of the Constitutional Reform and Governance Act 2010 (tax status of MPs and members of the House of Lords), in subsection (2), omit “, ordinarily resident”.
- (2) The amendment made by this paragraph has effect for the purposes of a member’s liability to income tax or capital gains tax for the tax year 2013-14 or any subsequent tax year.

EXPLANATORY NOTE

ORDINARY RESIDENCE

SUMMARY

1. This clause and Schedule remove the concept of ‘ordinary residence’ from nearly all primary tax legislation (see Background for details of references retained). In many provisions, where the term ‘ordinarily resident’ is used on its own it is replaced by ‘resident’. And, where there is a requirement to be both resident and ordinarily resident, the requirement will be simply ‘resident’. Ordinary residence is important in relation to the taxation of individuals claiming the remittance basis. That basis of taxation will no longer be available on the grounds of being not ordinarily resident in the UK. With the abolition of ordinary residence, availability of the special relief in respect of overseas earnings due to remittance basis claimants (commonly called ‘overseas workday relief’) will depend on how long the individual has been resident in the UK. For several reliefs that depend on the individual being not ordinarily resident, transitional provisions ensure that an individual will retain relief for so long as he or she would have done so under current law.

DETAILS OF THE CLAUSE

2. Subsection (1) introduces the Schedule.
3. Subsections (2), (3), (6) and (7) provide that the Treasury may by statutory instrument make further provision removing or replacing rules relating to ordinary residence which may be retrospective back to the start of the year in which the order is made. Such an order is subject to the affirmative resolution procedure, so is subject to debate in the House of Commons.
4. Subsections (4), (5), (6) and (8) provide that the Treasury may by statutory instrument make other provision which is incidental to provisions in the Schedule or in an order under subsection (2). Such an order is subject to the negative resolution procedure.

DETAILS OF THE SCHEDULE

Part 1

Income tax and capital gains tax: remittance basis of taxation

Remittance basis restricted to non-doms

5. Paragraph 2 amends section 809A of ITA. The remittance basis of taxation in Chapter A1 of Part 14 of ITA will be available only to an individual who is not domiciled in the UK. An individual who is domiciled in the UK, but not ordinarily resident, will not be able to claim the remittance basis for 2013-14 onwards (subject to transitional provisions).
6. Paragraph 3 makes amendments to section 809B of ITA to restrict the remittance basis to non-domiciled individuals. Section 809B(2) is repealed because a claim to the remittance basis can be made only on the basis of being non-domiciled.
7. Paragraphs 4 and 5 make corresponding changes to sections 809D and 809E of ITA.

Treatment of relevant foreign earnings

8. Paragraph 7 amends section 22 of ITEPA. That section provides that where the remittance basis applies and the employee is ordinarily resident in the UK, 'chargeable overseas earnings' are taxed only to the extent to that they are remitted to the UK. With the abolition of ordinary residence, section 22 will apply where the employee does not meet the requirement of new section 26A of ITEPA (see paragraph 13 below).
9. Paragraph 8 amends section 23 of ITEPA which defines 'chargeable overseas earnings' for the purposes of section 22. The condition that an employee is ordinarily resident is replaced by a condition that the employee is outside new section 26A.
10. Paragraph 9 amends section 26 of ITEPA. That section provides that where the remittance basis applies and the employee is not ordinarily resident in the UK, earnings in respect of overseas duties (other than from Crown employments) are taxed only to the extent that they are remitted to the UK. With the abolition of ordinary residence, section 26 will apply where the employee meets the requirement of new section 26A.
11. Paragraph 10 inserts new section 26A into ITEPA. A UK resident employee is within this section for a tax year X if he or she has been non-resident for three consecutive tax years and that year X is any of the three years immediately following that spell of non-residence.
12. Paragraph 11 replaces the references to being ordinarily resident in section 41C(4) of ITEPA and not ordinarily resident in section 41C(6) with requirements to be outside or within section 26A respectively.

13. Paragraph 12 replaces the references to being ordinarily resident in section 271(2)(a) of ITEPA and not ordinarily resident in section 271(2)(b) with requirements to be outside or within section 26A respectively.
14. Paragraph 13 replaces the reference to being ordinarily resident in section 554Z9(1)(c) of ITEPA with a reference to being outside section 26A.
15. Paragraph 14 replaces the reference to being not ordinarily resident in section 554Z10(1)(c) of ITEPA with a reference to being within section 26A.
16. Paragraph 15 replaces the references to being not ordinarily resident in section 690(1)(a) and (2A) of ITEPA with references to being within section 26A.

Consequential amendments

17. Paragraph 16 replaces the references to being ordinarily resident in section 266A(8)(a) of ICTA and not ordinarily resident in section 266A(8)(b) with requirements to be outside or within section 26A respectively.
18. Paragraph 17 substitutes section 12(1) of TCGA to reflect the fact that the remittance basis can only be claimed by a non-domiciled individual.
19. Paragraph 18 amends section 87B of TCGA to reflect the fact that the remittance basis can only be claimed by a non-domiciled individual.
20. Paragraph 19 substitutes section 726(1) of ITA to reflect the fact that the remittance basis can only be claimed by a non-domiciled individual.
21. Paragraph 20 substitutes section 730(1) of ITA to reflect the fact that the remittance basis can only be claimed by a non-domiciled individual.
22. Paragraph 21 amends section 735(1) of ITA as substituted by the Schedule in this Bill amending the transfer of assets abroad legislation to reflect the fact that the remittance basis can only be claimed by a non-domiciled individual.
23. Paragraph 22 amends section 809F(4) of ITA to reflect the fact that the remittance basis can only be claimed by a non-domiciled individual.

24. Paragraph 23 amends section 809YD(3) of ITA to reflect the fact that the remittance basis can only be claimed by a non-domiciled individual.
25. Paragraph 24 amends section 809Z7(2)(d) of ITA to reflect the fact that the remittance basis can only be claimed by a non-domiciled individual and replaces the reference to being ordinarily resident in section 809Z7(3)(a) with a reference to being outside section 26A.

Commencement

26. Paragraph 25 provides that the amendments made by Part 1 of this Schedule apply to an individual's foreign income and gains for 2013-14 onwards.

Savings

27. Paragraph 26 contains transitional provisions which apply where an individual is not ordinarily resident at the end of the tax year 2012-13 and that year is the first or second year of residence. It reflects the fact that an individual, unless having established an intention to settle in the UK, would have been regarded as not ordinarily resident for a maximum of three years of residence. So provisions amended by this Part will continue to apply on the basis of current law for 2013-14 (where that is the third year of residence) or for 2013-14 and 2014-15 (where they are the second and third years of residence).

Interpretation

28. Paragraph 27 attracts the meaning of 'foreign income and gains' in section 809Z7 of ITA to provisions in this Part.

Part 2

Income tax: arising basis of taxation

ICTA 1988

29. Paragraph 28 removes references to 'ordinarily resident' from section 614 of ICTA.

ITEPA 2003

30. Paragraph 30 amends a reference in section 56(5)(a) of ITEPA to being ordinarily resident outside the UK to a reference to being within section 26A and removes a similar reference from section 56(5)(b).
31. Paragraph 31 amends a reference in section 61G(5)(a) of ITEPA to being ordinarily resident outside the UK to a reference to being

within section 26A and removes a similar reference from section 61G(5)(b).

32. Paragraph 32 amends section 328(5) of ITEPA as a consequence of changes made to section 378 of ITEPA (see paragraph 39 below).
33. Paragraph 33 removes a reference to ordinarily resident from section 341(3) of ITEPA.
34. Paragraph 34 removes a reference to ordinarily resident from section 342(6) of ITEPA.
35. Paragraph 35 removes a reference to ordinarily resident from section 370(6) of ITEPA.
36. Paragraph 36 removes a reference to ordinarily resident from section 376(1)(b) of ITEPA.
37. Paragraph 37 amends section 378 of ITEPA which, in conjunction with the other provisions in Chapter 6, provides an exemption for certain earnings of seafarers who are ordinarily resident in the UK or resident in an EEA State provided that various conditions are met. The exemption will now apply on the basis of residence in the UK or in an EEA State which allows the structure of section 378 to be simplified. As part of the simplification of section 378, the provision in subsection (5)(b) which means that remittance basis claimants are not entitled to seafarers' earnings deduction, is omitted.
38. Paragraph 38 inserts a new paragraph (za) into section 413(3A) of ITEPA. The exemption for termination payments under this section is geared to periods of employment ('foreign service') for which earnings are not 'relevant earnings'. Subsection (3A) defines 'relevant earnings' and for years up to 2012-13 the reference to being 'ordinarily UK resident' in that definition is retained. With the abolition of ordinary residence 'relevant earnings' are defined for 2013-14 onwards in terms of earnings within section 15 of ITEPA either directly or earnings which would fall within that section even if a remittance basis claim under section 809B of ITA were made. The savings provisions in paragraph 73 apply for the purposes of sections 413 and 414 of ITEPA. The definition of 'relevant earnings' applying for 2013-14 onwards corrects an anomaly with the current provision under which UK duties could count as foreign service where the individual was not ordinarily resident and claiming the remittance basis.
39. Paragraph 39 substitutes section 681A(4) of ITEPA which concerns the conditions for exemption from tax in respect of certain foreign state benefits paid to consular officers and employees. The reference to the individual being not ordinarily resident prior to taking up duty

in the UK is replaced by a reference to being not UK resident for the two preceding years.

40. Paragraph 40 omits paragraph 8(2)(b) of Schedule 2 to ITEPA. In order for a share incentive plan to be an approved plan it must be open to all individuals who are both resident and ordinarily resident (as well as the individuals meeting other conditions). The amendment removes the ordinary residence condition in respect of plans approved after Royal Assent to the Finance Bill.
41. Paragraph 41 omits paragraph 6(2)(ca) of Schedule 3 to ITEPA. In order for a SAYE option scheme to be approved it must be open to all individuals who are ordinarily resident (as well as the individuals meeting other conditions). The amendment removes the ordinary residence condition in respect of option schemes approved after Royal Assent to the Finance Bill.
42. Paragraph 42 removes a reference to ordinarily resident from paragraph 27(3)(b) of Schedule 5 to ITEPA.

ITTOIA 2005

43. Paragraph 44 amends section 154A(1) of ITTOIA so that the exemption for profits on War Loan securities operates on the basis of the holder being non-resident rather than being not ordinarily resident. This does not affect the way in which the exemption applies to existing holders of War Loan securities (see paragraph 118 below).
44. Paragraph 45 amends section 459(2) of ITTOIA so that it refers to an individual who is resident rather than ordinarily resident in the UK. This reflects changes made to the basis on which the provisions of Chapter 2 of Part 13 of ITA (transfer of assets abroad) operate.
45. Paragraph 46 substitutes section 468(2) of ITTOIA so that the reference to an individual who is ordinarily resident is changed to one who is UK resident, reflecting changes to the transfer of assets abroad regime. The amendment also corrects an error – the words ‘of ICTA’ should have been repealed by ITA 2007.
46. Paragraph 47 amends section 569(2) of ITTOIA so that it refers to an individual who is resident rather than ordinarily resident in the UK. This reflects changes to the transfer of assets abroad regime.
47. Paragraph 48 removes a reference to ordinarily resident from section 636(2)(b) of ITTOIA in respect of income arising from 6 April 2013.
48. Paragraph 49 removes a reference to ordinarily resident from section 648(1)(b) of ITTOIA.

49. Paragraph 50 removes a reference to ordinarily resident from section 651(3) of ITTOIA.
50. Paragraph 51 removes a reference to ordinarily resident from section 664(2)(b)(i) of ITTOIA.
51. Paragraph 52 amends section 715 of ITTOIA to reflect the fact that the exemption condition attaching to FOTRA securities (as set out in section 713(2)(a) of ITTOIA) will change to the holder being non-resident rather than being not ordinarily resident for securities issued on or after 6 April 2013. Where the security was acquired by the trust before 6 April 2013 the existing references to the ordinary residence status of the beneficiaries remain in force.
52. Paragraph 53 substitutes section 771(4) of ITTOIA which concerns the conditions for exemption from tax in respect of relevant foreign income of consular officers and employees. The reference to the individual being not ordinarily resident prior to taking up duty in the UK is replaced by a reference to being not UK resident for the two preceding years.

ITA 2007

53. Paragraph 55 removes a reference to ordinarily residence from section 465(4) of ITA.
54. Paragraph 56 substitutes section 475(1) of ITA to remove reference to the ordinary residence status of the body of trustees. There are corresponding changes to section 475(2) and (3). Section 475 is further amended by Part 3 of the statutory residence test.
55. Paragraph 57 removes references to the ordinary residence status of a settlor from section 476(2)(b) and (3)(b) of ITA. In the case of a settlement arising on the settlor's death the change only applies to deaths on or after 6 April 2013. In the case of other settlements the change only applies where the settlement is made on or after 6 April 2013.
56. Paragraph 58 removes a reference to ordinarily resident from section 643(1) of ITA.
57. Paragraph 59 removes a reference to ordinarily resident from section 718(2)(b) of ITA.
58. Paragraph 60 removes the word 'ordinarily' from section 720(1) of ITA. This is the first of a number of amendments to the transfer of assets abroad provisions in Chapter 2 of Part 13 of ITA which ensure that the provisions will apply in future where the individual subject to the charge is resident rather than ordinarily resident.

59. The savings provisions in paragraph 73 apply for the purposes of the transfer of assets abroad provisions in Chapter 2 of Part 13 of ITA.
60. Paragraph 61 amends section 721 of ITA to reflect the fact that the provision applies to a UK resident individual.
61. Paragraph 62 amends section 727 of ITA to reflect the fact that the provision applies to a UK resident individual.
62. Paragraph 63 amends section 728 of ITA to reflect the fact that the provision applies to a UK resident individual.
63. Paragraph 64 amends section 732 of ITA as substituted by the Schedule in this Bill amending the transfer of assets abroad legislation so that the provision applies where the individual receiving the benefit is resident rather than ordinarily resident.
64. Paragraph 65 removes a reference to ordinarily resident from section 749(2) of ITA. The change only applies to a transfer or associated operation made on or after 6 April 2013.
65. Paragraph 66 removes a reference to ordinarily resident from section 812(1)(a) of ITA.
66. Paragraph 67 removes a reference to ordinarily resident from section 834(3) of ITA which determines the residence status of an individual's personal representatives. The change only applies where the deceased dies on or after 6 April 2013.
67. Paragraph 68 amends section 858 of ITA so that a declaration made by an individual to enable a deposit taker or building society to pay interest without deduction of tax is that the person entitled to the interest is not resident rather than not ordinarily resident. Similarly, the undertaking given to notify becoming ordinarily resident will be an undertaking to notify becoming UK resident. This is the first in a number of similar provisions and they all come into force on 6 April 2014 instead of the general commencement date for this Schedule of 6 April 2013.
68. Paragraphs 68 to 71 do not affect declarations and undertakings given before 6 April 2014 which will continue to operate on the basis of declaring and notify changes to ordinary residence status.
69. Paragraph 69 makes corresponding amendments to section 859 of ITA in respect of a declaration and undertaking given in respect of members of a Scottish partnership.
70. Paragraph 70 makes corresponding amendments to section 860 of ITA in respect of a declaration made by a personal representative of

an individual who was not ordinary resident immediately before death.

71. Paragraph 71 makes corresponding amendments to section 861 of ITA in respect of a declaration and undertaking given by the trustees of a settlement in respect of the beneficiaries of the settlement.
72. Paragraph 72 provides that the amendments made by Part 2 have effect for 2013-14 onwards unless otherwise stated.
73. Paragraph 73 provides transitional provisions for sections 413 and 414 of ITEPA (foreign service termination payments) and Chapter 2 of Part 13 of ITA (transfer of assets abroad). They apply where an individual is not ordinarily resident at the end of the tax year 2012-13 and that year is the first or second year of residence. It reflects the fact that an individual, unless having established an intention to settle in the UK would have been regarded as not ordinarily resident for a maximum of 3 years of residence. So the provisions specified will continue to apply on the basis of current law for 2013-14 (where that is the third year of residence) or for 2013-14 and 2014-15 (where they are the second and third years of residence), provided in the case of termination payments that the employment in question began before 6 April 2013.

Part 3

Capital gains tax: accruals basis of taxation

TCGA 1992

74. Paragraph 75 amends section 2 of TCGA. At present the charge to capital gains tax is on all gains for a year during any part of which the person is resident or ordinarily resident. From 2013-14 ordinary residence ceases to be a factor and the charge is on gains arising if the residence condition is met. In new subsection (1A) the residence condition is expressed separately for the various categories of person chargeable to capital gains tax. In particular, the condition for an individual is based on residence status for the tax year so as to be consistent with the wording of the statutory residence test. Section 2 is further amended by Part 3 of the statutory residence test to provide that for an individual a year of residence may be split into a UK part and overseas part in certain circumstances with the charge restricted according to the period in which the gains accrue.
75. Paragraph 76 amends section 10(1) of TCGA so that instead of a reference to being not resident and not ordinarily resident there is a reference to the residence condition in section 2(1A) not being met.

76. Paragraph 77 removes references to ordinarily resident from section 13 of TCGA.
77. Paragraph 78 amends section 16(3) of TCGA so that instead of a reference to being not resident and not ordinarily resident there is a reference to the residence condition in section 2(1A) not being met.
78. Paragraphs 79 to 81 remove references to ordinarily resident from sections 62(3), 65(3)(b) and 67(6)(a) of TCGA.
79. Paragraph 82 removes references to ordinarily resident from section 69 of TCGA. Section 69 is further amended by Part 3 of the statutory residence test.
80. Paragraphs 83 to 92 remove references to ordinarily resident from sections 76(1B)(a), 80(1), 81, 82(3)(b), 83(1), 83A, 84(1)(b), 85(1), 86 and 87 of TCGA.
81. Paragraph 93 removes references to ordinarily resident and ordinary residence from section 88(1) of TCGA.
82. Paragraph 94 removes references to ordinarily resident and ordinary residence from section 96 of TCGA.
83. Paragraph 95 removes a reference to ordinarily resident from section 97(1)(a) of TCGA.
84. Paragraph 96 removes a reference to ordinarily resident from section 99(1)(c) of TCGA. The ordinary residence status of a company is considered to be equivalent to its residence status.
85. Paragraphs 97 to 102 remove references to ordinarily resident from section 106(5A), 159, 166, 167, 168 and 169(3)(a) of TCGA.
86. Paragraph 103 amends section 199(2) of TCGA so that instead of a reference to being not resident and not ordinarily resident there is a reference to the residence condition in section 2(1A) not being met.
87. Paragraph 104 removes references to ordinarily resident from section 261 of TCGA.
88. Paragraph 105 removes a reference to ordinarily resident from paragraph 2(7)(a) of Schedule 1 to TCGA.
89. Paragraph 106 removes references to ordinarily resident from paragraph 5 of Schedule 4A to TCGA and amends the language of paragraph 6 to refer to the residence condition in section 2(1A). Since the condition in paragraph 6 looks back to the residence and ordinary residence status of the five previous years that condition is applied to

years before 2013-14 as if the amendments in this paragraph had not been made.

90. Paragraph 107 removes references to ordinarily resident from paragraphs 4, 5, 9 and 10 of Schedule 4C to TCGA and amends the language of paragraph 1A(3) to refer to the residence condition in section 2(1A).
91. Paragraph 108 removes references to ordinarily resident from paragraphs 2A and 9 of Schedule 5 to TCGA.
92. Paragraph 109 removes references to ordinarily resident from paragraphs 2, 3, 4 and 5 of Schedule 5A to TCGA.
93. Paragraph 110 removes references to ordinarily resident from paragraphs 1, 3 and 19 of Schedule 5B to TCGA.
94. Paragraph 111 removes a reference to ordinarily resident from paragraph 8 of Schedule 7C to TCGA by substituting paragraph (a).
95. Paragraph 112 provides that the amendments made by Part 3 have effect for 2013-14 onwards unless otherwise stated.

Part 4

Other amendments

FA 1916

96. Paragraph 113 repeals section 63 FA 1916 which is obsolete.

F(No.2)A 1931

97. Paragraph 114 amends section 22 of F(No.2)A 1931 so that with effect from Royal Assent FOTRA securities may be issued with the condition for exemption based on the beneficial owner being not resident in the UK rather than being not ordinarily resident in the UK. This change does not affect the taxation treatment of any securities which are issued before Royal Assent (for which the exemption continues to be based on being not ordinarily resident) except where the beneficial owner acquired the security on or after 6 April 2013. So, for example, the inheritance tax provisions in sections 6(2) and 48(4) of IHTA 1984 will continue to apply to securities issued on the basis of exemption for persons not ordinarily resident provided that the beneficial owner acquired them before 6 April 2013.
98. The other exemptions for FOTRA securities are contained in section 714 of ITTOIA for income tax, section 1279 of CTA 2009 for corporation tax and section 115 of TCGA (a wider general gilts

exemption) for capital gains tax. Where a person acquires a FOTRA security on or after 6 April 2013 paragraph 114(5) provides that the exemption is based on being non-resident in the UK even though the exemption stated in the terms of issue was based on being not ordinarily resident.

TMA 1970

99. Paragraph 115 removes a reference to ordinarily resident from section 98(4E)(d) of TMA reflecting the change made to section 18 F(No.2)A 2005 by paragraph 132(3) of this Schedule and the proposed change that will be made after Royal Assent to the supporting Authorised Investment Funds (Tax) Regulations 2006.
100. Paragraph 116 removes a reference to ordinarily resident from paragraph 2(6) of Schedule 1A to TMA.

IHTA 1984

101. Paragraph 117 removes references to ordinarily resident from section 157 of IHTA 1984 in cases of death on or after 6 April 2013.

FA 2004

102. Paragraphs 118 to 130 remove references to ordinarily resident from pensions provisions in sections 185G(3)(a), 205(3), 205A(3), 206(3), 207(3), 208(4), 209(5), 217(5), 237A(2), 237B(8), 239(4) and 242(3) of FA 2004.

FA 2005

103. Paragraph 131 removes a reference to ordinarily resident from section 30(1) of FA 2005 by substituting paragraph (c).

F(No.2)A 2005

104. Paragraph 132 removes references to ordinarily resident from sections 7(3) and 18(1)(f) and (g) of F(No.2)A 2005.

CTA 2009

105. Paragraph 134 removes a reference to ordinarily resident from section 900(2) of CTA 2009. The ordinary residence status of a company is considered to be equivalent to its residence status.
106. Paragraphs 135 to 140 remove references to ordinarily resident as applied to personal representatives and individuals in the context of corporation tax provisions concerning estate income and shares or options acquired by employees. The provisions concerned are

sections 936(3), 947(2)(b)(i), 1009(5)(a), 1017(4)(a), 1025(5)(a) and 1032(5)(a) of CTA 2009.

CTA 2010

107. Paragraph 141 removes references to ordinarily resident and ordinary residence from section 1034 of CTA 2010.

TIOPA 2010

108. Paragraph 142 removes a reference to ordinarily resident from section 363A(3) of TIOPA. The ordinary residence status of a company is considered to be equivalent to its residence status.

Constitutional Reform and Governance Act 2010

109. Paragraph 143 removes a reference to ordinarily resident from section 41(2) of the Constitutional Reform and Governance Act 2010.

BACKGROUND

110. At Budget 2012, the Government announced that it would abolish the concept of ordinary residence. This represents a major simplification to the UK tax system which has been welcomed by those who have responded to HM Treasury consultations in June 2011 and June 2012. The second consultation included draft legislation which is substantially the same as that in this draft Schedule except for the simplified new rules relating to overseas workday relief.
111. Three references to ordinary residence have been retained in primary (direct) tax legislation. They are in section 693 of ITTOIA 2005 (Ulster Savings Certificates, which refers to ordinary residence in Northern Ireland), section 38 of ITA 2007 (blind person's allowance which refers to ordinary residence in Scotland or Northern Ireland) and section 841 of ITA 2007 (which concerns the certification of ordinary residence outside the UK by a High Commissioner or Agent-General). The Government does not want to change the scope or application of any of these provisions. In addition, a fourth reference in section 228(6) of TCGA 1992 has been left alone on the basis that the provision is no longer of relevance.
112. The concept of ordinary residence will continue to apply for the time being in circumstances where transitional rules are in point, for example in relation to FOTRA securities issued on the basis that the holder is not ordinarily resident.
113. There are a number of places in secondary legislation where the term ordinary residence is used. Where the term is clearly being used in an income tax context the Government intends to abolish the reference.

A draft statutory instrument is published alongside these draft provisions and work continues on identifying other amendments which will be published as draft Statutory Instruments in due course.

114. If you have any questions or comments on the legislation, please contact Richard Davey on 020 7147 2391 (email: offshorepersonal.taxteam@hmrc.gsi.gov.uk).

2013 No. X

INCOME TAX

**The Income Tax (Removal of Ordinary Residence) Regulations
2013**

Made - - - - - ***
Laid before House of Commons ***
Coming into force - - - - - 6th April 2013

The Treasury in exercise of the powers conferred by sections 966(6) and 970(5) of the Income Tax Act 2007(a); sections 694, 695, 695A and 701 of the Income Tax (Trading and Other Income) Act 2005(b) and section 151 of the Trading and Capital Gains Act 1992(c); and section 45 of the Finance Act 2009(d); make the following Regulations:

Citation, commencement and effect

1. These regulations may be cited as the Income Tax (Removal of Ordinary Residence) Regulations and come into force on 6 April 2013.

2. The amendments made—

- (a) by regulations 3 and 4 have effect for the purposes of a person's liability to income tax for the tax year 2013-14 or any subsequent tax years;
- (b) by regulations 5(2) and 5(3) have effect in relation to interest distributions made on or after 6 April 2014; and
- (c) by regulations 5(4), 5(5) and 5(6) have effect in relation to the making of declarations on or after 6 April 2014. Any declarations made before that date continue to have effect in respect of interest distributions made on or after that date as if those amendments had not been made.

Amendment of the Income Tax (Entertainers and Sportsmen) Regulations 1987

3. In the Income Tax (Entertainers and Sportsmen) Regulations 1987(e) in regulation 3 (payments or transfers with prescribed connection), in paragraph (3)(b)(i) omit "and ordinarily resident".

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- (a) 2007 c. 3.
 - (b) 2005 c. 5; sections 694(1A), 695A and 701(6) were inserted by section 40 of the Finance Act 2008 (c. 9); sections 695(3) and (4) were amended by paragraphs 131 and 132 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11).
 - (c) 1992 c. 12; subsection (2) was substituted by section 64(2) of the Finance Act 1995 (c. 4) which also inserted subsection (2A); the substituted subsection (2) and inserted subsection (2A) were substituted by a further subsection (2) by paragraph 436 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5); the substituted subsection (2) was amended by paragraph 40 of the Finance Act 2011 (c. 11); section 151(4) was inserted by section 85 of the Finance Act 1993 (c. 34).
 - (d) 2009 c.10. Section 45 was amended by paragraphs 706 and 710 of Schedule 1 to the Corporation Tax Act 2010 (c. 4).
 - (e) S.I. 1987/530, to which there are amendments not relevant to these Regulations.

Amendment of the Individual Savings Account Regulations 1998

4.—(1) The Individual Savings Account Regulations 1998(a) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1)(a) in the definition of ‘eligible child’, omit the words “and ordinarily resident” from paragraph (b)(i).

(3) In regulation 10 (qualifying individuals who may invest under an account that is not a junior ISA account), in paragraph 2(d)(i) omit the words “and ordinarily resident”.

(4) In regulation 12 (conditions for application to open an account that is not a junior ISA account), in paragraphs (3)(f) and (3)(f)(i), omit the words “and ordinarily resident”.

(5) In regulation 12A (conditions for application to open an account that is a junior ISA account), in paragraph (7)(d)(i) omit the words “and ordinarily resident”.

Amendment of the Investment Trusts (Dividends) (Optional Treatment as Interest Distributions) Regulations 2009

5.—(1) The Investment Trusts (Dividends) (Optional Treatment as Interest Distributions) Regulations 2009(b) are amended as follows.

(2) In regulation 14 (the reputable intermediary condition), in paragraph (3) omit “ordinarily”.

(3) In regulation 16 (the reputable intermediary condition: consequences of reasonable but incorrect belief), in paragraph (5) omit “ordinarily”.

(4) In regulation 17 (the residence condition)—

(a) in paragraphs (2), (3)(b) and 4(b) omit “ordinarily”,

(b) in paragraph (5) omit “either not ordinarily resident or, in the case of a company,”,

(c) in paragraph 6(b) omit “either not ordinarily resident or, in the case of a beneficiary which is a company,”.

(5) In regulation 18 (the residence condition: declarations)—

(a) in paragraph 2(b) omit “ordinarily”, and

(b) in paragraphs (4)(c)(ii) and (iii) omit “ordinarily resident or, the case of a company,”.

(6) In regulation 20 (interest distributions: declarations and position of investment trust or prospective investment trust), in paragraph (3) and (4) omit “or ordinarily resident”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Income Tax (Entertainers and Sportsmen) Regulations 1987 (S.I. 1987/530) (the Entertainers Regulations), the Individual Savings Account Regulations 1998 (S.I. 1998/1870) (the ISA Regulations) and Investment Trusts (Dividends) (Optional Treatment as Interest Distributions) Regulations 2009 (S.I. 2009/2034) (the Investment Trust Regulations).

The effect of these regulations is to remove references to ‘ordinary’ residence and ‘ordinarily’ resident from the three above mentioned regulations.

These regulations come into force on 6 April 2013. The amendments to the Entertainers Regulations and the ISA Regulations have effect for the purposes of a person’s liability to income tax for the tax year 2013-14 or any subsequent tax years. The amendments to the Investment Trust Regulations have effect in relation to interest distributions made on or after 6 April 2014, and in relation to the making of declarations on or after 6 April 2014. The amendments do not affect declarations or undertakings made before that date, which will continue to operate on the basis of declaring and notifying changes to ordinary residence status

(a) SI 1998/1870. Relevant amending instruments are S.I. 2001/908, S.I. 2005/3230, S.I. 2008/704 and S.I. 2011/1780.

(b) S.I. 2009/2034, to which there are amendments not relevant to these Regulations.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

2013 No. X

INCOME TAX

**The Income Tax (Removal of Ordinary Residence) Regulations
2013**

Made - - - - - ***
Laid before House of Commons ***
Coming into force - - - - - 6th April 2013

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Citation, commencement and effect

1. These regulations may be cited as the Income Tax (Removal of Ordinary Residence) Regulations and come into force on 6 April 2013.

2. The amendments made—

- (a) by regulations 3 and 4 have effect for the purposes of a person's liability to income tax for the tax year 2013-14 or any subsequent tax years;
- (b) by regulations 5(2) and 5(3) have effect in relation to interest distributions made on or after 6 April 2014; and
- (c) by regulations 5(4), 5(5) and 5(6) have effect in relation to the making of declarations on or after 6 April 2014. Any declarations made before that date continue to have effect in respect of interest distributions made on or after that date as if those amendments had not been made.

Amendment of the Income Tax (Entertainers and Sportsmen) Regulations 1987

3. In the Income Tax (Entertainers and Sportsmen) Regulations 1987(e) in regulation 3 (payments or transfers with prescribed connection), in paragraph (3)(b)(i) omit "and ordinarily resident".

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 - (d) 2009 c.10. Section 45 was amended by paragraphs 706 and 710 of Schedule 1 to the Corporation Tax Act 2010 (c. 4).
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(2) In regulation 2 (interpretation), in paragraph (1)(a) in the definition of ‘eligible child’, omit the words “and ordinarily resident” from paragraph (b)(i).

(3) In regulation 10 (qualifying individuals who may invest under an account that is not a junior ISA account), in paragraph 2(d)(i) omit the words “and ordinarily resident”.

(4) In regulation 12 (conditions for application to open an account that is not a junior ISA account), in paragraphs (3)(f) and (3)(f)(i), omit the words “and ordinarily resident”.

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(4) In regulation 17 (the residence condition)—

(a) in paragraphs (2), (3)(b) and 4(b) omit “ordinarily”,

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(c) in paragraph 6(b) omit “either not ordinarily resident or, in the case of a beneficiary which is a company,”.

(5) In regulation 18 (the residence condition: declarations)—

(a) in paragraph 2(b) omit “ordinarily”, and

(b) in paragraphs (4)(c)(ii) and (iii) omit “ordinarily resident or, the case of a company,”.

(6) In regulation 20 (interest distributions: declarations and position of investment trust or prospective investment trust), in paragraph (3) and (4) omit “or ordinarily resident”.

EXPLANATORY NOTE

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These regulations amend the Income Tax (Entertainers and Sportsmen) Regulations 1987 (S.I. 1987/530) (the Entertainers Regulations), the Individual Savings Account Regulations 1998 (S.I. 1998/1870) (the ISA Regulations) and Investment Trusts (Dividends) (Optional Treatment as Interest Distributions) Regulations 2009 (S.I. 2009/2034) (the Investment Trust Regulations).

The effect of these regulations is to remove references to ‘ordinary’ residence and ‘ordinarily’ resident from the three above mentioned regulations.

These regulations come into force on 6 April 2013. The amendments to the Entertainers Regulations and the ISA Regulations have effect for the purposes of a person’s liability to income tax for the tax year 2013-14 or any subsequent tax years. The amendments to the Investment Trust Regulations have effect in relation to interest distributions made on or after 6 April 2014, and in relation to the making of declarations on or after 6 April 2014. The amendments do not affect declarations or undertakings made before that date, which will continue to operate on the basis of declaring and notifying changes to ordinary residence status.

(a) SI 1998/1870. Relevant amending instruments are S.I. 2001/908, S.I. 2005/3230, S.I. 2008/704 and S.I. 2011/1780.

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