

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, SCHEDULE 13. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 13

Section 89

#### SETTLEMENTS: AMENDMENTS TO ICTA AND ITTOIA 2005 ETC

#### PART 1

##### PRINCIPAL AMENDMENTS

1 F1 .....

##### Textual Amendments

**F1** Sch. 13 para. 1 repealed (6.4.2007 with effect as mentioned in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [s. 1031](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))

2 F2 .....

##### Textual Amendments

**F2** Sch. 13 para. 2 repealed (6.4.2007 with effect as mentioned in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [s. 1031](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))

3 F3 .....

##### Textual Amendments

**F3** Sch. 13 para. 3 repealed (6.4.2007 with effect as mentioned in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [s. 1031](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))

4 F4 .....

##### Textual Amendments

**F4** Sch. 13 para. 4 repealed (6.4.2007 with effect as mentioned in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [s. 1031](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))

5 (1) For section 619(2) to (4) of ITTOIA 2005 (charge to tax on settlor) substitute—

“(2) For the purposes of sections 1 to 1B of ICTA, where income of another person is treated as income of the settlor and is charged to tax under subsection (1)(a) or (b) above, it shall be charged in accordance with whichever provisions of the Tax Acts would have been applied in charging it if it had arisen directly to the settlor.”

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- (2) This paragraph shall have effect—
- (a) in relation to income which arises or is treated as arising on or after 6th April 2006, and
  - (b) in relation to income which is paid to a minor child of the settlor, where the child is unmarried and is not in a civil partnership, on or after 6th April 2006 and in relation to which section 631 of ITTOIA 2005 applies (irrespective of when the income arose).
- 6 (1) After section 685 of ITTOIA 2005 insert—

**“685A Settlor-interested settlements**

- (1) This section applies if—
    - (a) a person receives an annual payment in respect of income from the trustees of a settlement,
    - (b) the payment is made in the exercise of a discretion (whether of the trustees of the settlement or any other person), and
    - (c) a settlor is charged to tax under section 619(1) on the income arising to the trustees of the settlement (whether in the current year of assessment or in a previous year of assessment) out of which the annual payment is made.
  - (2) This section applies only in respect of that proportion of the annual payment which corresponds to the proportion of the total income arising to the trustees of the settlement in respect of which a settlor is chargeable to tax under section 619(1).
  - (3) If and in so far as this section applies, the recipient of the annual payment shall be treated for the purposes of this Chapter as having paid income tax at the higher rate in respect of the annual payment.
  - (4) But—
    - (a) tax which the recipient is treated by virtue of this section as having paid is not repayable,
    - (b) tax which the recipient is treated by virtue of this section as having paid may not be taken into account in relation to a tax liability of the recipient in respect of any other income of his, and
    - (c) the annual payment shall be treated for the purposes of sections 348 and 349(1) of ICTA as payable wholly out of profits or gains not brought into charge to income tax.
  - (5) If the recipient of the annual payment is a settlor in relation to the settlement, if and in so far as this section applies the annual payment shall not be treated as his income for the purposes of the Income Tax Acts (and subsection (3) does not apply).
  - (6) Section 687 of ICTA shall not apply in relation to an annual payment if and in so far as this section applies.”
- (2) This paragraph shall have effect for payments in respect of income made on or after 6th April 2006.

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## PART 2

### MINOR AND CONSEQUENTIAL AMENDMENTS

7 Paragraphs 8 to 26 amend ICTA.

8 Section 220(2) shall cease to have effect.

F<sup>5</sup><sub>9</sub> .....

#### Textual Amendments

**F5** Sch. 13 para. 9 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F<sup>6</sup><sub>10</sub> .....

#### Textual Amendments

**F6** Sch. 13 para. 10 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

11 F<sup>7</sup> .....

#### Textual Amendments

**F7** Sch. 13 para. 11 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

F<sup>8</sup><sub>12</sub> .....

#### Textual Amendments

**F8** Sch. 13 para. 12 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F<sup>9</sup><sub>13</sub> .....

#### Textual Amendments

**F9** Sch. 13 para. 13 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

14 F<sup>10</sup> .....

#### Textual Amendments

**F10** Sch. 13 para. 14 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

15 F<sup>11</sup> .....

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**Textual Amendments**

**F11** Sch. 13 para. 15 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, **Sch. 3 Pt. 1** (with transitional provisions and savings in [Sch. 2](#))

16 **F12** .....

**Textual Amendments**

**F12** Sch. 13 para. 16 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, **Sch. 3 Pt. 1** (with transitional provisions and savings in [Sch. 2](#))

17 **F13** .....

**Textual Amendments**

**F13** Sch. 13 para. 17 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, **Sch. 3 Pt. 1** (with transitional provisions and savings in [Sch. 2](#))

<sup>F14</sup>18 .....

**Textual Amendments**

**F14** Sch. 13 para. 18 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

19 **F15** .....

**Textual Amendments**

**F15** Sch. 13 para. 19 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, **Sch. 3 Pt. 1** (with transitional provisions and savings in [Sch. 2](#))

<sup>F16</sup>20 .....

**Textual Amendments**

**F16** Sch. 13 para. 20 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

21 **F17** .....

**Textual Amendments**

**F17** Sch. 13 para. 21 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, **Sch. 3 Pt. 1** (with transitional provisions and savings in [Sch. 2](#))

22 **F18** .....

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**Textual Amendments**

**F18** Sch. 13 para. 22 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, **Sch. 3 Pt. 1** (with transitional provisions and savings in [Sch. 2](#))

23 Section 764 shall cease to have effect.

<sup>F19</sup>24 .....

**Textual Amendments**

**F19** Sch. 13 para. 24 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 1** (with [Sch. 9](#) paras. 1-9, 22)

<sup>F20</sup>25 .....

**Textual Amendments**

**F20** Sch. 13 para. 25 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

<sup>F21</sup>26 .....

**Textual Amendments**

**F21** Sch. 13 para. 26 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 2** (with [Sch. 9](#) paras. 1-9, 22)

27 (1) Paragraph 7 and paragraphs 9 to 26 shall come into force on 6th April 2006 (in relation to settlements whenever created).

(2) Paragraph 8 shall come into force on 6th April 2007 (in relation to settlements whenever created).

28 (1) FA 1989 shall be amended as follows.

(2) The following provisions shall cease to have effect—

- (a) section 68(2)(c),
- (b) section 71(4)(c), and
- (c) section 110.

(3) In section 68(2)—

- (a) after paragraph (ba) insert “, and”, and
- (b) after paragraph (bb) omit “, and”.

(4) In section 71(4)—

- (a) after paragraph (ba) insert “, and”, and
- (b) after paragraph (bb) omit “, and”.

(5) Sub-paragraph (2)(a) and (b) shall have effect in relation to payments made on or after 6th April 2006.

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(6) Sub-paragraph (2)(c) shall have effect from 6th April 2007 (in relation to settlements whenever created).

(7) Sub-paragraphs (3) and (4) shall come into force on 6th April 2006.

#### Commencement Information

**II** Sch. 13 para. 28 wholly in force; para. 28(3)(4) in force at 6.4.2006 and para. 28 otherwise in force at Royal Assent (para. 28(2)(c) having effect from 6.4.2007) see para. 28(5)-(7)

F2229

#### Textual Amendments

**F22** Sch. 13 para. 29 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9, 22)

30 (1) In section 25(9)(b) of FA 1990—

(a) after sub-paragraph (iii) omit “or”, and

(b) <sup>F23</sup> .....

(2) This paragraph shall have effect for payments in respect of income made on or after 6th April 2006.

#### Textual Amendments

**F23** Sch. 13 para. 30(1)(b) repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

31 (1) In ITTOIA 2005—

(a) for “trustees of trusts” in each place in sections 417(2) and 420 substitute “trustees of settlements”;

(b) in section 420(1)(a) and (c) for “trust” substitute “settlement”;

(c) in the title of section 420 for “trust” substitute “settlement”.

(2) For section 623 of ITTOIA 2005 (calculation of income) substitute—

#### “623 Calculation of income

For the purpose of calculating liability to tax under this Chapter (but for no other purpose), a settlor shall be allowed the same deductions and reliefs as if any amount treated under this Chapter as income of the settlor had actually been received by the settlor.”

(3) This paragraph shall come into force on 6th April 2006 in respect of settlements whenever created, and in respect of loans or advances whenever made.

32 (1) The following provisions of ITTOIA 2005 shall cease to have effect—

(a) section 457(4), and

(b) section 568(5).

(2) In section 457(5) of ITTOIA 2005 for “(2) to (4)” substitute “(2) and (3)”.

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- (3) In section 467(7) of that Act for paragraph (b) substitute—  
“(b) at the rate applicable by virtue of section 686A of ICTA (payments treated as income) in any other case.”
- (4) This paragraph shall have effect in relation to payments made on or after 6th April 2006 to the trustees of a settlement (whenever created).
- 33 (1) In sections 628 and 630 of ITTOIA 2005 for “UK trust” in each place substitute “UK settlement”.
- (2) In section 628(6) of that Act for the definition of “UK trust” substitute—  
““UK settlement” means a settlement the trustees of which are resident and ordinarily resident in the United Kingdom.”
- (3) In section 630(1)(b) of that Act for “terms of the trust” substitute “ terms of the settlement ”.
- (4) In section 631(5)(e)(ii) of that Act for “provisions of the trust” substitute “ terms of the settlement ”.
- (5) This paragraph shall come into force on 6th April 2006.
- 34 (1) After section 629(7) of ITTOIA 2005 insert—  
“(8) Subsection (1) is subject to section 28A of FA 2005.”
- (2) This paragraph shall have effect in relation to payments made on or after 6th April 2004.
- 35 (1) FA 2005 shall be amended as follows.
- (2) In the following provisions for “trustees” substitute “ the trustees of a settlement ”  
(a) section 23(1)(a) and (b) (vulnerable persons: introduction),  
(b) section 24(1) (vulnerable persons: claims),  
(c) section 25(1)(a) (qualifying trusts: income tax), and  
(d) section 37(1) (vulnerable person election).
- (3) In section 25(3)—  
(a) for “section 660G(1) and (2) of ICTA” substitute “ section 620(1) of ITTOIA 2005 ”, and  
(b) for “section 660A of that Act” substitute “ sections 624 and 625 of that Act. ”.
- (4) In section 27(2)(b) (qualifying expenses) for “total income” substitute “ income ”.
- (5) Section 42(5)(b) shall cease to have effect.
- (6) In section 43(4) (penalties) for the first reference to “trustees” substitute “ the trustees of a settlement ”.
- (7) This paragraph shall come into force on 6th April 2006.
- 36 (1) After section 28 of FA 2005 insert—

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**“28A Disapplication of section 629 of ITTOIA 2005**

- (1) In a case where this section applies, section 629(1) of ITTOIA 2005 shall not apply in respect of a payment by the trustees of a settlement to a beneficiary under the settlement.
- (2) This section applies if in a year of assessment—
- (a) the trustees make a payment to a vulnerable person,
  - (b) the payment is made out of qualifying trusts income,
  - (c) the vulnerable person is a relevant child (within the meaning given by section 629 of ITTOIA 2005) of a settlor in relation to the settlement, and
  - (d) the trustees have made a successful claim for special income tax treatment under section 25.”
- (2) This paragraph shall have effect in relation to payments made on or after 6th April 2004.

37

F24

**Textual Amendments**

- F24** Sch. 13 para. 37 repealed (6.4.2007 with effect as mentioned in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, [Sch. 1 para. 625](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))



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