



Finance Act 1965

1965 CHAPTER 25

PART III

CAPITAL GAINS.

Chargeable gains.

25 Settled property.

- (1) In relation to settled property, the trustees of the settlement shall for the purposes of this Part of this Act be treated as being a single and continuing body of persons (distinct from the persons who may from time to time be the trustees), and that body shall be treated as being resident and ordinarily resident in the United Kingdom unless the general administration of the trusts is ordinarily carried on outside the United Kingdom and the trustees or a majority of them for the time being are not resident or not ordinarily resident in the United Kingdom:

Provided that a person carrying on a business which consists of or includes the management of trusts, and acting as trustees of a trust in the course of that business, shall be treated in relation to that trust as not resident in the United Kingdom if the whole of the settled property consists of or derives from property provided by a person not at the time (or, in the case of a trust arising under a testamentary disposition or on an intestacy or partial intestacy, at his death) domiciled, resident or ordinarily resident in the United Kingdom.

- (2) A gift in settlement, whether revocable or irrevocable, is a disposal of the entire property thereby becoming settled property notwithstanding that the donor has some interest as a beneficiary under the settlement and notwithstanding that he is a trustee, or the sole trustee, of the settlement.
- (3) On the occasion when a person becomes absolutely entitled to any settled property as against the trustee all the assets forming part of the settled property to which he becomes so entitled shall be deemed to have been disposed of by the trustee, and immediately reacquired by him in his capacity as a trustee within section 22(5) of this Act, for a consideration equal to their market value.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) On the termination at any time after 6th April 1965 of a life interest in possession in all or any part of settled property, all the assets forming part of the settled property, except any which at that time cease to be settled property, shall be deemed for the purposes of this Part of this Act at that time to be disposed of and immediately reacquired by the trustee for a consideration equal to their market value.
- (5) If, in the case of the death of any individual, no relief is given under subsection (2) of the last foregoing section, or relief is so given in respect of an aggregate sum which is less than the amount available for relief under the said subsection (2), then that amount or, as the case may be, the difference between that amount and the aggregate sum in respect of which relief is so given shall be available for giving relief under this subsection, and—
- (a) any gains which accrue to the trustees of a settlement on the disposal of settled property deemed to be effected at the date of the death in accordance with subsection (3) or subsection (4) of this section on the termination of a life interest by the death, or otherwise in consequence of the death, shall be aggregated and only so much of that aggregate as exceeds the amount so available for giving relief under this subsection shall constitute chargeable gains,
 - (b) if subsection (6) below has operated to prevent subsection (4) applying on the date of the death paragraph (a) above shall apply to gains accruing on the disposal of the settled property deemed to be effected on the next occasion (if any) when subsection (4) applies,
 - (c) in arriving at the aggregate—
 - (i) the respective amounts of the gains shall be computed in accordance with the provisions of this Act (other than this subsection) fixing the amount of chargeable gains, and
 - (ii) any allowable loss which accrues on the disposal shall be deducted, and the provisions of this subsection shall not affect the computation of the amount of any allowable loss,
 - (d) if this subsection applies in relation to chargeable gains accruing to more than one body of trustees on the same death, the amount available for relief under this subsection shall be apportioned between those bodies of trustees according to the respective values of the settled property which those trustees are deemed respectively to have disposed of,
- and the references in this subsection to the amount available for relief under subsection (2) of the last foregoing section are references to five thousand pounds, or as the case may be to that amount as reduced (or extinguished) under section 34 of this Act.
- (6) If on any occasion subsection (4) of this section is applied in relation to a settlement the interval between that occasion and the next occasion on which it applies shall not be less than fifteen years, but where this subsection has operated to prevent the application of the said subsection (4), the said subsection (4) shall apply in relation to the settlement at the end of fifteen years from the occasion on which it last applied as if a life interest in possession in the settled property had terminated at the end of those fifteen years.
- (7) If during the subsistence of a settlement there is a period of more than fifteen years throughout which there is no life interest in possession in the settled property, then at the end of the first fifteen years of that period, and of each succeeding fifteen years

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

of that period, subsections (4) and (6) of this section shall apply as if a life interest in possession in the settled property had then terminated:

Provided that this subsection shall not apply to settled property if it and the income from it is wholly or primarily applicable for educational, cultural or recreational purposes, and the persons benefiting from the application for those purposes are confined to members of an association of persons for whose benefit the property was settled, not being persons all or most of whom are, in the terms of paragraph 21 of Schedule 7 to this Act, connected persons.

- (8) On the occasion when a person becomes absolutely entitled to any settled property as against the trustee, any allowable loss which has accrued to the trustee in respect of property which is, or is represented by, the property to which that person so becomes entitled (including any allowable loss carried forward to the year of assessment in which that occasion falls), being a loss which cannot be deducted from chargeable gains accruing to the trustee in that year, but before that occasion, shall be treated as if it were an allowable loss accruing at that time to the person becoming so entitled, instead of to the trustee.
- (9) If tax assessed on the trustees, or any one trustee, of a settlement in respect of a chargeable gain accruing to the trustees is not paid within six months from the date when it becomes payable by the trustees or trustee, and before or after the expiration of that period of six months the asset in respect of which the chargeable gain accrued, or any part of the proceeds of sale of that asset, is transferred by the trustees to a person who as against the trustees is absolutely entitled to it, that person may at any time within two years from the time when the tax became payable be assessed and charged (in the name of the trustees) to an amount of capital gains tax not exceeding tax chargeable on an amount equal to the amount of the chargeable gain and, where part only of the asset or of the proceeds was transferred, not exceeding a proportionate part of that amount.
- (10) In this section " life interest " in relation to a settlement—
- (a) includes a right under the settlement to the income of, or the use or occupation of, settled property for the life of another or for any other period which will or may terminate before all the settled property becomes property to which some person is absolutely entitled as against the trustee,
 - (b) does not include any right which is contingent on the exercise of the discretion of the trustee or the discretion of some other person, and
 - (c) does not include an annuity, notwithstanding that the annuity is payable out of or charged on settled property or the income of settled property.
- (11) For the purposes of this section, where part of the property comprised in a settlement is vested in one trustee or set of trustees and part in another (and in particular where settled land within the meaning of the Settled Land Act 1925 is vested in the tenant for life and investments representing capital money are vested in the trustees of the settlement), they shall be treated as together constituting and, in so far as they act separately, as acting on behalf of a single body of trustees.
- (12) If there is a life interest in a part of the settled property and, where that is a life interest in income, there is no right of recourse to, or to the income of, the remainder of the settled property, the part of the settled property in which the life interest subsists shall while it subsists be treated for the purposes of subsections (4), (5), (6) and (7) of this section as being settled property under a separate settlement.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

(13) Subsection (7) of this section shall apply in relation to a settlement subsisting on 6th April 1965 as follows—

- (a) in the case of a settlement created on or after 6th April 1950, any period before 6th April 1965 shall be taken into account as it would if falling after that date, and
- (b) in the case of a settlement created before 6th April 1950 the time taken into account for the purposes of the said subsection (7) shall begin with the fifteenth anniversary of the date of creation of the settlement (whether it is the first or any subsequent fifteenth anniversary) falling in the period of fifteen years from 6th April 1950 to 5th April 1965,

but subsection (4) of this section shall not be applied by virtue of this subsection (taken together with subsection (7)) on a date falling before 7th April 1967.