



Inheritance Tax Act 1984

1984 CHAPTER 51

PART III

SETTLED PROPERTY

CHAPTER IV

MISCELLANEOUS

86 Trusts for benefit of employees.

- (1) Where settled property is held on trusts which, either indefinitely or until the end of a period (whether defined by a date or in some other way) do not permit any of the settled property to be applied otherwise than for the benefit of—
 - (a) persons of a class defined by reference to employment in a particular trade or profession, or employment by, or office with, a body carrying on a trade, profession or undertaking, or
 - (b) persons of a class defined by reference to marriage [^{F1}to or civil partnership with,] or relationship to, or dependence on, persons of a class defined as mentioned in paragraph (a) above,then, subject to subsection (3) below, this section applies to that settled property or, as the case may be, applies to it during that period.
- (2) Where settled property is held on trusts permitting the property to be applied for the benefit of persons within paragraph (a) or (b) of subsection (1) above, those trusts shall not be regarded as outside the description specified in that subsection by reason only that they also permit the settled property to be applied for charitable purposes.
- (3) Where any class mentioned in subsection (1) above is defined by reference to employment by or office with a particular body, this section applies to the settled property only if—
 - (a) the class comprises all or most of the persons employed by or holding office with the body concerned, or

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- (b) the trusts on which the settled property is held are those of a profit sharing scheme approved in accordance with Schedule 9 to the ^{M1}[^{F2}Taxes Act 1988]. [^{F3}; or]
- [(c) the trusts on which the settled property is held are those of [^{F4}a share incentive plan approved under Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003] .]
- (4) Where this section applies to any settled property—
- (a) the property shall be treated as comprised in one settlement, whether or not it would fall to be so treated apart from this section, and
- (b) an interest in possession in any part of the settled property shall be disregarded for the purposes of this Act (except section 55) if that part is less than 5 per cent. of the whole.
- (5) Where any property to which this section applies ceases to be comprised in a settlement and, either immediately or not more than one month later, the whole of it becomes comprised in another settlement, then, if this section again applies to it when it becomes comprised in the second settlement, it shall be treated for all the purposes of this Act as if it had remained comprised in the first settlement.

Textual Amendments

- F1** Words in s. 86(1)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **18**
- F2** *Substituted by* [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29**, para. 32. *Originally* “Finance Act 1978”.
- F3** S. 86(3)(c) and word “or” immediately preceding it inserted (28.7.2000) by [2000 c. 17, s. 138\(4\)](#)
- F4** Words in s. 86(3)(c) substituted (with effect as mentioned in s. 723(1)(a)(b) (subject to Sch. 7) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), ss. 722, 723(1), **Sch. 6 para. 151(1)(c)(2)**

Marginal Citations

- M1** [1988 c. 1](#).

87 Newspaper trusts.

- (1) In relation to property comprised in a settlement to which this section applies, section 86 above shall have effect as if newspaper publishing companies were included among the persons within paragraphs (a) and (b) of subsection (1) of that section.
- (2) This section applies to a settlement if shares in a newspaper publishing company or a newspaper holding company are the only or principal property comprised in the settlement.
- (3) In this section—
- “newspaper publishing company” means a company whose business consists wholly or mainly in the publication of newspapers in the United Kingdom;
- “newspaper holding company” means a company which—
- (a) has as its only or principal asset shares in a newspaper publishing company, and

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- (b) has powers of voting on all or most questions affecting the publishing company as a whole which if exercised would yield a majority of the votes capable of being exercised on them;

and for the purposes of this section shares shall be treated as the principal property comprised in a settlement or the principal asset of a company if the remaining property comprised in the settlement or the remaining assets of the company are such as may be reasonably required to enable the trustees or the company to secure the operation of the newspaper publishing company concerned.

88 Protective trusts.

- (1) This section applies to settled property (other than property to which section 73 above applies) which is held on trusts to the like effect as those specified in section 33(1) of the ^{M2}Trustee Act 1925; and in this section “the principal beneficiary” and “the trust period” have the same meanings as in that section.

- (2) For the purposes of this Act—

- (a) there shall be disregarded the failure or determination, before the end of the trust period, of trusts to the like effect as those specified in paragraph (i) of the said section 33(1), and
- (b) the principal beneficiary shall be treated as beneficially entitled to an interest in possession in any property which is for the time being held on trusts to the like effect as those specified in paragraph (ii) of the said section 33(1).

- [^{F5}(3) Where—

- (a) settled property became held before 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925, and
- (b) as a result of the failure or determination of those trusts on or after 22nd March 2006, the principal beneficiary is treated by subsection (2)(b) above as beneficially entitled to an interest in possession,

this Act shall apply in relation to that interest in possession as if the principal beneficiary became beneficially entitled to that interest in possession before 22nd March 2006.

- (4) Subsection (5) below applies where—

- (a) settled property becomes held on or after 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925,
- (b) the interest of the principal beneficiary under those trusts is—
 - (i) an immediate post-death interest,
 - (ii) a disabled person's interest within section 89B(1)(c) or (d) below, or
 - (iii) a transitional serial interest, and
- (c) as a result of the failure or determination of those trusts, the principal beneficiary is treated by subsection (2)(b) above as beneficially entitled to an interest in possession.

- (5) This Act shall apply—

- (a) as if that interest in possession were a continuation of the immediate post-death interest, disabled person's interest or transitional serial interest, and

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- (b) as if the immediate post-death interest, or disabled person's interest or transitional serial interest, had not come to an end on the failure or determination of the trusts.
- (6) Subsection (2) above does not apply in a case where—
- (a) settled property becomes held on or after 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925, and
 - (b) the interest of the principal beneficiary under those trusts is—
 - (i) not an immediate post-death interest,
 - (ii) not a disabled person's interest within section 89B(1)(c) or (d) below, and
 - (iii) not a transitional serial interest.]

Textual Amendments

F5 S. 88(3)-(6) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, 24

Marginal Citations

M2 1925 c. 19.

89 Trusts for disabled persons.

- (1) This section applies to settled property transferred into settlement after 9th March 1981 and held on trusts—
- (a) under which, during the life of a disabled person, no interest in possession in the settled property subsists, and
 - (b) which secure that not less than half of the settled property which is applied during his life is applied for his benefit.
- (2) For the purposes of this Act the person mentioned in subsection (1) above shall be treated as beneficially entitled to an interest in possession in the settled property.
- (3) The trusts on which settled property is held shall not be treated as falling outside subsection (1) above by reason only of the powers conferred on the trustees by section 32 of the Trustee Act 1925 or section 33 of the ^{M3}Trustee Act (Northern Ireland) 1958 (powers of advancement).
- (4) The reference in subsection (1) above to a disabled person is, in relation to any settled property, a reference to a person who, when the property was transferred into settlement, was—
- (a) incapable, by reason of mental disorder within the meaning of the ^{M4}Mental Health Act 1983, of administering his property or managing his affairs, or
 - (b) in receipt of an attendance allowance under [^{F6}64 of the Social Security Contributions and Benefits Act 1992 or][^{F7}section 64 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992]. [^{F8}, or
 - (c) in receipt of a disability living allowance under section [^{F6}71 of the Social Security Contributions and Benefits Act 1992][^{F9}or [^{F7}section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992]]by virtue of entitlement to the care component at the highest or middle rate.]

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- [^{F10}(5) The reference in subsection (1) above to a disabled person includes, in relation to any settled property, a reference to a person who, when the property was transferred into settlement,—
- (a) would have been in receipt of attendance allowance under section 64 of either of the Acts mentioned in subsection (4)(b) above had provision made by regulations under section 67(1) or (2) of that Act (non-satisfaction of conditions for attendance allowance where person is undergoing treatment for renal failure in a hospital or is provided with certain accommodation) been ignored, or
 - (b) would have been in receipt of disability living allowance by virtue of entitlement to the care component at the highest or middle rate had provision made by regulations under section 72(8) of either of the Acts mentioned in subsection (4)(c) above (no payment of disability living allowance for persons for whom certain accommodation is provided) been ignored.
- (6) The reference in subsection (1) above to a disabled person also includes, in relation to any settled property, a reference to a person who satisfies the Commissioners for Her Majesty's Revenue and Customs—
- (a) that he would, when the property was transferred into settlement, have been in receipt of attendance allowance under section 64 of either of the Acts mentioned in subsection (4)(b) above—
 - (i) had he met the conditions as to residence under section 64(1) of that Act, and
 - (ii) had provision made by regulations under section 67(1) or (2) of that Act been ignored, or
 - (b) that he would, when the property was transferred into settlement, have been in receipt of a disability living allowance by virtue of entitlement to the care component at the highest or middle rate—
 - (i) had he met the prescribed conditions as to residence under section 71(6) of either of the Acts mentioned in subsection (4)(c) above, and
 - (ii) had provision made by regulations under section 72(8) of that Act been ignored.]

Textual Amendments

- F6** Words in s. 89(4)(b)(c) substituted (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), ss. 4, 7(2), [Sch. 2 para. 66\(1\)\(2\)](#).
- F7** Words in s. 89(4)(b)(c) substituted (1.7.1992) by virtue of [Social Security \(Consequential Provisions\) \(Northern Ireland\) Act 1992 \(c. 9\)](#), ss. 4, 7(2), [Sch. 2 para. 29\(1\)\(2\)](#).
- F8** S. 89(4)(c) and 'or' preceding it inserted (3.2.1992 for certain purposes and 6.4.1992) by [Disability Living Allowance and Disability Working Allowance Act 1991 \(c. 21, SIF 113:1\)](#), s. 4(2), [Sch. 2 para. 14\(2\)](#); S.I. 1991/2617, [art. 2\(c\)\(f\)](#).
- F9** Words in s. 89(4)(c) inserted (6.4.1992) by S.I. 1991/2874, [art. 4\(3\)](#); S.R. 1992/94, [art. 2](#).
- F10** S. 89(5)-(6) inserted (22.3.2006 for certain purposes) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 6\(2\)\(4\)](#)

Marginal Citations

- M3** 1958 c. 23 (N.I.).
- M4** 1983 c. 20.

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[^{F11}89A Self-settlement by person with condition expected to lead to disability

- (1) This section applies to property transferred by a person (“A”) into settlement on or after 22nd March 2006 if—
 - (a) A was beneficially entitled to the property immediately before transferring it into settlement,
 - (b) A satisfies the Commissioners for Her Majesty's Revenue and Customs that, when the property was transferred into settlement, A had a condition that it was at that time reasonable to expect would have such effects on A as to lead to A becoming—
 - (i) a person falling within section 89(4)(a) above,
 - (ii) in receipt of an attendance allowance mentioned in section 89(4)(b) above, or
 - (iii) in receipt of a disability living allowance mentioned in section 89(4)(c) above by virtue of entitlement to the care component at the highest or middle rate, and
 - (c) the property is held on trusts—
 - (i) under which, during the life of A, no interest in possession in the settled property subsists, and
 - (ii) which secure that Conditions 1 and 2 are met.
- (2) Condition 1 is that if any of the settled property is applied during A's life for the benefit of a beneficiary, it is applied for the benefit of A.
- (3) Condition 2 is that any power to bring the trusts mentioned in subsection (1)(c) above to an end during A's life is such that, in the event of the power being exercised during A's life, either—
 - (a) A or another person will, on the trusts being brought to an end, be absolutely entitled to the settled property, or
 - (b) on the trusts being brought to an end, a disabled person's interest within section 89B(1)(a) or (c) below will subsist in the settled property.
- (4) If this section applies to settled property transferred into settlement by a person, the person shall be treated as beneficially entitled to an interest in possession in the settled property.
- (5) For the purposes of subsection (1)(b)(ii) above, assume—
 - (a) that A will meet the conditions as to residence under section 64(1) of whichever of the 1992 Acts is applicable, and
 - (b) that there will be no provision made by regulations under section 67(1) and (2) of that Act.
- (6) For the purposes of subsection (1)(b)(iii) above, assume—
 - (a) that A will meet the prescribed conditions as to residence under section 71(6) of whichever of the 1992 Acts is applicable, and
 - (b) that there will be no provision made by regulations under section 72(8) of that Act.
- (7) For the purposes of subsection (3) above, ignore—
 - (a) power to give directions as to the settled property that is exercisable jointly by the persons who between them are entitled to the entire beneficial interest in the property, and

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- (b) anything that could occur as a result of exercise of any such power.
- (8) In this section “the 1992 Acts” means—
the Social Security Contributions and Benefits Act 1992, and
the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Textual Amendments

F11 Ss. 89A, 89B inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 paras. 6\(1\)\(3\)](#)

89B Meaning of “disabled person's interest”

- (1) In this Act “disabled person's interest” means—
- (a) an interest in possession to which a person is under section 89(2) above treated as beneficially entitled,
 - (b) an interest in possession to which a person is under section 89A(4) above treated as beneficially entitled,
 - (c) an interest in possession in settled property (other than an interest within paragraph (a) or (b) above) to which a disabled person becomes beneficially entitled on or after 22nd March 2006, or
 - (d) an interest in possession in settled property (other than an interest within paragraph (a) or (b) above) to which a person (“A”) is beneficially entitled if—
 - (i) A is the settlor,
 - (ii) A was beneficially entitled to the property immediately before transferring it into settlement,
 - (iii) A satisfies Her Majesty's Commissioners for Revenue and Customs as mentioned in section 89A(1)(b) above,
 - (iv) the settled property was transferred into settlement on or after 22nd March 2006, and
 - (v) the trusts on which the settled property is held secure that, if any of the settled property is applied during A's life for the benefit of a beneficiary, it is applied for the benefit of A.
- (2) Subsections (4) to (6) of section 89 above (meaning of “disabled person” in subsection (1) of that section) have effect for the purposes of subsection (1)(c) above as they have effect for the purposes of subsection (1) of that section.
- (3) Section 71D above does not apply to property in which there subsists a disabled person's interest within subsection (1)(c) above (but see also section 71D(5) above).]

Textual Amendments

F11 Ss. 89A, 89B inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 paras. 6\(1\)\(3\)](#)

90 Trustees' annuities, etc.

Where under the terms of a settlement a person is entitled by way of remuneration for his services as trustee to an interest in possession in property comprised in the settlement, then, except to the extent that the interest represents more than a reasonable amount of remuneration,—

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- (a) the interest shall be left out of account in determining for the purposes of this Act the value of his estate immediately before his death, and
- (b) tax shall not be charged under section 52 above when the interest comes to an end.

91 Administration period.

- (1) Where a person would have been entitled to an interest in possession in the whole or part of the residue of the estate of a deceased person had the administration of that estate been completed, the same consequences shall follow under this Act as if he had become entitled to an interest in possession in the unadministered estate and in the property (if any) representing ascertained residue, or in a corresponding part of it, on the date as from which the whole or part of the income of the residue would have been attributable to his interest had the residue been ascertained immediately after the death of the deceased person.
- (2) In this section—
 - (a) “unadministered estate” means all the property for the time being held by personal representatives as such, excluding property devolving on them otherwise than as assets for the payment of debts and excluding property that is the subject of a specific disposition, and making due allowance for outstanding charges on residue and for any adjustments between capital and income remaining to be made in due course of administration;
 - (b) “ascertained residue” means property which, having ceased to be held by the personal representatives as such, is held as part of the residue;
 - (c) “charges on residue”, and “specific disposition” have the same meanings as in ^{F12}Part XVI of The Taxes Act 1988] and the reference to the completion of the administration of an estate shall be construed as if contained in that Part.

Textual Amendments

F12 *Substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29, para. 32. Originally “Part XV of The Taxes Act”.*

92 Survivorship clauses.

- (1) Where under the terms of a will or otherwise property is held for any person on condition that he survives another for a specified period of not more than six months, this Act shall apply as if the dispositions taking effect at the end of the period or, if he does not survive until then, on his death (including any such disposition which has effect by operation of law or is a separate disposition of the income from the property) had had effect from the beginning of the period.
- (2) Subsection (1) above does not affect the application of this Act in relation to any distribution or application of property occurring before the dispositions there mentioned take effect.

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93 Disclaimers.

Where a person becomes entitled to an interest in settled property but disclaims the interest, then, if the disclaimer is not made for a consideration in money or money's worth, this Act shall apply as if he had not become entitled to the interest.

Status:

Point in time view as at 22/03/2006.

Changes to legislation:

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