



# 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 [<sup>F1</sup>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 <sup>M1</sup><sup>F2</sup>Taxes Act 1988<sup>F3</sup>; or
  - (c) the trusts on which the settled property is held are those of <sup>F4</sup>a share incentive plan approved under Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003<sup>F5</sup>; or
  - (d) the settled property consists of or includes ordinary share capital of a company which meets the trading requirement and the trusts on which the settled property is held are those of a settlement which—
    - (i) meets the controlling interest requirement with respect to the company, and
    - (ii) meets the all-employee benefit requirement with respect to the company.]
- <sup>F6</sup>(3A) For the purpose of determining whether subsection (3)(d) is satisfied in relation to settled property which consists of or includes ordinary share capital of a company—
- (a) section 236I of the 1992 Act applies to determine whether the company meets the trading requirement (with references to “C” being read as references to that company),
  - (b) sections 236J, 236K, 236M and 236T (but not 236L) of the 1992 Act apply to determine whether the settlement meets the all-employee benefit requirement and the controlling interest requirement (with references in those sections to “C” being read as references to that company), and
  - (c) “ordinary share capital” has the meaning given by section 1119 of the Corporation Tax Act 2010.]
- (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)**
- F5** S. 86(3)(d) and preceding word inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 37 para. 15(2)(4)**
- F6** S. 86(3A) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 37 para. 15(3)(4)**

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#### 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
    - (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 <sup>M2</sup>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).

[<sup>F7</sup>(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,

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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
  - (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

**F7** 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
  - [<sup>F8</sup>(b) which secure that, if any of the settled property or income arising from it is applied during the disabled person's life for the benefit of a beneficiary, it is applied for the benefit of the disabled person.]
- (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.

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[<sup>F9</sup>(3) The trusts on which the settled property is held are not to be treated as falling outside subsection (1) by reason only of—

- (a) the trustees' having powers that enable them to apply otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,
- (b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
- (c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
- (d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
- (e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or
- (f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(3A) For the purposes of this section, the “annual limit” is whichever is the lower of the following amounts—

- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the period in question.

(3B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(3C) The Treasury may by order made by statutory instrument—

- (a) specify circumstances in which subsection (3)(a) is, or is not, to apply in relation to a trust, and
- (b) amend the definition of “the annual limit” in subsection (3A).

(3D) An order under subsection (3C) may—

- (a) make different provision for different cases, and
- (b) contain transitional and saving provision.

(3E) A statutory instrument containing an order under subsection (3C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.]

(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, [<sup>F10</sup>was a disabled person].

[<sup>F11</sup>(4A) In this section “disabled person” has the meaning given by Schedule 1A to the Finance Act 2005.]

#### Textual Amendments

**F8** S. 89(1)(b) substituted (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 6\(2\)](#) (with [Sch. 44 para. 9\(2\)](#))

**F9** S. 89(3)-(3E) substituted for s. 89(3) (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 6\(3\)](#) (with [Sch. 44 para. 9\(2\)](#))

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- F10** Words in s. 89(4) substituted (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 6\(4\)](#)
- F11** S. 89(4A) substituted for s. 89(5)(6) (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 6\(5\)](#)

**[<sup>F12</sup>89A Self-settlement by person [<sup>F13</sup>expected to fall within the definition of “disabled person”]**

- (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 [<sup>F14</sup>a person falling within any paragraph of the definition of “disabled person” in paragraph 1 of Schedule 1A to the Finance Act 2005].
  - (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 [<sup>F15</sup>or income arising from it] 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.

[<sup>F16</sup>(5) For the purposes of subsection (1)(b), assume—

- (a) that A will meet any conditions as to residence or presence that are required to establish entitlement to the allowance, [<sup>F17</sup>disability assistance,] payment or increased pension in question,
- (b) that there will be no provision made by regulations under any of the following—
  - (i) sections 67(1) and (2), 72(8), 104(3) and 113(2) of SSCBA 1992,
  - (ii) sections 67(1) and (2), 72(8), 104(3) and 113(2) of SSCB(NI)A 1992, and
  - (iii) sections 85 and 86 of WRA 2012 and the corresponding provision having effect in Northern Ireland, <sup>F18</sup>...
- (c) that A will not be prevented from receiving the allowance, payment or increased pension in question by any of the following—
  - (i) section 113(1) of SSCBA 1992,

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- (ii) section 113(1) of SSCB(NI)A 1992,
  - (iii) section 87 of WRA 2012 and the corresponding provision having effect in Northern Ireland,
  - (iv) articles 61 and 64 of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686),
  - (v) article 53 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606), and
  - (vi) article 42 of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517) [<sup>F19</sup>, and
- (d) that there will be no provision made by regulations under section 31 of the SS(S)A 2018 for the reduction of the value of a payment of disability assistance to £0 when the person is—
- (i) resident in a care home,
  - (ii) resident in an educational establishment,
  - (iii) undergoing medical or other treatment as an in-patient in a hospital or similar institution, or
  - (iv) undergoing imprisonment or detention in legal custody.]]

[ The trusts on which the settled property is held are not to be treated as falling outside <sup>F20</sup>(6A) subsection (2) by reason only of—

- (a) the trustees' having powers that enable them to apply otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,
- (b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
- (c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
- (d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
- (e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or
- (f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(6B) For the purposes of this section, the “annual limit” is whichever is the lower of the following amounts—

- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the period in question.

(6C) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(6D) The Treasury may by order made by statutory instrument—

- (a) specify circumstances in which subsection (6A)(a) is, or is not, to apply in relation to a trust, and
- (b) amend the definition of “the annual limit” in subsection (6B).

(6E) An order under subsection (6D) may—

- (a) make different provision for different cases, and



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- (b) contain transitional and saving provision.
- (6F) A statutory instrument containing an order under subsection (6D) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.]
- (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
  - (b) anything that could occur as a result of exercise of any such power.
- [<sup>F21</sup>(8) In this section—
  - [<sup>F22</sup>“disability assistance” means disability assistance given in accordance with regulations made under section 31 of the SS(S)A 2018,]
  - “SSCBA 1992” means the Social Security Contributions and Benefits Act 1992,
  - “SSCB(NI)A 1992” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992, <sup>F23</sup>...
  - [<sup>F24</sup>“SS(S)A 2018” means the Social Security (Scotland) Act 2018, and]
  - “WRA 2012” means the Welfare Reform Act 2012.]

#### Textual Amendments

- F12** Ss. 89A, 89B inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 paras. 6\(1\)\(3\)](#)
- F13** Words in s. 89A heading substituted (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 7\(7\)](#)
- F14** Words in s. 89A(1)(b) substituted (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 7\(2\)](#)
- F15** Words in s. 89A(2) inserted (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 7\(3\)](#)
- F16** S. 89A(5) substituted for s. 89A(5)(6) (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 7\(4\)](#)
- F17** Words in s. 89A(5)(a) inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), [2\(2\)\(a\)\(i\)](#)
- F18** Word in s. 89A(5)(b) omitted (26.7.2021) by virtue of [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), [2\(2\)\(a\)\(ii\)](#)
- F19** S. 89A(5)(d) and word inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), [2\(2\)\(a\)\(iii\)](#)
- F20** Ss. 89A(6A)-(6F) inserted (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 7\(5\)](#)
- F21** S. 89A(8) substituted (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 7\(6\)](#)
- F22** Words in s. 89A(8) inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), [2\(2\)\(b\)\(i\)](#)
- F23** Word in s. 89A(8) omitted (26.7.2021) by virtue of [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), [2\(2\)\(b\)\(ii\)](#)



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**F24** Words in s. 89A(8) inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), **2(2)(b)(iii)**

## **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 [<sup>F25</sup>if the trusts on which the settled property is held secure that, if any of the settled property is applied during the disabled person's life for the benefit of a beneficiary, it is applied for the benefit of the disabled person], 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.

[<sup>F26</sup>(2) In subsection (1)(c) “disabled person” has the meaning given by Schedule 1A to the Finance Act 2005.]

[ Where the income arising from the settled property is held on trusts of the kind <sup>F27</sup>(2A) described in section 33 of the Trustee Act 1925 (protective trusts), subsection (1)(d) (v) has effect as if for “A's life” there were substituted “the period during which the income from the property is held on trust for A”.]

(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**

**F12** Ss. 89A, 89B inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, **Sch. 20 paras. 6(1)(3)**

**F25** Words in s. 89B(1)(c) inserted (with effect in accordance with Sch. 44 para. 10(3)-(5) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 44 para. 10(1)**

**F26** S. 89B(2) substituted (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 44 para. 8(2)**

**F27** S. 89B(2A) inserted (with effect in accordance with Sch. 44 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 44 para. 8(3)**

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**[<sup>F28</sup>89C Disabled person's interest: powers of advancement etc**

- (1) The trusts on which settled property is held are not to be treated for the purposes of section 89B(1)(c) or (d) (meaning of “disabled person's interest”: cases involving an interest in possession) as failing to secure that the settled property is applied for the benefit of a beneficiary by reason only of—
  - (a) the trustees' having powers that enable them to apply otherwise than for the benefit of the beneficiary amounts (whether consisting of income or capital, or both) not exceeding the annual limit,
  - (b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
  - (c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
  - (d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
  - (e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or
  - (f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).
- (2) For the purposes of this section, the “annual limit” is whichever is the lower of the following amounts—
  - (a) £3,000, and
  - (b) 3% of the amount that is the maximum value of the settled property during the period in question.
- (3) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.
- (4) The Treasury may by order made by statutory instrument—
  - (a) specify circumstances in which subsection (1)(a) is, or is not, to apply in relation to a trust, and
  - (b) amend the definition of “the annual limit” in subsection (2).
- (5) An order under subsection (4) may—
  - (a) make different provision for different cases, and
  - (b) contain transitional and saving provision.
- (6) A statutory instrument containing an order under subsection (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.]

**Textual Amendments**

**F28** S. 89C inserted (with effect in accordance with Sch. 44 para. 10(3)-(5) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 10\(2\)](#)

**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

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settlement, then, except to the extent that the interest represents more than a reasonable amount of remuneration,—

- (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;
- [<sup>F29</sup>(c) subject to subsection (3) below, “charges on residue” means, in relation to the estate of a deceased person, the following liabilities properly payable out of the estate and interest payable in respect of those liabilities—
  - (i) funeral, testamentary and administration expenses and debts,
  - (ii) general legacies, demonstrative legacies, annuities and any sum payable out of the residue of the estate to which a person is entitled under the law of intestacy of any part of the United Kingdom or any other country, and
  - (iii) any other liabilities of the deceased person's personal representatives as such,
- (d) “specific disposition” has the meaning given in section 947(6) of the Corporation Tax Act 2009, and
- (e) the reference to the completion of the administration of the estate shall be construed as if it were in Chapter 3 of Part 10 of that Act.]

- [<sup>F30</sup>(3) If, as between—

- (a) persons interested under a specific disposition or in a general or demonstrative legacy or in an annuity, and
- (b) persons interested in the residue of an estate,

any such liabilities as are mentioned in paragraph (c) of subsection (2) above fall exclusively or primarily on the property that is the subject of the specific disposition or on the legacy or annuity, only such part (if any) of those liabilities as falls ultimately on the residue shall be treated as charges on residue.

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*Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, CHAPTER IV. (See end of Document for details)*

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- (4) In the application of this section to Scotland, “charges on residue” shall include, in addition to the liabilities specified in subsection (2)(c), any sums required to meet—
- (a) claims in respect of prior rights or legal rights by a surviving spouse or civil partner, or
  - (b) claims in respect of legal rights by children.]

#### **Textual Amendments**

- F29** S. 91(2)(c)-(e) substituted (1.4.2009 with effect as mentioned in [s. 1329\(1\)](#) of the amending Act) for s. 91(2)(c) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1322, **Sch. 1 para. 316(2)**
- F30** S. 91(3)(4) inserted (1.4.2009 with effect as mentioned in [s. 1329\(1\)](#) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1322, **Sch. 1 para. 316(3)**

## **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.

## **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.

**Changes to legislation:**

There are currently no known outstanding effects for the Inheritance Tax Act 1984, CHAPTER IV.