

SCHEDULES

SCHEDULE 17

SETTLEMENTS: LIABILITY OF SETTLOR

PART III

CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

Taxes Management Act 1970 (c. 9)

- 21 In section 27(2) of the Taxes Management Act 1970, for “section 681(4)” substitute “section 660G(1) and (2)”.
- 22 In section 31(3) of the Taxes Management Act 1970 (including that provision as proposed to be substituted by paragraph 7 of Schedule 19 to the Finance Act 1994), for “sections 660 to 685” substitute “sections 660A to 660G or 677 to 682A”.
- 23 In column 1 of the Table in section 98 of the Taxes Management Act 1970, for the references to section 669 and 680 of the Taxes Act 1988 substitute “section 660F”.

Finance Act 1989 (c. 26)

- 24 In section 59(1)(c) of the Finance Act 1989, for “section 660(3)” substitute “section 347A(7)”.
- 25 In section 60 of the Finance Act 1989, omit subsection (3) and in subsection (4) for “subsections (2) and (3)” substitute “subsection (2)”.

Finance Act 1990 (c. 29)

- 26 In section 25(12)(b) of the Finance Act 1990, for “section 660(3)” substitute “section 347A(7)”.

Taxation of Chargeable Gains Act 1992 (c. 12)

- 27 For section 77 of the Taxation of Chargeable Gains Act 1992 (charge on settlor with interest in settlement), substitute—

“77 Charge on settlor with interest in settlement.

- (1) Where in a year of assessment—
- (a) chargeable gains accrue to the trustees of a settlement from the disposal of any or all of the settled property,
 - (b) after making any deduction provided for by section 2(2) in respect of disposals of the settled property there remains an amount on which

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the trustees would, disregarding section 3, be chargeable to tax for the year in respect of those gains, and

- (c) at any time during the year the settlor has an interest in the settlement,

the trustees shall not be chargeable to tax in respect of those but instead chargeable gains of an amount equal to that referred to in paragraph (b) shall be treated as accruing to the settlor in that year.

- (2) Subject to the following provisions of this section, a settlor shall be regarded as having an interest in a settlement if—

- (a) any property which may at any time be comprised in the settlement, or any derived property is, or will or may become, payable to or applicable for the benefit of the settlor or his spouse in any circumstances whatsoever, or
- (b) the settlor or his spouse enjoys a benefit deriving directly or indirectly from any property which is comprised in the settlement or any derived property.

- (3) The references in subsection (2)(a) and (b) above to the spouse of the settlor do not include—

- (a) a person to whom the settlor is not for the time being married but may later marry, or
- (b) a spouse from whom the settlor is separated under an order of a court, or under a separation agreement or in such circumstances that the separation is likely to be permanent, or
- (c) the widow or widower of the settlor.

- (4) A settlor shall not be regarded as having an interest in a settlement by virtue of subsection (2)(a) above if and so long as none of the property which may at any time be comprised in the settlement, and no derived property, can become payable or applicable as mentioned in that provision except in the event of—

- (a) the bankruptcy of some person who is or may become beneficially entitled to the property or any derived property, or
- (b) an assignment of or charge on the property or any derived property being made or given by some such person, or
- (c) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, or
- (d) the death of a child of the settlor who had become beneficially entitled to the property or any derived property at an age not exceeding 25.

- (5) A settlor shall not be regarded as having an interest in a settlement by virtue of subsection (2)(a) above if and so long as some person is alive and under the age of 25 during whose life the property or any derived property cannot become payable or applicable as mentioned in that provision except in the event of that person becoming bankrupt or assigning or charging his interest in that property.

- (6) This section does not apply—

- (a) where the settlor dies during the year; or

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- (b) in a case where the settlor is regarded as having an interest in the settlement by reason only of—
 - (i) the fact that property is, or will or may become, payable to or applicable for the benefit of his spouse, or
 - (ii) the fact that a benefit is enjoyed by his spouse, where the spouse dies, or the settlor and the spouse cease to be married, during the year.
 - (7) This section does not apply unless the settlor is, and the trustees are, either resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year.
 - (8) In this section “derived property”, in relation to any property, means income from that property or any other property directly or indirectly representing proceeds of, or of income from, that property or income therefrom.”
- 28 In section 78 of the Taxation of Chargeable Gains Act 1992, in subsections (1), (2) and (3), for “section 77(2)” substitute “section 77”.
- 29 (1) Section 79 of the Taxation of Chargeable Gains Act 1992 is amended as follows.
- (2) In subsection (2) omit paragraph (b) and the word “and” preceding it.
 - (3) Omit subsection (4).
 - (4) In subsection (5)—
 - (a) for “subsections (3) and (4)” substitute “subsection (3)”; and
 - (b) in paragraph (a), omit the words “or income” wherever occurring.
- 30 In section 97 of the Taxation of Chargeable Gains Act 1992, in subsection (7) for “section 681(4)” substitute “section 660G(1) and (2)”.
- 31 In section 286 of the Taxation of Chargeable Gains Act 1992, for subsection (3) substitute—
- “(3) A person, in his capacity as trustee of a settlement, is connected with—
- (a) any individual who in relation to the settlement is a settlor,
 - (b) any person who is connected with such an individual, and
 - (c) any body corporate which is connected with that settlement.
- In this subsection “settlement” and “settlor” have the same meaning as in Chapter IA of Part XV of the Taxes Act (see section 660G(1) and (2) of that Act).
- (3A) For the purpose of subsection (3) above a body corporate is connected with a settlement if—
- (a) it is a close company (or only not a close company because it is not resident in the United Kingdom) and the participators include the trustees of the settlement; or
 - (b) it is controlled (within the meaning of section 840 of the Taxes Act) by a company falling within paragraph (a) above.”.
- 32 In Schedule 1 to the Taxation of Chargeable Gains Act 1992, in paragraph 2(7), for “section 681(4)” substitute “section 660G(1) and (2)”.