



Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

TAXATION OF CHARGEABLE GAINS

Non-residents etc.

129 Attribution of gains to settlor in section 10A cases.

- (1) After section 86 of the ^{M1}Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

“86A Attribution of gains to settlor in section 10A cases.

- (1) Subsection (2) below applies in the case of a person who is a settlor in relation to any settlement (“the relevant settlement”) where—
- (a) by virtue of section 10A, amounts falling within section 86(1)(e) for any intervening year or years would (apart from this section) be treated as accruing to the settlor in the year of return; and
 - (b) there is an excess of the relevant chargeable amounts for the non-residence period over the amount of the section 87 pool at the end of the year of departure.
- (2) Only so much (if any) of—
- (a) the amount falling within section 86(1)(e) for the intervening year, or
 - (b) if there is more than one intervening year, the aggregate of the amounts falling within section 86(1)(e) for those years,

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1998, Section 129. (See end of Document for details)

as exceeds the amount of the excess mentioned in subsection (1)(b) above shall fall in accordance with section 10A to be attributed to the settlor for the year of return.

- (3) In subsection (1) above, the reference to the relevant chargeable amounts for the non-residence period is (subject to subsection (5) below) a reference to the aggregate of the amounts on which beneficiaries of the relevant settlement are charged to tax under section 87 or 89(2) for the intervening year or years in respect of any capital payments received by them.
- (4) In subsection (1) above, the reference to the section 87 pool at the end of the year of departure is (subject to subsection (5) below) a reference to the amount (if any) which, in accordance with subsection (2) of that section, fell in relation to the relevant settlement to be carried forward from the year of departure to be included in the amount of the trust gains for the year of assessment immediately following the year of departure.
- (5) Where the property comprised in the relevant settlement has at any time included property not originating from the settlor, only so much (if any) of any capital payment or amount carried forward in accordance with section 87(2) as, on a just and reasonable apportionment, is properly referable to property originating from the settlor shall be taken into account for the purposes of subsections (3) and (4) above.
- (6) Where any reduction falls to be made by virtue of subsection (2) above in any amount to be attributed in accordance with section 10A to any settlor for any year of assessment, the reduction to be treated as made for that year in accordance with section 87(3) in the case of the settlement in question shall not be made until—
 - (a) the reduction (if any) falling to be made by virtue of that subsection has been made in the case of every settlor to whom any amount is so attributed; and
 - (b) effect has been given to any reduction required to be made under subsection (7) below.
- (7) Where in the case of any settlement there is (after the making of any reduction or reductions in accordance with subsection (2) above) any amount or amounts falling in accordance with section 10A to be attributed for any year of assessment to settlors of the settlement, the amount or (as the case may be) aggregate amount falling in accordance with that section to be so attributed shall be applied in reducing the amount carried forward to that year in accordance with section 87(2).
- (8) Where an amount or aggregate amount has been applied, in accordance with subsection (7) above, in reducing the amount which in the case of any settlement is carried forward to any year in accordance with section 87(2), that amount (or, as the case may be, so much of it as does not exceed the amount which it is applied in reducing) shall be deducted from the amount used for that year for making the reduction under section 87(3) in the case of that settlement.
- (9) Expressions used in this section and section 10A have the same meanings in this section as in that section; and paragraph 8 of Schedule 5 shall apply for the construction of the references in subsection (5) above to property originating from the settlor as it applies for the purposes of that Schedule.”

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- (2) In section 97(1) to (5), (7) and (8) of that Act (interpretation of sections 87 to 96), for the words “sections 87”, wherever occurring, there shall be substituted “ sections 86A ”.
- (3) This section has effect where the year of departure is the year 1997-98 or any subsequent year of assessment.

Marginal Citations

M1 1992 c. 12.

Changes to legislation:

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