



Finance (No. 2) Act 2005

2005 CHAPTER 22

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 5

CHARGEABLE GAINS

Residence, location of assets etc

33 Trustees both resident and non-resident in a year of assessment

(1) After section 83 of TCGA 1992 insert—

“83A Trustees both resident and non-resident in a year of assessment

- (1) This section applies if a chargeable gain accrues to the trustees of a settlement on the disposal by them of an asset in a year of assessment and the trustees—
 - (a) are within the charge to capital gains tax in that year of assessment, but
 - (b) are non-UK resident at the time of the disposal.
- (2) Where this section applies, nothing in any double taxation relief arrangements shall be read as preventing the trustees from being chargeable to capital gains tax (or as preventing a charge to tax arising, whether or not on the trustees) by virtue of the accrual of that gain.
- (3) For the purposes of this section the trustees of a settlement are within the charge to capital gains tax in a year of assessment—
 - (a) if, during any part of that year of assessment, they are resident in the United Kingdom and not Treaty non-resident, or

Changes to legislation: *There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Section 33. (See end of Document for details)*

- (b) if they are ordinarily resident in the United Kingdom during that year of assessment, unless they are Treaty non-resident during that year of assessment.
 - (4) For the purposes of this section the trustees of a settlement are non-UK resident at a particular time if, at that time,—
 - (a) they are neither resident nor ordinarily resident in the United Kingdom, or
 - (b) they are resident or ordinarily resident in the United Kingdom but are Treaty non-resident.
 - (5) For the purposes of this section the trustees of a settlement are Treaty non-resident at any time if, at that time, they fall to be regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.”.
- (2) The amendment made by this section has effect in relation to disposals made on or after 16th March 2005.

Changes to legislation:

There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Section 33.