

## SCHEDULES

### SCHEDULE 13

#### SETTLEMENTS: AMENDMENTS TO ICTA AND ITTOIA 2005 ETC

#### PART 2

##### MINOR AND CONSEQUENTIAL AMENDMENTS

- 7 Paragraphs 8 to 26 amend ICTA.
- 8 Section 220(2) shall cease to have effect.
- 9 In section 227—
- (a) in subsection (5) for “trustees (other than bare trustees)” substitute “the trustees of a settlement”, and
  - (b) in subsection (9) for “the property held on the trusts” substitute “the settled property”.
- 10 In section 229(2)—
- (a) for “held on trusts (other than bare trusts)” substitute “settled property”, and
  - (b) for “trustees” substitute “trustees of the settlement”.
- 11 In section 360A—
- (a) in subsection (2)(b) omit the words after “is or was, a settlor”, and
  - (b) in subsections (2) and (8) in each place omit the words “trustee or”.
- 12 In section 417(3)—
- (a) in paragraph (b) omit the words after “is or was, a settlor”, and
  - (b) in paragraphs (b) and (c)(i) omit the words “trustee or”.
- 13 In section 421(1) for “trust” in each place substitute “settlement”.
- 14 In section 481—
- (a) in subsections (4) and (4A) for “trust” in each place substitute “settlement”, and
  - (b) in subsection (5)(k)(iii) for “of the trust” substitute “under the settlement”.
- 15 (1) Section 686 shall be amended as follows.
- (2) In subsection (1) for “trustees” substitute “the trustees of a settlement”.
  - (3) In subsection (2) for “arising to trustees” substitute “arising to the trustees of a settlement”.
  - (4) In subsection (2AA)—
    - (a) for “arising to trustees” substitute “arising to the trustees of a settlement”, and

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- (b) in paragraph (b) for “provisions of the trust” substitute “terms of the settlement”.
  - (5) In subsection (2A)(a)—
    - (a) for “any trustees” substitute “the trustees of a settlement”, and
    - (b) for “provisions of the trust” substitute “terms of the settlement”.
  - (6) In subsection (2B) for “arising to trustees” substitute “arising to the trustees of a settlement”.
  - (7) In subsection (5A)—
    - (a) for “in relation to trustees” substitute “in relation to the trustees of a settlement”, and
    - (b) in paragraph (f) for “686A” substitute “686A(2)(a)”.
  - (8) In subsection (6) in each place for “trustees” substitute “the trustees of a settlement”.
- 16 In section 686D(7)(b) for “FA 1989” substitute “the Finance Act 1989 (c. 26)”.
- 17 In section 687(1) for “trustees” substitute “the trustees of a settlement”.
- 18 In section 687A(1)(a) for “trustees” substitute “the trustees of a settlement”.
- 19 In section 689A(1)(a) for “to trustees” substitute “to the trustees of a settlement”.
- 20 In section 689B(1) for “any trustees” substitute “the trustees of a settlement”.
- 21 In section 720—
- (a) in subsection (6)(a) for “a trustee of a settlement is” substitute “the trustees of a settlement are”,
  - (b) in subsection (6)(b) for “a trustee of a settlement who is” substitute “the trustees of a settlement who are”,
  - (c) in the closing words of subsection (6) for “the trustee is” substitute “the trustees are”,
  - (d) in subsection (7) for “a trustee of a settlement” substitute “the trustees of a settlement”, and
  - (e) in subsection (8) omit paragraph (a).
- 22 After section 742(9) insert—
- “(9A) Where the trustees of a settlement are treated, by virtue of section 685E(7), as neither resident nor ordinarily resident in the United Kingdom, then for the purposes of this Chapter they shall be treated as resident and domiciled outside the United Kingdom.”
- 23 Section 764 shall cease to have effect.
- 24 In section 809—
- (a) in subsection (1)(a) for “trustees” substitute “the trustees of a settlement”, and
  - (b) in subsections (1)(a) and (2) for “trust” substitute “settlement”.
- 25 In section 839—
- (a) at the end of subsection (3)(b) omit “and”,
  - (b) for the words after subsection (3)(c) substitute—

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- (d) if the settlement is the principal settlement in relation to one or more sub-fund settlements, the trustees of the sub-fund settlements, and
    - (e) if the settlement is a sub-fund settlement in relation to a principal settlement, the trustees of any other sub-fund settlements in relation to the principal settlement.”, and
  - (c) after subsection (3A) insert—
    - “(3B) For the purpose of subsection (3) above—
      - (a) “settlement” has the same meaning as in section 620 of ITTOIA 2005,
      - (b) “trustee”, in relation to a settlement in relation to which there would be no trustees apart from this paragraph, means any person in whom the settled property or its management is for the time being vested, and
      - (c) “principal settlement” and “sub-fund settlement” have the meaning given by paragraph 1 of Schedule 4ZA to the 1992 Act.”
- 26 In paragraph 4(12) of Schedule 28AA for the definitions of “settlement” and “settlor” substitute—
  - “settlement” and “settlor” have the same meanings as in section 620 of ITTOIA 2005.”
- 27 (1) Paragraph 7 and paragraphs 9 to 26 shall come into force on 6th April 2006 (in relation to settlements whenever created).
- (2) Paragraph 8 shall come into force on 6th April 2007 (in relation to settlements whenever created).
- 28 (1) FA 1989 shall be amended as follows.
- (2) The following provisions shall cease to have effect—
  - (a) section 68(2)(c),
  - (b) section 71(4)(c), and
  - (c) section 110.
- (3) In section 68(2)—
  - (a) after paragraph (ba) insert “, and”, and
  - (b) after paragraph (bb) omit “, and”.
- (4) In section 71(4)—
  - (a) after paragraph (ba) insert “, and”, and
  - (b) after paragraph (bb) omit “, and”.
- (5) Sub-paragraph (2)(a) and (b) shall have effect in relation to payments made on or after 6th April 2006.
- (6) Sub-paragraph (2)(c) shall have effect from 6th April 2007 (in relation to settlements whenever created).
- (7) Sub-paragraphs (3) and (4) shall come into force on 6th April 2006.

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- 29 (1) In section 151(2)(a) of FA 1989 (assessment of trustees) for “the trustees to whom the income arises” substitute “the trustees of the settlement in the year of assessment in which the income arises”.
- (2) This paragraph shall come into force on 6th April 2006.
- 30 (1) In section 25(9)(b) of FA 1990—
- (a) after sub-paragraph (iii) omit “or”, and
- (b) after sub-paragraph (iv) insert—
- “or
- (v) section 685A(2) of that Act (payments from settlor-interested settlements);”.
- (2) This paragraph shall have effect for payments in respect of income made on or after 6th April 2006.
- 31 (1) In ITTOIA 2005—
- (a) for “trustees of trusts” in each place in sections 417(2) and 420 substitute “trustees of settlements”,
- (b) in section 420(1)(a) and (c) for “trust” substitute “settlement”,
- (c) in the title of section 420 for “trust” substitute “settlement”.
- (2) For section 623 of ITTOIA 2005 (calculation of income) substitute—
- “623 Calculation of income**
- For the purpose of calculating liability to tax under this Chapter (but for no other purpose), a settlor shall be allowed the same deductions and reliefs as if any amount treated under this Chapter as income of the settlor had actually been received by the settlor.”
- (3) This paragraph shall come into force on 6th April 2006 in respect of settlements whenever created, and in respect of loans or advances whenever made.
- 32 (1) The following provisions of ITTOIA 2005 shall cease to have effect—
- (a) section 457(4), and
- (b) section 568(5).
- (2) In section 457(5) of ITTOIA 2005 for “(2) to (4)” substitute “(2) and (3)”.
- (3) In section 467(7) of that Act for paragraph (b) substitute—
- “(b) at the rate applicable by virtue of section 686A of ICTA (payments treated as income) in any other case.”
- (4) This paragraph shall have effect in relation to payments made on or after 6th April 2006 to the trustees of a settlement (whenever created).
- 33 (1) In sections 628 and 630 of ITTOIA 2005 for “UK trust” in each place substitute “UK settlement”.
- (2) In section 628(6) of that Act for the definition of “UK trust” substitute—
- ““UK settlement” means a settlement the trustees of which are resident and ordinarily resident in the United Kingdom.”

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- (3) In section 630(1)(b) of that Act for “terms of the trust” substitute “terms of the settlement”.
- (4) In section 631(5)(e)(ii) of that Act for “provisions of the trust” substitute “terms of the settlement”.
- (5) This paragraph shall come into force on 6th April 2006.
- 34 (1) After section 629(7) of ITTOIA 2005 insert—
- “(8) Subsection (1) is subject to section 28A of FA 2005.”
- (2) This paragraph shall have effect in relation to payments made on or after 6th April 2004.
- 35 (1) FA 2005 shall be amended as follows.
- (2) In the following provisions for “trustees” substitute “the trustees of a settlement”—
- (a) section 23(1)(a) and (b) (vulnerable persons: introduction),
  - (b) section 24(1) (vulnerable persons: claims),
  - (c) section 25(1)(a) (qualifying trusts: income tax), and
  - (d) section 37(1) (vulnerable person election).
- (3) In section 25(3)—
- (a) for “section 660G(1) and (2) of ICTA” substitute “section 620(1) of ITTOIA 2005”, and
  - (b) for “section 660A of that Act” substitute “sections 624 and 625 of that Act.”.
- (4) In section 27(2)(b) (qualifying expenses) for “total income” substitute “income”.
- (5) Section 42(5)(b) shall cease to have effect.
- (6) In section 43(4) (penalties) for the first reference to “trustees” substitute “the trustees of a settlement”.
- (7) This paragraph shall come into force on 6th April 2006.
- 36 (1) After section 28 of FA 2005 insert—

**“28A Disapplication of section 629 of ITTOIA 2005**

- (1) In a case where this section applies, section 629(1) of ITTOIA 2005 shall not apply in respect of a payment by the trustees of a settlement to a beneficiary under the settlement.
- (2) This section applies if in a year of assessment—
- (a) the trustees make a payment to a vulnerable person,
  - (b) the payment is made out of qualifying trusts income,
  - (c) the vulnerable person is a relevant child (within the meaning given by section 629 of ITTOIA 2005) of a settlor in relation to the settlement, and
  - (d) the trustees have made a successful claim for special income tax treatment under section 25.”
- (2) This paragraph shall have effect in relation to payments made on or after 6th April 2004.

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- 37 (1) For the purposes of regulations (whenever made) made under a provision of the Tax Acts —
- (a) references to settled property, a settlor or trustees shall be read in accordance with sections 685A to 685G of ICTA (inserted by paragraph 1 of this Schedule), and
  - (b) references to the trustees of a trust shall be treated as references to the trustees of a settlement.
- (2) This paragraph shall come into force on 6th April 2006.