



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART III

INDIVIDUALS, PARTNERSHIPS, TRUSTS AND COLLECTIVE INVESTMENT SCHEMES ^[F1]ETC]

CHAPTER II

SETTLEMENTS

General provisions

68 Meaning of “settled property”.

In this Act, unless the context otherwise requires, ^[F1]“settled property” means any property held in trust other than property to which section 60 applies (and references, however expressed, to property comprised in a settlement are references to settled property)].

Textual Amendments

F1 Words in s. 68 substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 12 para. 1\(1\)\(3\)](#)

^[F2]68A Meaning of “settlor”

- (1) In this Act, unless the context otherwise requires—
- (a) “settlor” in relation to a settlement means the person, or any of the persons, who has made, or is treated for the purposes of this Act as having made, the settlement, and
 - (b) a person is a settlor of property which—

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- (i) is settled property by reason of his having made the settlement (or by reason of an event which causes him to be treated under this Act as having made the settlement), or
 - (ii) derives from property to which sub-paragraph (i) applies.
- (2) A person is treated for the purposes of this Act as having made a settlement if—
 - (a) he has made or entered into the settlement, directly or indirectly, or
 - (b) the settled property, or property from which the settled property is derived, is or includes property of which he was competent to dispose immediately before his death, and the settlement arose on his death, whether by will, on his intestacy, or otherwise.
- (3) A person is, in particular, treated for the purposes of this Act as having made a settlement if—
 - (a) he has provided property directly or indirectly for the purposes of the settlement, or
 - (b) he has undertaken to provide property directly or indirectly for the purposes of the settlement.
- (4) Where one person (A) makes or enters into a settlement in accordance with reciprocal arrangements with another person (B), for the purposes of this Act—
 - (a) B shall be treated as having made the settlement, and
 - (b) A shall not be treated as having made the settlement by reason only of the reciprocal arrangements.
- (5) In subsection (2)(b) “property of which he was competent to dispose immediately before his death” shall be construed in accordance with section 62(10) (reading each reference to “assets” as a reference to “property”).
- (6) A person who has been a settlor in relation to a settlement shall be treated for the purposes of this Act as having ceased to be a settlor in relation to the settlement if—
 - (a) no property of which he is a settlor is comprised in the settlement,
 - (b) he has not undertaken to provide property directly or indirectly for the purposes of the settlement in the future, and
 - (c) he has not made reciprocal arrangements with another person for that other person to enter into the settlement in the future.
- (7) For the purpose of this section and sections 68B and 68C property is derived from other property—
 - (a) if it derives (directly or indirectly and wholly or partly) from that property or any part of it, and
 - (b) in particular, if it derives (directly or indirectly and wholly or partly) from income from that property or any part of it.
- (8) In this section “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

Textual Amendments

F2 Ss. 68A, 68B inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 1\(2\)\(4\)](#)

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68B Transfer between settlements: identification of settlor

- (1) This section applies in relation to a transfer of property from the trustees of one settlement (“Settlement 1”) to the trustees of another (“Settlement 2”) otherwise than—
 - (a) for full consideration, or
 - (b) by way of a bargain made at arm's length.
- (2) In this section “transfer of property” means—
 - (a) a disposal of property by the trustees of Settlement 1, and
 - (b) the acquisition by the trustees of Settlement 2 of—
 - (i) property disposed of by the trustees of Settlement 1, or
 - (ii) property created by the disposal;and a reference to transferred property is a reference to property acquired by the trustees of Settlement 2 on the disposal.
- (3) For the purposes of this Act, except where the context otherwise requires—
 - (a) the settlor (or each settlor) of the property disposed of by the trustees of Settlement 1 shall be treated from the time of the disposal as having made Settlement 2, and
 - (b) if there is more than one settlor of the property disposed of by the trustees of Settlement 1, each settlor shall be treated in relation to Settlement 2 as the settlor of a proportionate part of the transferred property.
- (4) For the purposes of this Act, except where the context otherwise requires, if and to the extent that the property disposed of by the trustees of Settlement 1 was provided for the purposes of Settlement 1, or is derived from property provided for the purposes of Settlement 1, the transferred property shall be treated from the time of the disposal as having been provided for the purposes of Settlement 2.
- (5) If transferred property is treated by virtue of subsection (4) as having been provided for the purposes of Settlement 2 —
 - (a) the person who provided the property disposed of by the trustees of Settlement 1, or property from which it was derived, for the purposes of Settlement 1 shall be treated as having provided the transferred property, and
 - (b) if more than one person provided the property disposed of by the trustees of Settlement 1, or property from which it was derived, for the purposes of Settlement 1, each of them shall be treated as having provided a proportionate part of the transferred property.
- (6) But subsections (3) and (4) do not apply in relation to a transfer of property—
 - (a) which occurs by reason only of the assignment or assignation by a beneficiary under Settlement 1 of an interest in that settlement to the trustees of Settlement 2,
 - (b) which occurs by reason only of the exercise of a general power of appointment, or
 - (c) to which section 68C(6) applies.
- (7) In determining whether this section applies in relation to a transfer of property between settlements, section 18(2) shall be disregarded.]

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Textual Amendments

F2 Ss. 68A, 68B inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 1\(2\)\(4\)](#)

[^{F3}68C Variation of will or intestacy, etc: identification of settlor

- (1) This section applies where—
 - (a) a disposition of property following a person's death is varied, and
 - (b) section 62(6) applies in respect of the variation.
- (2) Where property becomes settled property in consequence of the variation (and would not, but for the variation, have become settled property), a person mentioned in subsection (3) shall be treated for the purposes of this Act, except where the context otherwise requires—
 - (a) as having made the settlement, and
 - (b) as having provided the property for the purposes of the settlement.
- (3) Those persons are—
 - (a) a person who immediately before the variation was entitled to the property, or to property from which it derives, absolutely as legatee,
 - (b) a person who would have become entitled to the property, or to property from which it derives, absolutely as legatee but for the variation,
 - (c) a person who immediately before the variation would have been entitled to the property, or to property from which it derives, absolutely as legatee but for being an infant or other person under a disability, and
 - (d) a person who would, but for the variation, have become entitled to the property, or to property from which it derives, absolutely as legatee if he had not been an infant or other person under a disability.
- (4) In subsection (3) references to a person being entitled to property absolutely as legatee shall be construed in accordance with section 64(3) (reading the references to “an asset” and “any asset” as references to “property”).
- (5) Where—
 - (a) property would have become comprised in a settlement—
 - (i) which arose on the deceased person's death (whether in accordance with his will, on his intestacy or otherwise), or
 - (ii) which was already in existence on the deceased person's death (whether or not the deceased person was a settlor in relation to that settlement), but
 - (b) in consequence of the variation the property, or property derived from it, becomes comprised in another settlement,

the deceased person shall be treated for the purposes of this Act, except where the context otherwise requires, as having made the other settlement.
- (6) Where—
 - (a) immediately before the variation property is comprised in a settlement and is property of which the deceased person is a settlor, and
 - (b) immediately after the variation the property, or property derived from it, becomes comprised in another settlement,

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the deceased person shall be treated for the purposes of this Act, except where the context otherwise requires, as having made the other settlement.

- (7) If a person is treated as having made a settlement under subsection (5) or (6), for the purposes of this Act he shall be treated as having made the settlement immediately before his death.
- (8) But subsection (7) does not apply in relation to a settlement which arose on the person's death.]

Textual Amendments

- F3** S. 68C inserted (with effect in accordance with Sch. 12 para. 1(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 1\(2\)](#)

69 Trustees of settlements.

[^{F4}(1) For the purposes of this Act the trustees of a settlement shall, unless the context otherwise requires, together be treated as if they were a single person (distinct from the persons who are trustees of the settlement from time to time).

(2) The deemed person referred to in subsection (1) shall be treated for the purposes of this Act as resident ^{F5}... in the United Kingdom at any time when a condition in subsection (2A) or (2B) is satisfied.

(2A) Condition 1 is that all the trustees are resident in the United Kingdom.

(2B) Condition 2 is that—

- (a) at least one trustee is resident in the United Kingdom,
- (b) at least one is not resident in the United Kingdom, and
- (c) a settlor in relation to the settlement was resident ^{F6}... or domiciled in the United Kingdom at a time which is a relevant time in relation to him.

(2C) In subsection (2B)(c) “relevant time” in relation to a settlor—

- (a) means, where the settlement arose on the settlor's death (whether by will, intestacy or otherwise), the time immediately before his death, and
- (b) in any other case, means a time when the settlor made the settlement (or was treated for the purposes of this Act as making the settlement);

and, in the case of a transfer of property from Settlement 1 to Settlement 2 in relation to which section 68B applies, “relevant time” in relation to a settlor of the transferred property in respect of Settlement 2 includes any time which, immediately before the time of the disposal by the trustees of Settlement 1, was a relevant time in relation to that settlor in respect of Settlement 1.

(2D) A trustee who is not resident in the United Kingdom shall be treated for the purposes of subsections (2A) and (2B) as if he were resident in the United Kingdom at any time when he acts as trustee in the course of a business which he carries on in the United Kingdom through a branch, agency or permanent establishment there.

[^{F7}(2DA) A trustee who is resident in the United Kingdom for a tax year is to be treated for the purposes of subsections (2A) and (2B) as if he or she were not resident in the United Kingdom for that year if—

- (a) the trustee is an individual,

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- (b) the individual becomes or ceases to be a trustee of the settlement during the tax year,
- (c) that year is a split year as respects the individual, and
- (d) in that year, the only period when the individual is a trustee of the settlement falls wholly within the overseas part of the year.

(2DB) Subsection (2DA) is subject to subsection (2D) and, accordingly, an individual who is treated under subsection (2DA) as not resident is, in spite of that, to be regarded as resident whenever the individual acts as mentioned in subsection (2D).]

(2E) If the deemed person referred to in subsection (1) is not treated for the purposes of this Act as resident [^{F8}in the United Kingdom, then for the purposes of this Act it is treated as being not resident in the United Kingdom].]

[^{F9}(2F) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (2B)(c).]

(3) For the purposes of this section, and of sections 71(1) and 72(1), where part of the property comprised in a settlement is vested in one trustee or set of trustees and part in another (and in particular where settled land within the meaning of the ^{M1}Settled Land Act 1925 is vested in the tenant for life and investments representing capital money are vested in the trustees of the settlement), they shall be treated as together constituting and, in so far as they act separately, as acting on behalf of a single body of trustees.

(4) If tax assessed on the trustees, or any one trustee, of a settlement in respect of a chargeable gain accruing to the trustees is not paid within 6 months from the date when it becomes payable by the trustees or trustee, and before or after the expiration of that period of 6 months the asset in respect of which the chargeable gain accrued, or any part of the proceeds of sale of that asset, is transferred by the trustees to a person who as against the trustees is absolutely entitled to it, that person may at any time within 2 years from the time when the tax became payable be assessed and charged (in the name of the trustees) to an amount of capital gains tax not exceeding tax chargeable on an amount equal to the amount of the chargeable gain and, where part only of the asset or of the proceeds was transferred, not exceeding a proportionate part of that amount.

Textual Amendments

- F4** S. 69(1)-(2E) substituted for s. 69(1)(2) (with effect in accordance with Sch. 12 para. 2(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 2\(1\)](#)
- F5** Words in s. 69(2) omitted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 82\(2\)](#)
- F6** Words in s. 69(2B)(c) omitted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 82\(3\)](#)
- F7** S. 69(2DA)(2DB) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 102](#)
- F8** Words in s. 69(2E) substituted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 82\(4\)](#)
- F9** S. 69(2F) inserted (with effect in accordance with Sch. 8 para. 6(2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 6\(1\)](#)

Marginal Citations

- M1** 1925 c. 18.

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[^{F10}69A Sub-fund settlements

Schedule 4ZA (which makes provision about sub-fund settlements) shall have effect.]

Textual Amendments

F10 S. 69A inserted (with effect in accordance with Sch. 12 para. 6(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 6\(1\)](#)

70 Transfers into settlement.

A transfer into settlement, whether revocable or irrevocable, is a disposal of the entire property thereby becoming settled property notwithstanding that the transferor has some interest as a beneficiary under the settlement and notwithstanding that he is a trustee, or the sole trustee, of the settlement.

71 Person becoming absolutely entitled to settled property.

(1) On the occasion when a person becomes absolutely entitled to any settled property as against the trustee all the assets forming part of the settled property to which he becomes so entitled shall be deemed to have been disposed of by the trustee, and immediately reacquired by him in his capacity as a trustee within section 60(1), for a consideration equal to their market value.

[^{F11}(2) Where, in any case in which a person (“the beneficiary”) becomes absolutely entitled to any settled property as against the trustee, an allowable loss would (apart from this subsection) have accrued to the trustee on the deemed disposal under subsection (1) above of an asset comprised in that property—

- (a) that loss shall be treated, to the extent only that it cannot be deducted from pre-entitlement gains of the trustee, as an allowable loss accruing to the beneficiary (instead of to the trustee); but
- (b) any allowable loss treated as accruing to the beneficiary under this subsection shall be deductible under this Act from chargeable gains accruing to the beneficiary to the extent only that it can be deducted from gains accruing to the beneficiary on the disposal by him of—
 - (i) the asset on the deemed disposal of which the loss accrued; or
 - (ii) where that asset is an estate, interest or right in or over land, that asset or any asset deriving from that asset.

(2A) In subsection (2) above “pre-entitlement gain”, in relation to an allowable loss accruing to a trustee on the deemed disposal of any asset comprised in any settled property, means a chargeable gain accruing to that trustee on—

- (a) a disposal which, on the occasion on which the beneficiary becomes absolutely entitled as against the trustee to that property, is deemed under subsection (1) above to have taken place; or
- (b) any other disposal taking place before that occasion but in the same year of assessment.

(2B) For the purposes of subsection (2)(b)(ii) above an asset (“the relevant asset”) derives from another if, in a case where—

- (a) assets have merged,
- (b) an asset has divided or otherwise changed its nature, or

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- (c) different rights or interests in or over any asset have been created or extinguished at different times,

the value of the relevant asset is wholly or partly derived (through one or more successive events falling within paragraphs (a) to (c) above but not otherwise) from the other asset.

- (2C) The rules set out in subsection (2D) below shall apply (notwithstanding any other rules contained in this Act or in section 113(2) of the Finance Act 1995 (order of deduction))

- (a) for determining for the purposes of this section whether an allowable loss accruing to the trustee, or treated as accruing to the beneficiary, can be deducted from particular chargeable gains for any year of assessment; and
- (b) for the making of deductions of allowable losses from chargeable gains in cases where it has been determined that such an allowable loss can be deducted from particular chargeable gains.

- (2D) Those rules are as follows—

- (a) allowable losses accruing to the trustee on a deemed disposal under subsection (1) above shall be deducted before any deduction is made in respect of any other allowable losses accruing to the trustee in that year;
- (b) allowable losses treated as accruing to the beneficiary under this section, so far as they cannot be deducted in a year of assessment as mentioned in subsection (2)(b) above, may be carried forward from year to year until they can be so deducted; and
- (c) allowable losses treated as accruing to the beneficiary for any year of assessment under this section, and allowable losses carried forward to any year of assessment under paragraph (b) above—
- (i) shall be deducted before any deduction is made in respect of any allowable losses accruing to the beneficiary in that year otherwise than by virtue of this section; and
- (ii) in the case of losses carried forward to any year, shall be deductible as if they were losses actually accruing in that year.]

- (3) References in this section to the case where a person becomes absolutely entitled to settled property as against the trustee shall be taken to include references to the case where a person would become so entitled but for being an infant or other person under disability.

Textual Amendments

- F11** S. 71(2)-(2D) substituted for s. 71(2) (with application in accordance with s. 75(2) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **s. 75(1)**

Modifications etc. (not altering text)

- C1** S. 71 excluded (27.7.1993) by [1993 c. 37](#), s. 12, **Sch. 2 Pt. I para. 21(2)(d)**

72 Termination of life interest on death of person entitled.

- (1) On the termination, on the death of the person entitled to it, of [^{F12}an] interest in possession in all or any part of settled property—

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- (a) the whole or a corresponding part of each of the assets forming part of the settled property and not ceasing at that time to be settled property shall be deemed for the purposes of this Act at that time to be disposed of and immediately reacquired by the trustee for a consideration equal to the whole or a corresponding part of the market value of the asset; but
- (b) no chargeable gain shall accrue on that disposal.

For the purposes of this subsection [F12]an interest which is a right to part of the income of settled property shall be treated as [F12]an interest in a corresponding part of the settled property.

[F13](1A) Where the interest in possession mentioned in subsection (1) above is one to which the person becomes entitled on or after 22nd March 2006, the first sentence of that subsection applies in relation to that interest only if—

- (a) immediately before the person's death, the interest falls within subsection (1B) below, or
- (b) the person dies under the age of 18 years and, immediately before the person's death, section 71D of the Inheritance Tax Act 1984 (age 18-to-25 trusts) applies to the property in which the interest subsists.

(1B) An interest falls within this subsection if—

- (a) the interest is—
 - (i) an immediate post-death interest, within the meaning given by section 49A of the Inheritance Tax Act 1984,
 - (ii) a transitional serial interest, within the meaning given by section 49B of that Act, or
 - (iii) a disabled person's interest[F14], within the meaning given by section 89B] of that Act, or
- (b) section 71A of that Act (trusts for bereaved minors) applies to the property in which the interest subsists.

(1C) Subsection (1A) above does not have effect in relation to the operation of subsection (1) above as applied by subsection (2) below (but see subsection (2A) below).]

(2) Subsection (1) above shall apply where the person entitled to [F15]an interest in possession in all or any part of settled property dies (although the interest does not then terminate) as it applies on the termination of such [F15]an interest.

[F16](2A) Where the interest in possession mentioned in subsection (2) above is one to which the person becomes entitled on or after 22nd March 2006—

- (a) subsection (2) above, and
- (b) the first sentence of subsection (1) above as applied by subsection (2) above, apply in relation to that interest only if, immediately before the person's death, the interest falls within subsection (1B)(a) above.]

[F17](3) This section shall apply on the death of the person entitled to any annuity payable out of, or charged on, settled property or the income of settled property as it applies on the death of a person whose interest in possession in the whole or any part of settled property terminates on his death.

(4) Where, in the case of any entitlement to an annuity created by a settlement some of the settled property is appropriated by the trustees as a fund out of which the annuity

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is payable, and there is no right of recourse to, or to the income of, settled property not so appropriated, then without prejudice to subsection (5) below, the settled property so appropriated shall, while the annuity is payable, and on the occasion of the death of the person entitled to the annuity, be treated for the purposes of this section as being settled property under a separate settlement.]

- (5) If there is [^{F18}an] interest in a part of the settled property and, where that is [^{F18}an] interest in income, there is no right of recourse to, or to the income of, the remainder of the settled property, the part of the settled property in which the ^{F19}... interest subsists shall while it subsists be treated for the purposes of this section as being settled property under a separate settlement.

- [^{F20}(6) An interest which is a disabled person's interest by virtue of section 89B(1)(a) or (b) of the Inheritance Tax Act 1984 is to be treated as an interest in possession for the purposes of this section.]

Textual Amendments

- F12** Word in s. 72(1) substituted (with effect in accordance with Sch. 39 para. 5(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 5\(2\)](#)
- F13** S. 72(1A)-(1C) inserted (retrospective to 22.3.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 20 paras. 29\(2\), 30\(2\)](#)
- F14** Words in s. 72(1B)(a)(iii) substituted (with effect in accordance with s. 60(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 60\(2\)\(a\)](#)
- F15** Word in s. 72(2) substituted (with effect in accordance with Sch. 39 para. 5(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 5\(2\)](#)
- F16** S. 72(2A) inserted (retrospective to 22.3.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 20 paras. 29\(2\), 30\(3\)](#)
- F17** S. 72(3)(4) substituted (with effect in accordance with Sch. 39 para. 5(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 5\(3\)](#)
- F18** Word in s. 72(5) substituted (with effect in accordance with Sch. 39 para. 5(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 5\(2\)](#)
- F19** Word in s. 72(5) repealed (with effect in accordance with Sch. 39 para. 5(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 5\(2\)](#), [Sch. 41 Pt. VIII\(4\)](#)
- F20** S. 72(6) inserted (with effect in accordance with s. 60(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 60\(2\)\(b\)](#)

73 Death of life tenant: exclusion of chargeable gain.

- (1) Where, by virtue of section 71(1), the assets forming part of any settled property are deemed to be disposed of and reacquired by the trustee on the occasion when a person becomes (or would but for a disability become) absolutely entitled thereto as against the trustee, then, if that occasion is the [^{F21}death of a person entitled to an interest in possession in the settled property]—
- (a) no chargeable gain shall accrue on the disposal, and
 - (b) if on the death the property reverts to the disponent, the disposal and reacquisition under that subsection shall be deemed to be for such consideration as to secure that neither a gain nor a loss accrues to the trustee, and shall, if the trustee had first acquired the property at a date earlier than [^{F22}31 March 1982], be deemed to be at that earlier date.

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- [^{F23}(1A) Subsection (1)(b) above shall be treated as having effect in relation to a sub-fund settlement if the property does not revert to the trustees of the principal settlement in relation to that sub-fund settlement by reason only that—
- (a) a sub-fund election is or has been made in respect of another sub-fund of the principal settlement, and
 - (b) the property becomes comprised in that other sub-fund settlement on the death of the person entitled to the interest in possession.]
- (2) Where the ^{F24}... interest referred to in subsection (1) above is an interest in part only of the settled property to which section 71 applies, subsection (1)(a) above shall not apply but any chargeable gain accruing on the disposal shall be reduced by a proportion corresponding to that represented by the part.
- [^{F25}(2A) Where the interest in possession referred to in subsection (1) above is one to which the person becomes entitled on or after 22nd March 2006, subsections (1) and (2) above apply in relation to that interest only if—
- (a) immediately before the person's death, the interest falls within section 72(1B), or
 - (b) the person dies under the age of 18 years and, immediately before the person's death, section 71D of the Inheritance Tax Act 1984 (age 18-to-25 trusts) applies to the property in which the interest subsists.]
- (3) The last sentence of subsection (1) of section 72 and [^{F26}subsections (3) [^{F27}to (6)]] of that section shall apply for the purposes of this section] as they apply for the purposes of section 72(1).

Textual Amendments

- F21** Words in s. 73(1) substituted (with effect in accordance with Sch. 39 para. 6(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 6\(2\)](#)
- F22** Words in s. 73(1) substituted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 61](#)
- F23** S. 73(1A) inserted (with effect in accordance with Sch. 12 para. 45 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 42](#)
- F24** Word in s. 73(2) repealed (with effect in accordance with Sch. 39 para. 6(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 6\(3\)](#), [Sch. 41 Pt. VIII\(4\)](#)
- F25** S. 73(2A) inserted (retrospective to 22.3.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 20 paras. 29\(2\)](#), [31](#)
- F26** Words in s. 73(3) substituted (with effect in accordance with Sch. 39 para. 6(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 6\(4\)](#)
- F27** Words in s. 73(3) substituted (with effect in accordance with s. 60(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 60\(3\)](#)

74 Effect on sections 72 and 73 of relief under section 165 or 260.

- (1) This section applies where—
- (a) a claim for relief was made under section 165 or 260 in respect of the disposal of an asset to a trustee, and
 - (b) the trustee is deemed to have disposed of the asset, or part of it, by virtue of section 71(1) or 72(1)(a).

Changes to legislation: *Taxation of Chargeable Gains Act 1992, Cross Heading: General provisions is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (2) Sections 72(1)(b) and 73(1)(a) shall not apply to the disposal of the asset or part by the trustee, but any chargeable gain accruing to the trustee on the disposal shall be restricted to the amount of the held-over gain (or a corresponding part of it) on the disposal of the asset to him.
- (3) Subsection (2) above shall not have effect in a case within section 73(2) but in such a case the reduction provided for by section 73(2) shall be diminished by an amount equal to the proportion there mentioned of the held-over gain.
- (4) In this section “held-over gain” has the same meaning as in section 165 or, as the case may be, 260.

75 Death of annuitant.

F28

Textual Amendments

- F28** S. 75 repealed (with effect in accordance with Sch. 39 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. VIII\(4\)](#)

76 Disposal of interests in settled property.

- (1) [F29 Subject to subsection (1A) below] No chargeable gain shall accrue on the disposal of an interest created by or arising under a settlement (including, in particular, an annuity or life interest, and the reversion to an annuity or life interest) by the person for whose benefit the interest was created by the terms of the settlement or by any other person except one who acquired, or derives his title from one who acquired, the interest for a consideration in money or money’s worth, other than consideration consisting of another interest under the settlement.

[F30 (1A) Subject to subsection (3) below, subsection (1) above does not apply if—

- (a) the settlement falls within subsection (1B) below; or
- (b) the property comprised in the settlement is or includes property deriving directly or indirectly from a settlement falling within that subsection.

(1B) A settlement falls within this subsection if there has been a time when the trustees of that settlement—

- (a) were [F31 [F32 not resident] in the United Kingdom]; or
- (b) fell to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.]

- (2) Subject to subsection (1) above, where a person who has acquired an interest in settled property (including in particular the reversion to an annuity or life interest) becomes, as the holder of that interest, absolutely entitled as against the trustee to any settled property, he shall be treated as disposing of the interest in consideration of obtaining that settled property (but without prejudice to any gain accruing to the trustee on the disposal of that property deemed to be effected by him under section 71(1)).

[F33 (3) Subsection (1A) above shall not prevent subsection (1) above from applying where the disposal in question is a disposal in consideration of obtaining settled property that is treated as made under subsection (2) above.]

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: General provisions is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F29** Words in s. 76(1) inserted (with effect in accordance with s. 128(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **s. 128(1)(a)**
- F30** S. 76(1A)(1B) inserted (with effect in accordance with s. 128(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **s. 128(1)(b)(2)**
- F31** Words in s. 76(1B)(a) substituted (with effect in accordance with Sch. 12 para. 30(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 12 para. 30(1)(2)(a)**
- F32** Words in s. 76(1B)(a) substituted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 46 para. 83**
- F33** S. 76(3) inserted (with effect in accordance with s. 128(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **s. 128(1)(c)(3)**

Modifications etc. (not altering text)

- C2** S. 76(1) excluded (27.7.1993) by [1993 c. 37](#), s. 12, **Sch. 2 Pt. I para. 21(2)(e)**

[^{F34}76A Disposal of interest in settled property: deemed disposal of underlying assets.

Schedule 4A to this Act has effect with respect to disposals for consideration of an interest in settled property.]

Textual Amendments

- F34** S. 76A inserted (with application in accordance with s. 91(3) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **s. 91(1)**

[^{F35}76B Transfers of value by trustees linked with trustee borrowing.

Schedule 4B to this Act has effect with respect to transfers of value by trustees that are, in accordance with the Schedule, treated as linked with trustee borrowing.]

Textual Amendments

- F35** S. 76B inserted (with effect in accordance with s. 92(5) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **s. 92(1)**

^{F36}77 Charge on settlor with interest in settlement.

.....

Textual Amendments

- F36** Ss. 77-79 omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 5**

^{F36}78 Right of recovery.

.....

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Textual Amendments

F36 Ss. 77-79 omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 5](#)

^{F36}79 Provisions supplemental to sections 77 and 78.

.....

Textual Amendments

F36 Ss. 77-79 omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 5](#)

[^{F37}79A Restriction on set-off of trust losses.

(1) This section applies to a chargeable gain accruing to the trustees of a settlement where—

- (a) in computing the gain, the allowable expenditure is reduced in consequence, directly or indirectly, of a claim to gifts relief in relation to an earlier disposal to the trustees;
- (b) the transferor on that earlier disposal, or any person connected with the transferor, has at any time—
 - (i) acquired an interest in the settled property, or
 - (ii) entered into an arrangement to acquire such an interest; and
- (c) in connection with that acquisition or arrangement any person has at any time received, or become entitled to receive, any consideration.

(2) Where this section applies to a chargeable gain, no allowable losses accruing to the trustees (in the year in which the gain accrues or any earlier year) may be set against the gain.

This applies to the whole of the chargeable gain (and not just the element deferred as a result of the claim to gifts relief).

(3) In this section—

- (a) “gifts relief” means relief under section 165 or 260; and
- (b) references to losses not being allowed to be set against a chargeable gain are to the losses not being allowed as a deduction against chargeable gains to the extent that they include that gain.

(4) The references in subsection (1)(b) above to an interest in settled property have the same meaning as in Schedule 4A.]

Textual Amendments

F37 S. 79A inserted (with application in accordance with s. 93(2) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [s. 93\(1\)](#)

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[^{F38}79B Attribution to trustees of gains of non-resident companies.

- (1) This section applies where [^{F39}the] trustees of a settlement are participators—
- (a) in a close company, or
 - (b) in a company that is not resident in the United Kingdom but would be a close company if it were resident in the United Kingdom.

For this purpose “participator” has the same meaning as in [^{F40}section 3 (see section 3B)].

- (2) Where this section applies, nothing in any double taxation relief arrangements shall be read as preventing a charge to tax arising by virtue of the attribution to the trustees under [^{F41}section 3], by reason of their participation in the company mentioned in subsection (1) above, of any part of a chargeable gain accruing to a company that is not resident in the United Kingdom.

- (3) Where this section applies and—

- (a) a chargeable gain accrues to a company that is not resident in the United Kingdom but would be a close company if it were resident in the United Kingdom, and
- (b) all or part of the chargeable gain is treated under [^{F42}section 3] as accruing to a close company which is not chargeable to corporation tax in respect of the gain by reason of double taxation relief arrangements, and
- (c) had the company mentioned in paragraph (b) (and any other relevant company) not been resident in the United Kingdom, all or part of the chargeable gain would have been attributed to the trustees by reason of their participation in the company mentioned in subsection (1) above,

[^{F43}section 3(7)] shall apply as if the company mentioned in paragraph (b) above (and any other relevant company) were not resident in the United Kingdom.

- (4) The references in subsection (3) above to “any other relevant company” are to any other company which if it were not resident in the United Kingdom would be a company in relation to which [^{F44}section 3(7)] applied with the result that all or part of the chargeable gain was attributed to the trustees as mentioned in that subsection.]

Textual Amendments

- F38** S. 79B inserted (with application in accordance with s. 94(2) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [s. 94\(1\)](#)
- F39** Word in s. 79B(1) inserted (with effect in accordance with Sch. 12 para. 14(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 14\(1\)](#)
- F40** Words in s. 79B(1) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 30\(2\)](#)
- F41** Words in s. 79B(2) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 30\(3\)](#)
- F42** Words in s. 79B(3) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 30\(4\)\(a\)](#)
- F43** Words in s. 79B(3) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 30\(4\)\(b\)](#)
- F44** Words in s. 79B(4) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 30\(5\)](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by S.I. 2008/3068, art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by S.I. 1989/469, reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by S.I. 1989/469, reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)