



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART III

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

CHAPTER II

SETTLEMENTS

Migration of settlements, non-resident settlements and dual resident settlements

86 Attribution of gains to settlors with interest in non-resident or dual resident settlements.

- (1) This section applies where the following conditions are fulfilled as regards a settlement in a particular year of assessment—
- the settlement is a qualifying settlement in the year;
 - the trustees of the settlement fulfil the condition as to residence specified in subsection (2) below;
 - a person who is a settlor in relation to the settlement (“the settlor”) is domiciled in the United Kingdom at some time in the year and is ^[F1]resident in the United Kingdom for the year;
 - at any time during the year the settlor has an interest in the settlement;
 - by virtue of disposals of any of the settled property originating from the settlor, there is an amount on which the trustees would be chargeable to tax for the year under ^[F2]section 1(3) ^[F3]if the assumption as to residence specified in subsection (3) below were made;
 - paragraph 3, 4 or 5 of Schedule 5 does not prevent this section applying.

^[F4](2) The condition as to residence is that—

- there is no time in the year when the trustees are resident in the United Kingdom, or

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 86 is up to date with all changes known to be in force on or before 31 May 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

- (b) there is such a time but, whenever the trustees are resident in the United Kingdom during the year, they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.]
- (3) Where subsection (2)(a) above applies, the assumption as to residence is that the trustees are [^{F5}resident ^{F6}... in the United Kingdom] throughout the year; and where subsection (2)(b) above applies, the assumption as to residence is that the double taxation relief arrangements do not apply.
- [^{F7}(3A) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (1)(c).]
- (4) Where this section applies—
- (a) chargeable gains of an amount equal to that referred to in subsection (1)(e) above shall be treated as accruing to the settlor in the year [^{F8}or if, as respects the settlor, the year is a split year, in the UK part of that year], and
- (b) those gains shall be treated as forming the highest part of the amount on which he is chargeable to capital gains tax for the year.
- [^{F9}(4ZA) Where (apart from this subsection) the amount mentioned in subsection (1)(e) would include a chargeable gain or allowable loss to which section 1A(3)(b) or (c) applies (disposals by non-UK residents within the charge to capital gains tax), so much of the gain or loss as would be so included is to be disregarded for the purposes of subsection (1)(e).]
- [^{F10}(4ZB) Where (apart from this subsection) the amount mentioned in subsection (1)(e) would include an amount of chargeable gains treated as accruing under section 103KA(2) or (3) (carried interest gains), the amount of the gains is to be disregarded for the purposes of subsection (1)(e).]
- ^{F11}(4A)
- (5) Schedule 5 (which contains provisions supplementary to this section) shall have effect.

Textual Amendments

- F1** Words in s. 86(1)(c) substituted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 91\(2\)](#)
- F2** Words in s. 86(1)(e) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 33\(2\)](#)
- F3** Words in s. 86(1)(e) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 30](#)
- F4** S. 86(2) substituted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 91\(3\)](#)
- F5** Words in s. 86(3) substituted (with effect in accordance with Sch. 12 para. 34(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 34\(1\)\(2\)\(c\)](#)
- F6** Words in s. 86(3) 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. 91\(4\)](#)
- F7** S. 86(3A) inserted (with effect in accordance with Sch. 8 para. 7(2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 7\(1\)](#)
- F8** Words in s. 86(4)(a) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 100](#)

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 86 is up to date with all changes known to be in force on or before 31 May 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](#)

- F9** S. 86(4ZA) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), **Sch. 1 para. 33(3)**
- F10** S. 86(4ZB) inserted (with effect in accordance with s. 32(5) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **s. 32(3)**
- F11** S. 86(4A) repealed (with effect in accordance with Sch. 11 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), **Sch. 40 Pt. 3(4)**

Modifications etc. (not altering text)

- C1** S. 86 modified (with effect in accordance with Sch. 23 paras. 1(1), 2(1)(5)(6), 3(1)(4)(6) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 23 paras. 1(2)(3), 2(2)-(4), 3(2)(3)**
- C2** S. 86(1)(e) modified (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), **s. 132(5)**
- C3** S. 86(1)(e) modified (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), **Sch. 23 para. 4(1)**

Changes to legislation:

Taxation of Chargeable Gains Act 1992, Section 86 is up to date with all changes known to be in force on or before 31 May 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.

[View outstanding changes](#)

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](#)