



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART III

INDIVIDUALS, PARTNERSHIPS, TRUSTS AND COLLECTIVE INVESTMENT SCHEMES [F1ETC]

### CHAPTER II

SETTLEMENTS

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

#### [F187I Non-UK resident settlements: recipients of onward gifts

- (1) Sections 87J and 87K apply if in the case of a settlement—
- (a) a capital payment (“the original payment”) is received in a tax year (“the payment year”) by a person (“the original beneficiary”) from the trustees of the settlement,
  - (b) at the time of receipt—
    - (i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole or part of the original payment, and
    - (ii) it is reasonable to expect that, in the event of the whole or part of the original payment being passed on to another person as envisaged by the arrangements or intention, that other person will be resident in the United Kingdom when they receive at least part of what is passed on to them,
  - (c) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”)—
    - (i) at the time the original payment is received, or at any later time in the 3 years beginning with the day containing the start time, or

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- (ii) at any time before the original payment is received and, it is reasonable to assume, in anticipation of receipt of the original payment,
  - (d) the gift is of or includes—
    - (i) the whole or part of the original payment,
    - (ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of the original payment, or
    - (iii) any other property, but only if the original payment is made with a view to enabling or facilitating, or otherwise in connection with, the making of the gift of the property to the subsequent recipient,
  - (e) the subsequent recipient is resident in the United Kingdom in the tax year in which the onward payment is received by the subsequent recipient (“the gift year”, but see subsection (4)), and
  - (f) in the period beginning with the start of the payment year and ending with the end of the gift year, there is at least one tax year—
    - (i) for which the otherwise-liable person is not resident in the United Kingdom, or
    - (ii) for which section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the otherwise-liable person.
- (2) Where—
- (a) there is a series of two or more gifts,
  - (b) the first gift in the series is made, directly or indirectly, by the original beneficiary—
    - (i) at the time the original payment is received, or at any later time in the 3 years beginning with the day containing the start time, or
    - (ii) at any time before the original payment is received and, it is reasonable to assume, in anticipation of receipt of the original payment,
  - (c) the recipient of a gift in the series is the person who makes, directly or indirectly, the next gift in the series,
  - (d) the recipient of the last gift in the series is resident in the United Kingdom in the tax year in which that gift is received,
  - (e) as regards each earlier gift in the series, its recipient is not resident in the United Kingdom at any time in the tax year in which it is received, and
  - (f) the condition in subsection (1)(d) is met in relation to each gift in the series,
- the last gift in the series is treated for the purposes of subsection (1)(c) as if its maker were the original beneficiary (and not its actual maker).
- (3) For the purposes of subsections (1)(c)(i) and (2)(b)(i)—
- (a) if the original payment is a capital payment other than one that is treated as received by section 87M, “the start time” is the time the original payment is received, and
  - (b) if the original payment is a capital payment that is treated as received by section 87M in connection with the operation of this section, and sections 87J and 87K, on a previous occasion, “the start time” is the time given by this subsection as the start time on that occasion
- (4) Where the onward payment is made as mentioned in subsection (1)(c)(ii), the onward payment is to be treated—

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- (a) for the purposes of the provisions of this section following subsection (1)(c), and
  - (b) for the purposes of sections 87K to 87M,  
as made and received immediately after the original payment is received (and in the payment year).
- (5) Where this section provides for section 87K to apply in relation to two or more gifts received from the original beneficiary in the gift year by reference to the original payment—
- (a) treat that section as applying in relation to a single gift equal in amount to the total of the amount or value of each of the gifts (and as not applying in relation to each gift separately), and
  - (b) apportion between the gifts (in proportion to their amounts or values)—
    - (i) any capital payments given by section 87K(2), and
    - (ii) any gains given by section 87K(3),  
as a result of applying section 87K in accordance with paragraph (a).
- (6) Where this section provides for sections 87J and 87K to apply in relation to a gift received in a tax year—
- (a) take the steps required by section 87J before applying section 87K in relation to the gift, but
  - (b) in taking the steps required by section 87J, have regard to the application of section 87K in relation to gifts made in earlier tax years.
- (7) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
  - “gift” includes any benefit,
  - “make”, in relation to a gift that is a benefit, means confer, and
  - “the otherwise-liable person” means the original beneficiary unless section 87G(2) applies in relation to the original payment in which event the settlor is “the otherwise-liable person”.
- (8) Where subsection (1)(c) and (d) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(b) is also met in that case.]

#### Textual Amendments

- F1** Ss. 87D-87P inserted (with effect in accordance with Sch. 10 para. 1(12)-(15) of the amending Act) by Finance Act 2018 (c. 3), **Sch. 10 para. 1(1)**

**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](#)