
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, SCHEDULE 18. (See end of Document for details)

SCHEDULES

SCHEDULE 18

Section 75.

DECEASED PERSONS' ESTATES

Introductory

1 Part XVI of the Taxes Act 1988 shall be amended as follows.

Limited interests in residue

F12

Textual Amendments

F1 Sch. 18 para. 2 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

Absolute interests in residue

3 (1) In section 696 (absolute interests in residue), for subsection (3) there shall be substituted the following subsections—

“(3) When any sum has been paid during the administration period in respect of that absolute interest, that sum, except so far as it is excluded from the operation of this subsection, shall be deemed for all tax purposes to have been paid to that person as income for the year of assessment in which it was actually paid.

(3A) A payment shall be excluded from the operation of subsection (3) above to the extent (if any) that the aggregate of that sum and all the sums which—

(a) have been paid previously during the administration period in respect of that absolute interest, and

(b) fall under this section to be treated as paid to that person as income, exceeds the aggregated income entitlement of that person for the year of assessment in which the sum is paid.

(3B) For the purposes of this section the aggregated income entitlement of that person for any year of assessment is the amount which would be the aggregate of the amounts received for that year of assessment and all previous years of assessment in respect of the interest if that person had a right in each year to receive, and had received—

(a) in the case of a United Kingdom estate, his residuary income for that year less income tax at the applicable rate for that year; and

(b) in the case of a foreign estate, his residuary income for that year.”

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(2) For subsection (5) of that section there shall be substituted the following subsection—

“(5) Where, on the completion of the administration of the estate, the aggregate of all the sums which, apart from this subsection—

(a) have been paid during the administration period in respect of that absolute interest, and

(b) fall under this section to be treated as paid to that person as income, is exceeded by the aggregated income entitlement of that person for the year of assessment in which the administration of the estate is completed, then an amount equal to the amount of the excess shall be treated for the purposes of subsections (3) to (4) above as having been actually paid, immediately before the end of the administration period, in respect of that interest.”

(3) Sub-paragraph (1) above has effect, subject to sub-paragraph (4) below, in relation to any payment made on or after 6th April 1995; and sub-paragraph (2) above shall have effect in relation to any estate the administration of which is completed on or after 6th April 1995.

(4) Where any sum is deemed by virtue of subsection (3) of section 696 of the Taxes Act 1988 (as it has effect apart from this Schedule) [^{F2}and sections 652, 660 and 665 of the Income Tax (Trading and Other Income) Act 2005] to have been paid to any person as income for the year 1994-95 or any previous year of assessment, that sum shall be treated for the purposes of subsections (3A) and (5) of that section (as they have effect by virtue of this Schedule) as a sum actually paid in respect of that person's absolute interest in that year of assessment.

Textual Amendments

F2 Words in Sch. 18 para. 3(4) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 483](#) (with Sch. 2)

Supplemental provisions relating to section 696

4 (1) After subsection (1) of section 697 (calculation of residuary income) there shall be inserted the following subsection—

“(1A) For the purpose of ascertaining under subsection (1) above the residuary income of an estate for any year, where the amount of the deductions falling to be made from the aggregate income of the estate for that year (including any falling to be made by virtue of this subsection) exceeds the amount of that income, the excess shall be carried forward and treated for that purpose as an amount falling to be deducted from the aggregate income of the estate for the following year.”

(2) In subsection (2) of that section (reduction of residuary income where benefits received are less than aggregate of residuary income), for the words from “his residuary income for” onwards there shall be substituted “section 696 shall have effect as if the amount of the deficiency were to be applied in reducing the amount taken to be his residuary income for the year in which the administration of the estate is completed and, in so far as the deficiency exceeds that income, in reducing the amount taken to be his residuary income for the previous year, and so on.”

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- (3) Sub-paragraph (1) above has effect for ascertaining the residuary income of an estate for the year 1995-96 or any subsequent year of assessment; and sub-paragraph (2) above has effect in relation to any estate the administration of which is completed on or after 6th April 1995.

Special provisions as to successive interests in residue

- 5 (1) For subsection (2) of section 698 (special provisions as to successive interests in residue) there shall be substituted the following subsections—

“(1A) Subsection (1B) below applies where—

- (a) successively during the administration period there are different persons with interests in the residue of the estate of a deceased person or in parts of such a residue;
- (b) the later interest or, as the case may be, each of the later interests arises or is created on the cessation otherwise than by death of the interest that precedes it; and
- (c) the earlier or, as the case may be, earliest interest is a limited interest.

(1B) Where this subsection applies, this Part shall have effect in relation to any payment made in respect of any of the interests referred to in subsection (1A) above—

- (a) as if all those interests were the same interest so that none of them is to be treated as having ceased on being succeeded by any of the others;
- (b) as if (subject to paragraph (c) below) the interest which is deemed to exist by virtue of paragraph (a) above (“the deemed single interest”) were an interest of—
 - (i) except in a case to which sub-paragraph (ii) below applies, the person in respect of whose interest or previous interest the payment is made;
 - (ii) in a case where the person entitled to receive the payment is any other person who has or has had an interest which is deemed to be comprised in the deemed single interest, that other person;

and

- (c) in so far as any of the later interests is an absolute interest as if, for the purposes of section 696(3A) to (5)—
 - (i) the earlier interest or interests had never existed and the absolute interest had always existed;
 - (ii) the sums (if any) which were deemed in relation to the earlier interest or interests to have been paid as income for any year of assessment to any of the persons entitled thereto were sums previously paid during the administration period in respect of the absolute interest; and
 - (iii) those sums were sums falling to be treated as sums paid as income to the person entitled to the absolute interest.

- (2) Where successively during the administration period there are different persons with absolute interests in the residue of the estate of a deceased person or in parts of such a residue, the aggregate payments and aggregated

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income entitlement referred to in subsections (3A) and (3B) of section 696 shall be computed for the purposes of that section in relation to an absolute interest subsisting at any time (“the subsequent interest”)—

- (a) as if the subsequent interest and any previous absolute interest corresponding to the subsequent interest, or relating to any part of the residue to which the subsequent interest relates, were the same interest; and
- (b) as if the residuary income for any year of the person entitled to the previous interest were residuary income of the person entitled to the subsequent interest and any amount deemed to be paid as income to the person entitled to the previous interest were an amount deemed to have been paid to the person entitled to the subsequent interest.”

- (2) This paragraph has effect in relation to any payment made on or after 6th April 1995 and, so far as it relates to the operation of section 695(3) or 696(5) of the Taxes Act 1988, in relation to any estate the administration of which is completed on or after that date.

Adjustments and information

F36

Textual Amendments

F3 Sch. 18 para. 6 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 10 Pt. 12 (with Sch. 9 paras. 1-9, 22)

Interpretation

- 7 Subsection (14) of section 701 (cases where residuary income has borne income tax at the additional rate) shall cease to have effect.

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