

*Status: Point in time view as at 06/04/2020.*

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## SCHEDULES

### [<sup>F1</sup>SCHEDULE 1C

#### ANNUAL EXEMPT AMOUNT IN CASES INVOLVING SETTLED PROPERTY

##### Textual Amendments

- F1** Sch. 1C inserted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by Finance Act 2019 (c. 1), Sch. 1 para. 16

##### *Introductory*

- 1 (1) This Schedule provides for the application of section 1K (in some cases with modifications) in relation to the trustees of a settlement for a tax year.
- (2) The application of this Schedule depends on (among other things) whether or not—
- (a) a settlement is for the benefit of a disabled person, and
  - (b) a settlement is a qualifying UK settlement.
- (3) For the definitions of those expressions, see paragraphs 3 and 7 respectively.
- (4) In this Schedule any reference to the application of section 1K in relation to an individual for a tax year is to its application in relation to an individual who is resident and domiciled in the United Kingdom for the year.

##### *Settlements for the benefit of disabled persons*

- 2 (1) In the case of a settlement for the benefit of a disabled person for a tax year, section 1K applies in relation to the trustees of the settlement for the year as it applies in relation to an individual for the year.
- (2) This paragraph needs to be read with—
- (a) paragraph 6 (cases where settlement is a qualifying UK settlement comprised in a group), and
  - (b) paragraph 8 (sub-fund settlements).
- 3 (1) A settlement is a “settlement for the benefit of a disabled person” for a tax year if, for the whole or part of that year, settled property is held on trusts which secure that, during the lifetime of a disabled person, the property and income tests are met.
- (2) The property test is met if any of the property which is applied for the benefit of a beneficiary is applied for the disabled person's benefit.
- (3) The income test is met if either—
- (a) the disabled person is entitled to all of the income (if any) arising from any of the property, or

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- (b) if any income arising from any of the property is applied for the benefit of a beneficiary, it is applied for the disabled person's benefit.
  - (4) A settlement is not prevented from being a settlement for the benefit of a disabled person for a tax year just because—
    - (a) the trustees have power to apply amounts (of any nature) not exceeding the de minimis threshold for that year,
    - (b) the trustees have the powers of advancement conferred by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958,
    - (c) the trustees have those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by—
      - (i) proviso (a) of section 32(1) of the Trustee Act 1925, or
      - (ii) section 33(1)(a) of the Trustee Act (Northern Ireland) 1958, or
    - (d) the trustees have powers to the same effect as the powers mentioned in paragraph (b) or (c).
  - (5) For the purposes of sub-paragraph (4)(a) “the de minimis threshold” means—
    - (a) £3,000, or
    - (b) 3% of the maximum value of the settled property during the tax year, whichever is the lower.
  - (6) In this paragraph “disabled person” has the meaning given by Schedule 1A to the Finance Act 2005.
  - (7) If the income from settled property is held for the benefit of a disabled person (“D”) on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), the reference in this paragraph to D's lifetime is to be read as a reference to the period during which the income is held on trust for D.
  - (8) This paragraph applies for the purposes of this Schedule.
- 4
- (1) The Treasury may by order—
    - (a) specify circumstances in which paragraph 3(4)(a) is, or is not, to apply, and
    - (b) amend the definition of “the de minimis threshold” in paragraph 3(5).
  - (2) The order may—
    - (a) make different provision for different purposes, and
    - (b) contain transitional and saving provision.
  - (3) A statutory instrument containing an order under this paragraph which reduces the annual exempt amount in any case may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

#### *Other settlements*

- 5
- (1) This paragraph applies if settlement is not a settlement for the benefit of a disabled person for a tax year.
  - (2) Section 1K applies in relation to the trustees of the settlement for the year as it applies in relation to an individual for the year but as if the annual exempt amount for the year were one-half of the amount available for the individual for the year.
  - (3) This paragraph needs to be read be with—

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- (a) paragraph 6 (cases where settlement is qualifying UK settlement comprised in a group), and
- (b) paragraph 8 (sub-fund settlements).

*Special rules for qualifying UK settlements comprised in groups*

- 6
- (1) This paragraph reduces the annual exempt amount for trustees of a settlement for a tax year if the settlement is one of two or more qualifying UK settlements comprised in a group.
  - (2) In the case of a settlement for the benefit of a disabled person for the year, the annual exempt amount for the year is to be reduced so that it is equal to—
    - (a) one-tenth of an individual's amount for that year, or
    - (b) the amount resulting from dividing the individual's amount for that year by the number of settlements in the group,whichever is the greater.
  - (3) In the case of any other settlement, the annual exempt amount for the year is to be reduced so that it is equal to—
    - (a) one-tenth of an individual's amount for that year, or
    - (b) the amount resulting from dividing half of an individual's amount for that year by the number of settlements in the group,whichever is the greater.
  - (4) In this paragraph “an individual's amount”, in relation to a tax year, means the annual exempt amount applying to an individual for the year under section 1K.
  - (5) For the purposes of this paragraph all qualifying UK settlements in relation to which the same person is the settlor constitute a group.
  - (6) If—
    - (a) two or more persons are settlors in relation to a settlement, and
    - (b) a settlement is consequently comprised in two or more groups comprising different numbers of settlement,sub-paragraphs (2)(b) and (3)(b) have effect by reference to the largest group.
- 7
- (1) In this Schedule “qualifying UK settlement”, in relation to a tax year, means any settlement in relation to which both of the following conditions are met—
    - (a) the trustees of the settlement are resident in the United Kingdom during any part of the tax year, and
    - (b) the property comprised in the settlement is not held for a charitable or pensions purpose.
  - (2) Property comprised in a settlement is held for a charitable purpose if (and only if)—
    - (a) it is held for charitable purposes only, and
    - (b) it cannot become applicable for other purposes.
  - (3) Property comprised in a settlement is held for a pensions purpose if (and only if) it is held for the purposes of—
    - (a) a registered pension scheme,
    - (b) a superannuation fund to which section 615(3) of the Taxes Act applies, or

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- (c) an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004) that is not a registered pension scheme.
- (4) For this purposes of any provision of this Schedule other than paragraph 8 a settlement is not a qualifying UK settlement if—
  - (a) in the case of one for the benefit of a disabled person, it was made before 10 March 1981, or
  - (b) in any other case, it was made before 6 June 1978.

*Special rules for principal settlements and sub-funds*

- 8 (1) This paragraph—
  - (a) applies if the trustees of a settlement (“the principal settlement”) have made an election under paragraph 1 of Schedule 4ZA the effect of which is that one or more other settlements (“sub-fund settlements”) are treated as created, and
  - (b) provides for the annual exempt for the trustees of each of the affected settlements to be determined by reference to the assumed annual amount.
- (2) For this purposes of this paragraph—
  - (a) the principal settlement and each of the sub-fund settlements is an “affected settlement”, and
  - (b) the “assumed annual amount” means the amount which would be the annual exempt for the trustees of the principal settlement on the assumption that no election had been made under paragraph 1 of Schedule 4ZA.
- (3) The annual exempt amount for the trustees of each of the affected settlements is the assumed annual amount unless there are two or more qualifying UK settlements in the affected settlements.
- (4) In that case, the annual exempt amount for the trustees of each of the affected settlements is the assumed annual amount divided by the number of qualifying UK settlements in the affected settlements.]

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