



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

88 Gains of dual resident settlements.

- (1) Section 87 also applies to a settlement for any year of assessment beginning on or after 6th April 1991 if—
- (a) the trustees are ^[F1]resident ^{F2}... in the United Kingdom during any part of the year], ^[F3]and]
 - (b) at any time of ^[F4]such residence ^{F5}...] they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom, ^{F6}...
 - ^{F6}(c)
- ^[F7](2) The ^[F8]section 1(3)] amount for a tax year for which section 87 applies by virtue of this section is what it would be if the amount mentioned in section 87(4)(a) were the assumed chargeable amount.]
- (3) For the purposes of subsection (2) above the assumed chargeable amount in respect of a year of assessment is the lesser of the following 2 amounts—
- (a) the amount on which the trustees would be chargeable to tax for the year under ^[F9]section 1(3)] on the assumption that the double taxation relief arrangements did not apply;

Changes to legislation: *Taxation of Chargeable Gains Act 1992, Section 88 is up to date with all changes known to be in force on or before 12 July 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) the amount on which, by virtue of disposals of protected assets, the trustees would be chargeable to tax for the year under [F10section 1(3)] on the assumption that those arrangements did not apply.
- (4) For the purposes of subsection (3)(b) above assets are protected assets if—
- (a) they are of a description specified in the double taxation relief arrangements, and
- (b) were the trustees to dispose of them at any relevant time, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.
- (5) For the purposes of subsection (4) above—
- (a) the assumption specified in subsection (3)(b) above shall be ignored;
- (b) a relevant time is any time, in the year of assessment concerned, when the trustees fall to be regarded for the purposes of the arrangements as resident in a territory outside the United Kingdom;
- (c) if different assets are identified by reference to different relevant times, all of them are protected assets.

F11(6)

F12(7)

Textual Amendments

- F1** Words in s. 88(1) substituted (6.4.2007) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 paras. 35\(1\)\(a\)\(2\)\(b\)](#), 41
- F2** Words in s. 88(1)(a) 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. 93\(a\)](#)
- F3** Word in s. 88(1)(a) inserted (with effect in accordance with s. 130(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 130\(2\)\(a\)](#)
- F4** Words in s. 88(1) substituted (6.4.2007) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 paras. 35\(1\)\(b\)\(2\)\(b\)](#), 41
- F5** Words in s. 88(1)(b) 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. 93\(b\)](#)
- F6** S. 88(1)(c) and preceding word repealed (with effect in accordance with s. 130(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 130\(2\)\(b\)](#), [Sch. 27 Pt. III\(30\)](#)
- F7** S. 88(2) substituted (with effect in accordance with Sch. 7 para. 115 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 109\(2\)](#)
- F8** Words in s. 88(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. 41](#)
- F9** Words in s. 88(3)(a) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 41](#)
- F10** Words in s. 88(3)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 41](#)
- F11** S. 88(6) 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. 6](#)
- F12** S. 88(7) omitted (with effect in accordance with Sch. 7 para. 115 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 109\(3\)](#)

Modifications etc. (not altering text)

- C1** Ss. 87, 87A, 87C-90 applied (with modifications) by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [s. 762\(3\)](#) (as substituted (with effect in accordance with Sch. 7 para. 98 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 93\(3\)](#))

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 88 is up to date with all changes known to be in force on or before 12 July 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](#)

- C2** Ss. 87-89 modified (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 125\(2\)](#)
- C3** Ss. 87-90A applied (with modifications) (with effect in accordance with art. 1(2)(3), Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), regs. 1(1), [20\(3\)\(4\)](#)

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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](#)