



Finance Act 2005

2005 CHAPTER 7

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 4

TRUSTS WITH VULNERABLE BENEFICIARY

Qualifying trusts

34 Disabled persons

- (1) For the purposes of this Chapter where property is held on trusts for the benefit of a disabled person those trusts are qualifying trusts if they secure that the conditions in subsection (2) are met—
 - (a) during the lifetime of the disabled person, or
 - (b) until the termination of the trusts (if that occurs before his death).
- (2) Those conditions are—
 - (a) that if any of the property is applied for the benefit of a beneficiary, it is applied for the benefit of the disabled person, and
 - (b) either that the disabled person is entitled to all the income (if there is any) arising from any of the property or that no such income may be applied for the benefit of any other person.
- (3) The trusts on which property is held are not to be treated as failing to secure that the conditions in subsection (2) are met by reason only of ^{F1}—
 - (a) a power conferred on the trustees by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958) (powers of advancement),

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- (b) a power conferred on the trustees by the law of a jurisdiction other than England and Wales or Northern Ireland which makes provision similar to the provisions specified in paragraph (a), or
 - (c) a power of advancement which is conferred on the trustees by the instrument creating the settlement, or by another instrument made in accordance with the terms of the settlement, and which is subject to the same restrictions as those specified in section 32(1)(a) and (c) of the Trustee Act 1925 (c. 19).]
- (4) The reference in subsection (1) to the lifetime of the disabled person is, where property is held for his benefit on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), to be construed as a reference to the period during which such property is held on trust for him.

Textual Amendments

F1 S. 34(3)(a)-(c) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 48\(2\)\(5\)](#)

35 Relevant minors

- (1) For the purposes of this Chapter where property is held on trusts for the benefit of a relevant minor those trusts are qualifying trusts if they are—
- (a) statutory trusts for the relevant minor under sections 46 and 47(1) of the Administration of Estates Act 1925 (c. 23) (succession on intestacy and statutory trusts in favour of relatives of intestate), or
 - (b) trusts to which subsection (2) below applies.
- (2) This subsection applies to trusts—
- (a) established under the will of a deceased parent of the relevant minor, or
 - (b) established under the Criminal Injuries Compensation Scheme,
- which secure that the conditions in subsection (3) are met.
- (3) Those conditions are—
- (a) that the relevant minor will, on attaining the age of 18, become absolutely entitled to the property, any income arising from it and any income that has arisen from property held on the trusts for his benefit and been accumulated before that time,
 - (b) that, until that time, for so long as the relevant minor is living, if any of the property is applied for the benefit of a beneficiary, it is applied for the benefit of the relevant minor, and
 - (c) that, until that time, for so long as the relevant minor is living, either—
 - (i) the relevant minor is entitled to all the income (if there is any) arising from any of the property, or
 - (ii) no such income may be applied for the benefit of any other person.
- (4) Trusts to which subsection (2) applies are not to be treated as failing to secure that the conditions in subsection (3) are met by reason only of ^{F2}—
- (a) a power conferred on the trustees by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958) (powers of advancement),

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- (b) a power conferred on the trustees by the law of a jurisdiction other than England and Wales or Northern Ireland which makes provision similar to the provisions specified in paragraph (a), or
 - (c) a power of advancement which is conferred on the trustees by the instrument creating the settlement, or by another instrument made in accordance with the terms of the settlement, and which is subject to the same restrictions as those specified in section 32(1)(a) and (c) of the Trustee Act 1925 (c. 19).]
- (5) In this section “the Criminal Injuries Compensation Scheme” means—
- (a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995 (c. 53),
 - (b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, or
 - (c) the scheme established under the Criminal Injuries (Northern Ireland) Order 2002 (S.I. 2002/796 (N.I. 1)).

Textual Amendments

- F2** S. 35(4)(a)-(c) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 48\(3\)\(5\)](#)

36 Parts of assets

For the purposes of this Chapter references to property being held on trusts include references to a part of an asset being held on trusts if—

- (a) that part of the asset, and
- (b) any income arising from it (or treated as arising from it),

can be identified for the purpose of determining whether the trusts on which it is held are qualifying trusts.

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