



# Finance Act 1981

## 1981 CHAPTER 35

### PART IV

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

19— .....<sup>F1</sup>  
37.

#### Textual Amendments

**F1** Ss. 19–37 repealed by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 844, [Sch. 31](#). See 1987 edition for these provisions.

### 38 Interest charged to capital.

(1) .....<sup>F2</sup>

(3) In section 269 of the Taxes Act (interest charged to capital), paragraph (c) together with the word “and” immediately preceding it shall be omitted and for the words following that paragraph there shall be substituted the words “the sums so allowable under the said section 32 shall, subject to subsection (1A) below, include the amount of any interest on that borrowed money which is referable to a period or part of a period ending on or before the disposal.

(1A) Subsection (1) above has effect subject to section 33 of the said Act of 1979 and does not apply to interest which is a charge on income.”.

(4) This section has effect in relation to interest paid in any accounting period ending on or after 1st April 1981.

*Status: Point in time view as at 01/10/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1981, Part IV. (See end of Document for details)*

**Textual Amendments**

**F2** S. 38(1)(2) repealed by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 844, [Sch. 31](#)

**Modifications etc. (not altering text)**

**C1** The text from “the sums” to the end of s. 38(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2. 1991.

**39—** ..... **F3**  
**51.**

**Textual Amendments**

**F3** Ss. 39–51 repealed by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 844, [Sch. 31](#)

**CHAPTER II**

RELIEF FOR INVESTMENTS IN NEW CORPORATE TRADES

**52—** ..... **F4**  
**67.**

**Textual Amendments**

**F4** Ss. 52–67 repealed by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 844, [Sch. 31](#)

**CHAPTER III**

BENEFITS IN KIND

**68—** ..... **F5**  
**72.**

**Textual Amendments**

**F5** Ss. 68–72 repealed by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 844, [Sch. 31](#). See 1987 edition for these provisions.

*Status: Point in time view as at 01/10/1991.*

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## CHAPTER IV

### CAPITAL ALLOWANCES

73— ..... F6  
77.

#### Textual Amendments

**F6** Ss. 73–77 repealed by [Capital Allowances Act 1990 \(c. 1\)](#), s. 164(4)(5), [Sch. 2](#). See 1989 edition for these provisions.

## CHAPTER V

### CAPITAL GAINS

[<sup>F7</sup>78 (1) ..... F8  
(2) In subsection (3)(a) of [<sup>F9</sup>section 79 of the Finance Act 1980] for the words “section 19(3)” there shall be substituted the words “any provision”.  
(3) ..... F10  
(4) This section applies to disposals after 5th april 1981.]

#### Textual Amendments

- F7** S. 78 repealed by [Finance Act 1989 \(c. 26\)](#), s. 187, [Sch. 17 Pt. VII](#) in relation to disposals on or after 14 March 1989 (except where relief given under s. 79 of the Finance Act 1980 in respect of a disposal before that date).
- F8** S. 78(1) repealed by [Finance Act 1982 \(c. 39\)](#), ss. 82(4), 157, [Sch. 22 Pt. VI](#) in relation to disposals on or after 6 April 1982.
- F9** Words substituted by [Finance Act 1982 \(c. 39\)](#), [ss. 82\(4\)](#) in relation to disposals on or after 6 April 1982.
- F10** S. 78(3) repealed by [Finance Act 1982 \(c. 39\)](#), ss. 82(4), 157, [Sch. 22 Pt. VI](#) in relation to disposals on or after 6 April 1982.

## 79 Emigration of donee.

- (1) If—
- [<sup>F11</sup>(a) relief is given under section 126 of the Capital Gains Tax Act 1979 in respect of a disposal to an individual [<sup>F12</sup>or under section 147A of that Act in respect of a disposal to an individual] (“the relevant disposal”);] and
- (b) at a time when he has not disposed of the asset in question, the transferee becomes neither resident nor ordinarily resident in the United Kingdom,
- then, subject to the following provisions of this section, a chargeable gain shall be deemed to have accrued to the transferee immediately before that time, and its amount shall be equal to the held-over gain (within the meaning of [<sup>F13</sup>section 126 or 147A] on the relevant disposal.

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- (2) For the purposes of subsection (1) above the transferee shall be taken to have disposed of an asset before the time there referred to only if he has made a disposal or disposals in connection with which the whole of the held-over gain on the relevant disposal was represented by reductions made in accordance with [<sup>F13</sup>section 126(3)(b) or 147A(3)(b) of the Capital Gains Tax Act 1979]; and where he has made a disposal in connection with which part of that gain was so represented, the amount of the chargeable gain deemed by virtue of this section to accrue to him shall be correspondingly reduced.
- (3) The disposals by the transferee that are to be taken into account under subsection (2) above shall not include any disposal to which section 44 of the <sup>M1</sup>Capital Gains Tax 1979 (disposals between spouses) applies; but where any such disposal is made by the transferee, disposals by his spouse shall be taken into account under subsection (2) above as if they had been made by him.
- (4) Where the relevant disposal was made to an individual, subsection (1) above shall not apply by reason of his becoming neither resident nor ordinarily resident more than six years after the end of the year of assessment in which the relevant disposal was made.
- (5) Subsection (1) above shall not apply where the relevant disposal was made to an individual and—
  - (a) the reason for his becoming neither resident nor ordinarily resident in the United Kingdom is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and
  - (b) he again becomes resident or ordinarily resident in the United Kingdom within the period of three years from the time when he ceases to be so, without having meanwhile disposed of the asset in question;
 and accordingly no assessment shall be made by virtue of subsection (1) above before the end of the said period of three years in any case where the condition in paragraph (a) above is, and the condition of paragraph (b) above may be, satisfied.
- (6) For the purposes of subsection (5) above a person shall be taken to have disposed of an asset if he has made a disposal in connection with which the whole or part of the held-over gain on the relevant disposal would, had he been resident in the United Kingdom, have been represented by a reduction made in accordance with [<sup>F14</sup>section 126(3)(b) or 147A(3)(b) of the Capital Gains Tax Act 1979]; and subsection (3) above shall have effect for the purposes of this subsection as it has effect for the purposes of subsection (2) above.
- (7) Where an amount of tax assessed on a transferee by virtue of subsection (1) above is not paid within the period of twelve months beginning with the date when the tax becomes payable then, subject to subsection (8) below, the transferor may be assessed and charged (in the name of the transferee) to all or any part of that tax.
- (8) No assessment shall be made under subsection (7) above more than six years after the end of the year of assessment in which the relevant disposal was made.
- (9) Where the transferor pays an amount of tax in pursuance of subsection (7) above, he shall be entitled to recover a corresponding sum from the transferee.
- (10) Gains on disposals made after a chargeable gain has under this section been deemed to accrue by reference to a held-over gain shall be computed without any reduction under [<sup>F14</sup>section 126(3)(b) or 147A(3)(b) of the Capital Gains Tax Act 1979] in respect of that held-over gain.

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### Textual Amendments

- F11** Words substituted by [Finance Act 1989 \(c. 26\), s. 124, Sch. 14 para. 6\(3\)](#) in relation to disposals on or after 14 March 1989 (except where relief given under s. 79 of the Finance Act 1980 in respect of a disposal before that date). Previously “(a) relief under section 79 of the Finance Act 1980 is given in respect of a disposal made after 5th April 1981 (“the relevant disposal)””.
- F12** Words in [s. 79\(1\)\(a\)](#) substituted by [Finance Act 1991 \(c. 31, SIF 63:2\), s. 92\(2\)\(6\)](#), (where the transferee becomes neither resident nor ordinarily resident in the United Kingdom on or after 19th March 1991.)
- F13** Words substituted by [Finance Act 1989 \(c. 26\), s. 124, Sch. 14 para. 6\(3\)](#) in relation to disposals on or after 14 March 1989 (except where relief given under s. 79 of the Finance Act 1980 in respect of a disposal before that date). Previously, “the said section 79” and “subsection (1)(b) of the the said section 79”.
- F14** Words substituted by [Finance Act 1989 \(c. 26\), s. 124, Sch. 14 para. 6\(3\)\(b\)](#) on or after 14 March 1989 (except where relief given under s. 79 of the Finance Act 1980 in respect of a disposal before that date). Previously, “section 79(1)(b) of the Finance Act 1980”.

### Modifications etc. (not altering text)

- C2** See [Finance Act 1986 \(c. 41\), s. 58\(5\)](#)—application of s. 79 to the held-over gains of trusts which become dual resident trusts on or after 18 March 1986.
- C3** See [Finance Act 1988 \(c. 39, SIF 63:1, 2\), Sch. 9 para. 3](#)—deferred charges on gains before 31st March 1982.

### Marginal Citations

- M1** [1979 c. 14.](#)

## 80 Gains of non-resident settlements.

- (1) This section applies to a settlement for any year of assessment (beginning on or after 6th April 1981) during which the trustees are at no time resident or ordinarily resident in the United Kingdom if the settlor or one of the settlors is at any time during that year, or was when he made his settlement, domiciled and either resident or ordinarily resident in the United Kingdom.
- (2) There shall be computed in respect of every year of assessment for which this section applies the amount on which the trustees would have been chargeable to tax under section 4(1) of the <sup>M2</sup>Capital Gains Tax Act 1979 if they had been resident or ordinarily resident in the United Kingdom in the year; and that amount, together with the corresponding amount in respect of any earlier such year so far as not already treated under subsection (3) or section 81(2) below as chargeable gains accruing to beneficiaries under the settlement, is in this section and sections 81 and 82 below referred to as the trust gains for the year.

[<sup>F15</sup>(2A) Where as regards the same settlement and for the same year of assessment—

- (a) chargeable gains, whether of one amount or of two or more amounts, are treated as accruing by virtue of paragraph 2 of Schedule 16 to the Finance Act 1991 (gains of non-resident settlements chargeable on settlor), and
- (b) an amount falls to be computed under subsection (2) above,

the amount so computed shall be treated as reduced by the amount, or aggregate of the amounts, mentioned in paragraph (a) above.]

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- (3) Subject to the following provisions of this section, the trust gains for a year of assessment shall be treated as chargeable gains accruing in that year to beneficiaries of the settlement who receive capital payments from the trustees in that year or have received such payments in any earlier year.
- (4) The attribution of chargeable gains to beneficiaries under subsection (3) above shall be made in proportion to, but shall not exceed, the amounts of the capital payments received by them.
- (5) A capital payment shall be left out of account for the purposes of subsections (3) and (4) above to the extent that chargeable gains have by reason of the payment been treated as accruing to the recipient in an earlier year.
- (6) A beneficiary shall not be charged to tax on chargeable gains treated by virtue of subsection (3) above as accruing to him in any year unless he is domiciled in the United Kingdom at some time in that year.
- [<sup>F16</sup>(6A) In computing an amount under subsection (2) above in respect of the year 1991-92 or a subsequent year of assessment, the effect of Schedule 10 to the Finance Act 1988 (settlor chargeable instead of trustees in certain circumstances) shall be ignored.]
- (7) For the purposes of this section a settlement arising under a will or intestacy shall be treated as made by the testator or intestate at the time of his death.
- (8) Section 17 of the Capital Gains Tax Act 1979 shall not apply as respects chargeable gains accruing to the trustees of a settlement after 5th April 1981; and the references in subsections (3) and (4) above to capital payments received by beneficiaries do not include references to any payment received before 10th March 1981, or any payment received on or after that date [<sup>F17</sup>and before the 6th April 1984] so far as it represents a chargeable gain which accrued to the trustees before 6th April 1981.

#### Textual Amendments

- F15** S. 80(2A) inserted by Finance Act 1991 (c. 31, SIF 63:2), s. 89(2).  
**F16** S. 80(6A) inserted by Finance Act 1991 (c. 31, SIF 63:2), s. 91, Sch. 18, para.1.  
**F17** Words inserted by Finance Act 1984 (c. 43), s. 70(3)

#### Modifications etc. (not altering text)

- C4** S. 80: definition of "capital payment" applied by Finance Act 1991 (c. 31, SIF 63:2), s. 90, Sch. 17 para. 1(c).  
**C5** See Income and Corporation Taxes 1988 (c. 1, SIF 63:1), s. 762—ss. 80 to 84 to have effect for offshore income gains subject to 1988 s. 762(4) and to the modifications contained in 1988 s. 762.  
**C6** See Finance Act 1984 (c. 43), s. 70, Sch. 14 paras. 7(5), 8(3)(4), 12(2)—capital payments to be left out of account for the purposes of s. 80(3)(4) where postponement of capital gains tax under 1984 Sch. 14

#### Marginal Citations

- M2** 1979 c. 14.

#### [80A <sup>F18</sup> Gains of dual-resident settlements.

- (1) Section 80 above also applies to a settlement for any year of assessment beginning on or after 6th April 1991 if—

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- (a) the trustees are resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year,
  - (b) at any time of such residence or ordinary residence they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom, and
  - (c) the settlor or one of the settlors is at any time during that year, or was when he made his settlement, domiciled and either resident or ordinarily resident in the United Kingdom;
- and “double taxation relief arrangements” here means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979).
- (2) In respect of every year of assessment for which section 80 above applies by virtue of this section, section 80 shall have effect as if the amount to be computed under section 80(2) were the assumed chargeable amount; and the reference in section 80(2) to the corresponding amount in respect of an earlier year shall be construed as a reference to the amount computed under section 80(2) apart from this section or (as the case may be) the amount computed under section 80(2) by virtue of this section.
  - (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 two amounts—
    - (a) the amount on which the trustees would be chargeable to tax for the year under section 4(1) of the Capital Gains Tax Act 1979 on the assumption that the double taxation relief arrangements did not apply;
    - (b) the amount on which, by virtue of disposals of protected assets, the trustees would be chargeable to tax for the year under section 4(1) of that Act 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.
  - (6) In computing the assumed chargeable amount in respect of a particular year of assessment, the effect of Schedule 10 to the Finance Act 1988 (settlor chargeable instead of trustees in certain circumstances) shall be ignored.
  - (7) For the purposes of section 80 above as it applies by virtue of this section, capital payments received before 6th April 1991 shall be disregarded.]

#### Textual Amendments

**F18** S. 80A inserted by Finance Act 1991 (c. 31, SIF 63:2), s. 91, Sch. 18, para.2.

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**Modifications etc. (not altering text)**

- C7 S. 80A: definition of "capital payment" applied by [Finance Act 1991 \(c. 31, SIF 63:2\)](#), s. 90, [Sch. 17 para. 1\(c\)](#).

**81 Migrant settlements.**

- (1) Where a period of one or more years of assessment for which section 80 above applies to a settlement (in this section referred to as a “non-resident period”) succeeds a period of one or more years of assessment [<sup>F19</sup>for each of which section 80 above does not apply to the settlement] (in this section referred to as a “resident period”), a capital payment received by a beneficiary in the resident period shall be disregarded for the purposes of section 80 if it was not made in anticipation of a disposal made by the trustees in the non-resident period.
- (2) Where—
- (a) a non-resident period is succeeded by a resident period, and
  - (b) the trust gains for the last year of the non-resident period are not (or not wholly) treated as chargeable gains accruing in that year to beneficiaries,
- then, subject to subsection (3) below, those trust gains (or the outstanding part of them) shall be treated as chargeable gains accruing in the first year of the resident period to beneficiaries of the settlement who receive capital payments from the trustees in that year; and so on for the second and subsequent years until the amount treated as accruing to beneficiaries is equal to the amount of the trust gains for the last year of the non-resident period.
- (3) Subsections (4) and (6) of section 80 above shall apply in relation to subsection (2) above as they apply in relation to subsection (3) of that section

**Textual Amendments**

- F19 Words in s. 81(1) substituted by [Finance Act 1991 \(c. 31, SIF 63:2\)](#), s. 91, [Sch. 18 para.3](#).

**Modifications etc. (not altering text)**

- C8 S. 81: definition of "capital payment" applied by [Finance Act 1991 \(c. 31, SIF 63:2\)](#), s. 90, [Sch. 17, para. 1\(c\)](#).

**82 Transfers between settlements.**

- (1) If in a year of assessment for which section 80 or 81(2) above applies to a settlement (“the transferor settlement”) the trustees transfer all or part of the settled property to the trustees of another settlement (“the transferee settlement”) then, subject to the following provisions—
- (a) if section 80 applies to the transferee settlement for the year, its trust gains for the year shall be treated as increased by an amount equal to the outstanding trust gains for the year of the transferor settlement or, where part only of the settled property is transferred, to a proportionate part of those trust gains;
  - (b) if section 81(2) applies to the transferee settlement for year (otherwise than by virtue of paragraph (c) below), the trust gains referred to in section 81(2) shall be treated as increased by the amount mentioned in paragraph (a) above;



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- (c) if (apart from this paragraph) neither section 80 nor section 81(2) above applies to the transferee settlement for the year, section 81(2) shall apply to it as if the year were the first year of a resident period succeeding a non-resident period and the trust gains referred to in section 81(2) were equal to the amount mentioned in paragraph (a) above.
- (2) Subject to subsection (3) below, the reference in subsection (1)(a) above to the outstanding trust gains for the year of the transferor settlement is a reference to the amount of its trust gains for the year so far as they are not treated under section 80(3) above as chargeable gains accruing to beneficiaries in that year.
- (3) Where section 81(2) above applies to the transferor settlement for the year, the reference in subsection (1)(a) above to the outstanding trust gains of the settlement is a reference to the trust gains referred to in section 81(2) so far as not treated as chargeable gains accruing to beneficiaries in that or an earlier year.
- (4) This section shall not apply to a transfer so far as it is made for consideration in money or money's worth.

**Modifications etc. (not altering text)**

- C9** [S. 82](#): definition of "capital payment" applied by [Finance Act 1991 \(c. 31, SIF 63:2\)](#), s. 90, [Sch. 17 para. 1\(c\)](#).

**[82A** <sup>F20</sup> **Payments by and to companies.**

- (1) Where a capital payment is received from a qualifying company which is controlled by the trustees of a settlement at the time it is received, for the purposes of sections 80 to 82 above it shall be treated as received from the trustees.
- (2) Where a capital payment is received from the trustees of a settlement (or treated as so received by virtue of subsection (1) above) and it is received by a non-resident qualifying company, the rules in subsections (3) to (6) below shall apply for the purposes of sections 80 to 82 above.
- (3) If the company is controlled by one person alone at the time the payment is received, and that person is then resident or ordinarily resident in the United Kingdom, it shall be treated as a capital payment received by that person.
- (4) If the company is controlled by two or more persons (taking each one separately) at the time the payment is received, then—
  - (a) if one of them is then resident or ordinarily resident in the United Kingdom, it shall be treated as a capital payment received by that person;
  - (b) if two or more of them are then resident or ordinarily resident in the United Kingdom (the residents) it shall be treated as being as many equal capital payments as there are residents and each of them shall be treated as receiving one of the payments.
- (5) If the company is controlled by two or more persons (taking them together) at the time the payment is received and each of them is then resident or ordinarily resident in the United Kingdom—
  - (a) it shall be treated as being as many capital payments as there are participators in the company at the time it is received, and

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- (b) each such participator (whatever his residence or ordinary residence) shall be treated as receiving one of the payments, quantified on the basis of a just and reasonable apportionment.
- (6) But where (by virtue of subsection (5) above and apart from this subsection) a participator would be treated as receiving less than one twentieth of the payment actually received by the company, he shall not be treated as receiving anything by virtue of subsection (5) above.
- (7) For the purposes of subsection (1) above a qualifying company is a close company or a company which would be a close company if it were resident in the United Kingdom.
- (8) For the purposes of subsection (1) above a company is controlled by the trustees of a settlement if it is controlled by the trustees alone or by the trustees together with a person who (or persons each of whom) falls within subsection (9) below.
- (9) A person falls within this subsection if—
- (a) he is a settlor in relation to the settlement, or
  - (b) he is connected with a person falling within paragraph (a) above.
- (10) For the purposes of subsection (2) above a non-resident qualifying company is a company which is not resident in the United Kingdom and would be a close company if it were so resident.
- (11) For the purposes of this section the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act 1988; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (12) In this section “participator” has the meaning given by section 417(1) of the Taxes Act 1988.
- (13) This section shall apply to payments received on or after 19th March 1991.]

#### Textual Amendments

**F20** S. 82A inserted by Finance Act 1991 (c. 31, SIF 63:2), s. 91, **Sch. 18 para.4**

#### Modifications etc. (not altering text)

**C10** S. 82A: definition of "capital payment" applied by Finance Act 1991 (c. 31, SIF 63:2), s. 90, **Sch. 17 para. 1(c)**.

### 83 Provisions supplementary to sections 80 to 82.

- (1) In sections 80 to [F21]82A] above “capital payment” means any payment which is not chargeable to income tax on the [F22]recipient] or, in the case of a [F22]recipient] who is neither resident nor ordinarily resident in the United Kingdom, any payment received otherwise than as income.
- [F23](1A) But in sections 80 to 82A above “capital payment” does not include a payment under a transaction entered into at arm’s length.]
- (2) In [F24]subsections (1) and (1A)]above references to a payment include references to the transfer of an asset and the conferring of any other benefit, and to any occasion on

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which settled property becomes property to which section 46 of the <sup>M3</sup>Capital Gains Tax Act 1979 applies.

- (3) The fact that the whole or part of a benefit is by virtue of [<sup>F25</sup>section 740(2)(b) of the Taxes Act] treated as the recipient's income for a year of assessment after that in which it is received—
- (a) shall not prevent the benefit or that part of it being treated for the purposes of sections 80 to [<sup>F26</sup>82A] above as a capital payment in relation to any year of assessment earlier than that in which it is treated as his income; but
  - (b) shall preclude its being treated for those purposes as a capital payment in relation to that or any later year of assessment.
- (4) For the purposes of sections 80 to [<sup>F26</sup>82A] above the amount of a capital payment made by way of loan, and of any other capital payment which is not an outright payment of money, shall be taken to be equal to the value of the benefit conferred by it.
- (5) For the purposes of sections 80 to 82 above a capital payment shall be regarded as received by a beneficiary from the trustees of a settlement if—
- (a) he receives it from them directly or indirectly, or
  - (b) it is directly or indirectly applied by them in payment of any debt of his or is otherwise paid or applied for his benefit, or
  - (c) it is received by a third person at the beneficiary's direction.
- (6) Section 29(3) of the <sup>M4</sup>Capital Gains Tax Act 1979 (losses accruing to non-residents not to be allowable losses) shall not prevent losses accruing to trustees in a year of assessment for which section 80 above or section 17 of that Act applied to the settlement from being allowed as a deduction from chargeable gains accruing in any later year beginning after 5th April 1981 (so far as they have not previously been set against gains for the purposes of a computation under either of those sections or otherwise).
- [<sup>F27</sup>(7) In sections 80 to [<sup>F26</sup>82A] above and in the preceding provisions of this section—
- “settlement” and “settlor” have the meaning given by section [<sup>F28</sup>681(4)] of the Taxes Act and “settlor” includes, in the case of a settlement arising under a will or intestacy, the testator or intestate; and
  - “settled property” shall be construed accordingly.]
- [<sup>F29</sup>(8) In a case where—
- (a) at any time on or after 19th March 1991 a capital payment is received from the trustees of a settlement or is treated as so received by virtue of section 82A(1) above,
  - (b) it is received by a person, or treated as received by a person by virtue of section 82A(2) to (6) above,
  - (c) at the time it is received or treated as received, the person is not (apart from this subsection) a beneficiary of the settlement, and
  - (d) subsection (9) or (10) below does not prevent this subsection applying,
- for the purposes of sections 80 to 82 above the person shall be treated as a beneficiary of the settlement as regards events occurring at or after that time.
- (9) Subsection (8) above shall not apply where a payment mentioned in paragraph (a) is made in circumstances where it is treated (otherwise than by subsection (8) above) as received by a beneficiary.

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- (10) Subsection (8) above shall not apply so as to treat—
- (a) the trustees of the settlement referred to in that subsection, or
  - (b) the trustees of any other settlement,
- as beneficiaries of the settlement referred to in that subsection.
- (11) In subsection (8) above “capital payment” has the same meaning as in sections 80 to 82A above.]

#### Textual Amendments

- F21** Word in s. 83(1) substituted by Finance Act 1991 (c. 31, SIF 63:2), s. 91, **Sch. 18**, para. 6(2)(a)(6)
- F22** Word in s. 83(1) substituted by Finance Act 1991 (c. 31, SIF 63:2), s. 91, **Sch. 18 para. 6(2)(b)(6)**
- F23** S. 83(1A) inserted by Finance Act 1991 (c. 31, SIF 63:2), s. 91, **Sch. 18 para. 6(3)(6)**
- F24** Words in s. 83(2) substituted by Finance Act 1991 (c. 31, SIF 63:2), s. 91, **Sch. 18 para. 6(4)(6)**
- F25** Words substituted by Finance Act 1990 (c. 29), s. 89, **Sch. 14 para. 18** (correction of errors)—treated as if made by Income and Corporation Tax Act 1988. Previously “section 45(2)(b) above”.
- F26** Word in s. 83(3)(a)(4)(7) substituted by Finance Act 1991 (c.31, SIF 63:2), s. 91, **Sch.18**, para. 6(5)(6)
- F27** S. 83(7) added by Finance Act 1984 (c. 43), s. 71
- F28** Words substituted by Income and Corporation Taxes Act 1988, Sch. 29 para. 32
- F29** S. 83(8)-(11) inserted by Finance Act 1991 (c. 31, SIF 63:2), s. 91, **Sch.18**, para.5.

#### Modifications etc. (not altering text)

- C11** See Finance Act 1984 (c. 43), s. 70(1), **Sch. 14 para. 1(2)**—subject to 1984 s. 70(4), s. 83 to apply for the purposes of 1984 Sch. 14 as it does for 1981 ss. 80 to 82.

#### Marginal Citations

- M3** 1979 c. 14.  
**M4** 1979 c. 14.

### 84 Power to obtain information for purposes of sections 80 to 82.

- (1) The Board may by notice in writing require any person to furnish them within such time as they may direct, not being less than twenty-eight days, with such particulars as they think necessary for the purposes of sections 80 to 82 above.
- (2) Subsections (2) to (4) of section 481 of the Taxes Act shall have effect in relation to subsection (1) above as they have effect in relation to section [F30745(1)], but in their application by virtue of this subsection—
- (a) references to Chapter III of Part XVII of the Taxes Act shall be construed as references to sections 80 to 82 above; and
  - (b) the expressions “settlement” and “settlor” have the same meanings as in those sections.

#### Textual Amendments

- F30** Words substituted by Income and Corporation Taxes Act 1988 (c. 1), **Sch. 29 para. 32**

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1981, Part IV. (See end of Document for details)*

**85 Non-resident trustees and non-resident companies.**

- (1) The persons treated by section 15 of the Capital Gains Tax Act 1979 as if a part of a chargeable gain accruing to a company had accrued to them shall include trustees owning shares in the company if when the gain accrues to the company the trustees are neither resident nor ordinarily resident in the United Kingdom.
- (2) This section applies to gains accruing to a company on or after 10th March 1981.

**86 Transfers into settlement.**

- (1) In section 53 of the <sup>M5</sup>Capital Gains Tax Act 1979 (which provides that a gift in settlement is a disposal of the entire property settled notwithstanding that the donor is a beneficiary or trustee) for the words “gift in” and “donor” there shall be substituted the words “transfer into” and “transferor” respectively.
- (2) This section shall be deemed to have come into force on the 10th March 1981.

**Marginal Citations**

M5 1979 c. 14.

**87 Appointments to persons under disability.**

- (1) In section 54 of the Capital Gains Tax Act 1979 (deemed disposal for market value when a person becomes absolutely entitled to settled property) after subsection (2) there shall be added—
  - “(3) References in this section to the case where a person becomes absolutely entitled to settled property as against the trustee shall be taken to include references to the case where a person would become so entitled but for being an infant or other person under disability.”
- (2) In section 56(1) of that Act (death of life tenant) after the word “becomes” there shall be inserted the words “(or would but for a disability become)”.
- (3) This section applies where the occasion concerned occurs on or after 10th March 1981.

**Modifications etc. (not altering text)**

**C12** The text beginning “(3) References in this section” to the end of s. 87(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**88 Disposal of interests in non-resident settlements.**

- (1) Subsection (1) of section 58 of the Capital Gains Tax Act 1979 shall not apply to the disposal of an interest in settled property, other than one treated under subsection (2) of that section as made in consideration of obtaining the settled property, if at the time of the disposal the trustees are neither resident nor ordinarily resident in the United Kingdom.

<sup>F31</sup>(2) .....

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F31(3) .....

F31(4) .....

F31(5) .....

F31(6) .....

(7) This section applies to disposals on or after 10th March 1981.

#### Textual Amendments

**F31** S. 88(2)-(6) repealed by Finance Act 1991 (c. 31, SIF 63:2), ss. 92(3)(5), 123, Sch. 19 Pt. VI, Note 4

#### <sup>X1</sup>89 Trusts for the disabled.

(1) Paragraph 5 of Schedule 1 to the <sup>M6</sup>Capital Gains Tax Act 1979 (which extends to certain trusts for the disabled the £3,000 exemption given to individuals by section 5) shall be amended as follows.

(2) In sub-paragraph (1) for the words from “any of the property” to “that person” there shall be substituted the words—

- “(a) not less than half of the property which is applied is applied for the benefit of that person, and
- (b) that person is entitled to not less than half of the income arising from the property, or no such income may be applied for the benefit of any other person.”

(3) After sub-paragraph (1) there shall be inserted—

“(1A) The trusts on which settled property is held shall not be treated as falling outside sub-paragraph (1) above by reason only of the powers 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); and the reference in that sub-paragraph to the life-time of a person shall, where the income from the settled property is held for his benefit on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), be construed as a reference to the period during which the income is held on trust for him.

(1B) In relation to a settlement which is one of two or more qualifying settlements comprised in a group, this paragraph shall have effect as if for the references in section 5 of this Act to £3,000 there were substituted references to £300 or, if it is more, to such amount as results from dividing £3,000 by the number of settlements in the group.

(1C) For the purposes of sub-paragraph (1B) above—

- (a) a qualifying settlement is any settlement (other than an excluded settlement) which is made on or after 10th March 1981 and to the trustees of which this paragraph applies for the year of assessment; and
- (b) all qualifying settlements in relation to which the same person is the settlor constitute a group.

(1D) If, in consequence of two or more persons being settlors in relation to it, a settlement is comprised in two or more groups comprising different numbers

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1981, Part IV. (See end of Document for details)*

of settlements, sub-paragraph (1B) above shall apply to it as if the number by which the amount of £3,000 is to be divided were the number of settlements in the largest group.”

(4) At the end of sub-paragraph (2) there shall be added the words “; and “settlor” and “excluded settlement” have the same meanings as in paragraph 6 below”.

(5) After sub-paragraph (2) there shall be added—

“(3) An inspector may by notice in writing require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than twenty-eight days) with such particulars as he thinks necessary for the purposes of this paragraph.”

#### **Editorial Information**

**X1** The text of part of ss. 89, 90, 91, 114, 116, 119 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

**M6** 1979 c. 14.

### **x<sup>2</sup>90 Market value.**

(1) After section 29 of the Capital Gains Tax Act 1979 there shall be inserted—

#### **“29A Disposals and acquisitions treated as made at market value.**

- (1) Subject to the provisions of this Act, a person’s acquisition or disposal of an asset shall for the purposes of this Act be deemed to be for a consideration equal to the market value of the asset—
- (a) where he acquires or, as the case may be, disposes of the asset otherwise than by way of a bargain made at arm’s length, and in particular where he acquires or disposes of it by way of gift or on a transfer into settlement by a settlor or by way of distribution from a company in respect of shares in the company, or
  - (b) where he acquires or, as the case may be, disposes of the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another’s loss of office or employment or diminution of emoluments, or otherwise in consideration for or recognition of his or another’s services or past services in any office or employment or of any other service rendered or to be rendered by him or another.
- (2) Except in the case specified in subsection (4) below, subsection (1) above shall not apply to the acquisition of an asset if—
- (a) there is no corresponding disposal of it, or the corresponding disposal is made by an excluded person, and
  - (b) there is no consideration in money or money’s worth or the consideration is of an amount or value lower than the market value of the asset.

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- (3) Where in the case of an acquisition within subsection (2) above there is a corresponding disposal by an excluded person, subsection (1) above shall not apply to that disposal.
- (4) The exception referred to in subsection (2) above is the acquisition by an individual of tangible movable property or currency in circumstances where there is a corresponding disposal by an individual who is neither resident nor ordinarily resident in the United Kingdom ; and for this purpose “tangible movable property” does not include commodities of a kind dealt with on a terminal market, or a mere right in or over any property.
- (5) In this section “excluded person” means—
- (a) a person who is neither resident nor ordinarily resident in the United Kingdom ; or
  - (b) a person who is wholly exempt from tax in respect of chargeable gains, or would be so exempt on making a claim for exemption ; or
  - (c) a charity ; or
  - (d) a registered friendly society ; or
  - (e) a person making the disposal for the purposes of —
    - (i) a fund to which section 218 or 226(6) of the Taxes Act or section 36 of the Finance Act 1980 applies, or
    - (ii) an exempt approved scheme or statutory scheme as defined in Chapter II of Part II of the Finance Act 1970.”
- (2) In section 32 of the <sup>M7</sup>Capital Gains Tax Act 1979 (allowance of expenditure in computation of gains) after subsection (4) there shall be added—
- “(5) Where—
- (a) a person acquires an asset for no consideration in money or money’s worth or for a consideration of an amount or value lower than the market value of the asset, and is not treated under any provision of this Act as acquiring it for a consideration other than the actual consideration, and
  - (b) there is a corresponding disposal of the asset by a person who is neither resident nor ordinarily resident in the United Kingdom, and
  - (c) a charge to income tax, corporation tax or capital gains tax arises in respect of the acquisition,
- the sums allowable under this section as a deduction in the computation made on the first-mentioned person’s disposal of the asset shall include a sum equal to the amount in respect of which the charge arises.
- (6) The condition in paragraph (c) of subsection (5) above shall be taken to be satisfied where under section 80(3) of the Finance Act 1981 chargeable gains are treated as accruing to a person in any year by reason of his acquisition of an asset in that or an earlier year ; and the reference in subsection (5) above to the amount in respect of which the charge arises shall be taken to be a reference to the amount of the gains treated as accruing to him.”.
- (3) Subsection (3) of section 19 of the <sup>M8</sup>Capital Gains Tax Act 1979 (which is superseded by this section) shall cease to have effect; and—
- (a) for the references to that subsection (or to a paragraph of it) in sections 49(5), 62(2), 90(3), 126(6), 146(2) and 149(2) of that Act and in section 47(1)



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- (b)(ii) of the <sup>M9</sup>Finance Act 1980 there shall be substituted references to section 29A(1) of the said Act of 1979; and
- (b) In section 62(5) of that Act for the words “the amount of the consideration for the acquisition being” there shall be substituted the words “where the amount of the consideration for the acquisition is”.
- (4) This section has effect in relation to acquisitions and disposals on or after 10th March 1981.

#### **Editorial Information**

- X2** The text of part of ss. 89, 90, 91, 114, 116, 119 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

- M7** 1979 c. 14.  
**M8** 1979 c. 14.  
**M9** 1980 c. 48.

### **<sup>X3</sup>91 Consideration on reorganisation of share capital etc.**

- (1) In section 79 of the Capital Gains Tax Act 1979 at the end of subsection (1) there shall be added—

“Provided also that, in the case of a reorganisation on or after 10th March 1981, any consideration given for the new holding or any part of it otherwise than by way of a bargain made at arm’s length shall be disregarded to the extent that its amount or value exceeds the relevant increase in value; and for this purpose “the relevant increase in value” means the amount by which the market value of the new holding immediately after the reorganisation exceeds the market value of the original shares immediately before the reorganisation.”.

- (2) In consequence of subsection (1) above—
- (a) in section 89(2) of the Capital Gains Tax Act 1979, for the word “proviso” there shall be substituted the word “provisos”; and
- (b) in section 37(12) of the Finance Act 1980, in the definition of “new consideration”, for the words “the proviso” there shall be substituted the words “the first proviso”.

#### **Editorial Information**

- X3** The text of part of ss. 89, 90, 91, 114, 116, 119 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Status:**

Point in time view as at 01/10/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1981, Part IV.