



Finance Act 1989

1989 CHAPTER 26

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Settlements etc.

F1 108

Textual Amendments

F1 S. 108 repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**, note

109 Settlements where settlor retains interest in settled property.

F2(1)

F2(2)

F2(3)

(4) In section 677(2)(c) of that Act, after “674” there shall be inserted “674A”.

Status: Point in time view as at 27/07/1999.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Settlements etc.. (See end of Document for details)

Textual Amendments

- F2** S. 109(1)-(3) repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII(8), note

110 Residence of trustees.

- (1) Where the trustees of a settlement include at least one who is not resident in the United Kingdom as well as at least one who is, then for all the purposes of the Income Tax Acts—
 - (a) if the condition in subsection (2) below is satisfied, the trustee or trustees not resident in the United Kingdom shall be treated as resident there, and
 - (b) otherwise, the trustee or trustees resident in the United Kingdom shall be treated as not resident there (but as resident outside the United Kingdom).
- (2) The condition referred to in subsection (1) above is that the settlor or, where there is more than one, any of them is at any relevant time—
 - (a) resident in the United Kingdom,
 - (b) ordinarily resident there, or
 - (c) domiciled there.
- (3) For the purposes of subsection (2) above the following are relevant times in relation to a settlor—
 - (a) in the case of a settlement arising under a testamentary disposition of the settlor or on his intestacy, the time of his death, and
 - (b) in the case of any other settlement, the time or, where there is more than one, each of the times when he has provided funds directly or indirectly for the purposes of the settlement.
- (4) For the purposes of this section “settlor”, in relation to a settlement, includes any person who has provided or undertaken to provide funds directly or indirectly for the purposes of the settlement.
- (5) In section 824(9) of the Taxes Act 1988 (repayment supplements), for the words “or a United Kingdom trust (as defined in section 231),” there shall be substituted the words “the trustees of a settlement”.
- (6) Subject to subsections (7) to (9) below, this section shall apply for the year 1989-90 and subsequent years of assessment.
- (7) For the purpose of determining the residence of trustees at any time during the year 1989-90, the condition in subsection (2) above shall be regarded as not having been satisfied if none of the trustees of the settlement is resident in the United Kingdom at any time during the period beginning with 1st October 1989 and ending with 5th April 1990.
- (8) This section shall not apply for any of the purposes of section 739 of the Taxes Act 1988 in relation to income payable before 15th June 1989, or for the purposes of subsection (3) of that section in relation to income payable on or after that date if—
 - (a) the capital sum there referred to is received, or the right to receive it is acquired, before that date, and
 - (b) that sum is wholly repaid, or the right to it waived, before 1st October 1989.

Status: Point in time view as at 27/07/1999.

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- (9) This section shall not apply for any of the purposes of section 740 of the Taxes Act 1988 in relation to benefits received before 15th June 1989; and, in relation to benefits received on or after that date, “relevant income” for those purposes shall include income arising to trustees before 6th April 1989 notwithstanding that one or more of them was not resident outside the United Kingdom, unless they have been charged to tax in respect of it.

111 Residence of personal representatives.

- (1) Where the personal representatives of a deceased person include at least one who is not resident in the United Kingdom as well as at least one who is, then for all the purposes of the Income Tax Acts—
- (a) if the condition in subsection (2) below is satisfied, the personal representative or representatives not resident in the United Kingdom shall be treated as resident there, and
 - (b) otherwise, the personal representative or representatives resident in the United Kingdom shall be treated as not resident there (but as resident outside the United Kingdom).
- (2) The condition referred to in subsection (1) above is that the deceased person is at his death—
- (a) resident in the United Kingdom,
 - (b) ordinarily resident there, or
 - (c) domiciled there.
- (3) In this section “personal representatives” means—
- (a) in relation to England and Wales, the deceased person’s personal representatives as defined by section 55 of the ^{M1}Administration of Estates Act 1925;
 - (b) in relation to Scotland, his executor or the judicial factor on his estate;
 - (c) in relation to Northern Ireland, his personal representatives as defined by section 45(1) of the ^{M2}Administration of Estates Act (Northern Ireland) 1955; and
 - (d) in relation to another country or territory, the persons having in relation to him under its law any functions corresponding to the functions for administration purposes of personal representatives under the law of England and Wales.
- (4) In section 824(9) of the Taxes Act 1988 (repayment supplements), for the words from “or, in” to “section 701)” there shall be substituted the words “or personal representatives (within the meaning of section 111 of the Finance Act 1989)”.
- (5) Subject to subsections (6) to (8) below, this section shall apply for the year 1989-90 and subsequent years of assessment.
- (6) For the purpose of determining the residence of personal representatives at any time during the year 1989-90, the condition in subsection (2) above shall be regarded as not having been satisfied if none of the personal representatives is resident in the United Kingdom at any time during the period beginning with 1st October 1989 and ending with 5th April 1990.

Status: Point in time view as at 27/07/1999.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Settlements etc.. (See end of Document for details)

- (7) This section shall not apply for any of the purposes of section 739 of the Taxes Act 1988 in relation to income payable before 15th June 1989, or for the purposes of subsection (3) of that section in relation to income payable on or after that date if—
- (a) the capital sum there referred to is received, or the right to receive it is acquired, before that date, and
 - (b) that sum is wholly repaid, or the right to it waived, before 1st October 1989.
- (8) This section shall not apply for any of the purposes of section 740 of the Taxes Act 1988 in relation to benefits received before 15th June 1989 and, in relation to benefits received on or after that date, “relevant income” for those purposes shall include income arising to personal representatives before 6th April 1989 notwithstanding that one or more of them was not resident outside the United Kingdom, unless they have been charged to tax in respect of it.

Marginal Citations

M1 1925 c.23.

M2 1955 c. 24 (N.I.).

Status:

Point in time view as at 27/07/1999.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Settlements etc..