

*Status: Point in time view as at 24/07/1996.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, SCHEDULE 1 is up to date with all changes known to be in force on or before 14 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)*

## SCHEDULES

### SCHEDULE 1

Section 3.

#### APPLICATION OF EXEMPT AMOUNT IN CASES INVOLVING SETTLED PROPERTY

- 1 (1) For any year of assessment during the whole or part of which settled property is held on trusts which secure that, during the lifetime of a mentally disabled person or a person in receipt of attendance allowance or of a disability living allowance by virtue of entitlement to the care component at the highest or middle rate—
- (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,
- section 3(1) to (6) shall apply to the trustees of the settlement as they apply to an individual [<sup>F1</sup>, but with the modifications specified in this paragraph].
- (2) 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 <sup>M1</sup>Trustee Act 1925 or section 33 of the <sup>M2</sup>Trustee Act (Northern Ireland) 1958 (powers of advancement); and the reference in that sub-paragraph to the lifetime 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 <sup>M3</sup>Trustee Act 1925 (protective trusts), be construed as a reference to the period during which the income is held on trust for him.
- [<sup>F2</sup>(2A) As they apply by virtue of sub-paragraph (1) above—
- (a) section 3(5A) has effect with the omission of paragraph (b), and
  - (b) section 3(5B) has effect with the omission of the words “or (b)”.]

(3) In relation to a settlement which is one of 2 or more qualifying settlements comprised in a group, this paragraph shall have effect as if for the references in section 3 to the exempt amount for the year [<sup>F3</sup>(except the one in section 3(2))] there were substituted references to one-tenth of that exempt amount or, if it is more, to such amount as results from dividing the exempt amount for the year by the number of settlements in the group.

(4) For the purposes of sub-paragraph (3) 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.

(5) If, in consequence of 2 or more persons being settlors in relation to it, a settlement is comprised in 2 or more groups comprising different numbers of settlements, sub-

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paragraph (3) above shall apply to it as if the number by which the exempt amount for the year is to be divided were the number of settlements in the largest group.

(6) In this paragraph—

“mentally disabled person” means a person who by reason of mental disorder within the meaning of the <sup>M4</sup>Mental Health Act 1983 is incapable of administering his property or managing his affairs;

“attendance allowance” means an allowance under section 64 of the <sup>M5</sup>Social Security Contributions and Benefits Act 1992 or section 64 of the <sup>M6</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“disability living allowance” means a disability living allowance under section 71 of the <sup>M7</sup>Social Security Contributions and Benefits Act 1992 or section 71 of the <sup>M8</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992; and

“settlor” and “excluded settlement” have the same meanings as in paragraph 2 below.

(7) An inspector may by notice require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than 28 days) with such particulars as he thinks necessary for the purposes of this paragraph.

#### Textual Amendments

- F1** Words in Sch. 1 para. 1(1) inserted (retrospectively) by [Finance Act 2003 \(c. 14\), Sch. 28 paras. 4\(2\)\(b\), 8](#)  
**F2** Sch. 1 para. 1(2A) inserted (retrospectively) by [Finance Act 2003 \(c. 14\), Sch. 28 paras. 4\(3\), 8](#)  
**F3** Words in Sch. 1 para. 1(3) inserted (retrospectively) by [Finance Act 2003 \(c. 14\), Sch. 28 paras. 4\(4\)\(b\), 8](#)

#### Marginal Citations

- M1** 1925 c. 19.  
**M2** 1958 c. 23 (N.I.).  
**M3** 1925 c. 19.  
**M4** 1983 c. 20.  
**M5** 1992 c. 6.  
**M6** 1992 c. 9.  
**M7** 1992 c. 4.  
**M8** 1992 c. 7.

2 (1) For any year of assessment during the whole or part of which any property is settled property, not being a year of assessment for which paragraph 1(1) above applies, section 3(1) to (6) shall apply to the trustees of a settlement as they apply to an individual but with the following modifications.

(2) In [<sup>F4</sup>section 3(1), (5A), (5B) and (5C)] for “the exempt amount for the year” there shall be substituted “ one-half of the exempt amount for the year ”.

[<sup>F5</sup>(2A) As they apply by virtue of sub-paragraph (1) above—

- (a) section 3(5A) has effect with the omission of paragraph (b), and  
 (b) section 3(5B) has effect with the omission of the words “or (b)”.]

(3) Section 3(6) shall apply only to the trustees of a settlement made before 7th June 1978 and, in relation to such trustees, shall have effect with the substitution for “the exempt amount for the year” and “twice the exempt amount for the year” of “ one-

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half of the exempt amount for the year ” and “ the exempt amount for the year ” respectively.

- (4) In relation to a settlement which is one of 2 or more qualifying settlements comprised in a group, sub-paragraph (2) above shall have effect as if for the reference to one-half of the exempt amount for the year there were substituted a reference to one-tenth of that exempt amount or, if it is more, to such amount as results from dividing one-half of the exempt amount for the year by the number of settlements in the group.
- (5) For the purposes of sub-paragraph (4) above—
  - (a) a qualifying settlement is any settlement (other than an excluded settlement) which is made after 6th June 1978 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.
- (6) If, in consequence of 2 or more persons being settlors in relation to it, a settlement is comprised in 2 or more groups comprising different numbers of settlements, sub-paragraph (4) above shall apply to it as if the number by which one-half of the exempt amount for the year is to be divided were the number of settlements in the largest group.
- (7) In this paragraph “settlor” has the meaning given by [<sup>F6</sup>section 660G(1) and (2)] of the Taxes Act and includes, in the case of a settlement arising under a will or intestacy, the testator or intestate and “excluded settlement” means—
  - (a) any settlement the trustees of which are not for the whole or any part of the year of assessment treated under section 69(1) as resident and ordinarily resident in the United Kingdom; and
  - (b) any settlement the property comprised in which—
    - (i) is held for charitable purposes only and cannot become applicable for other purposes; or
    - (ii) is held for the purposes of any such scheme or fund as is mentioned in sub-paragraph (8) below.
- (8) The schemes and funds referred to in sub-paragraph (7)(b)(ii) above are funds to which section 615(3) of the Taxes Act applies, schemes and funds approved under section 620 or 621 of that Act, sponsored superannuation schemes as defined in section 624 of that Act and exempt approved schemes and statutory schemes as defined in Chapter I of Part XIV of that Act.
- (9) An inspector may by notice require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than 28 days) with such particulars as he thinks necessary for the purposes of this paragraph.

#### Textual Amendments

- F4** Words in Sch. 1 para. 2(2) substituted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 5\(3\)\(a\)](#), [8](#)
- F5** Sch. 1 para. 2(2A) inserted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 5\(4\)](#), [8](#)
- F6** Words in Sch. 1 para. 2(7) substituted (with effect in accordance with s. 74(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 17 para. 32](#)

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