

Status: Point in time view as at 08/07/2008.

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 04 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 ^[F1] AND REPORTING LIMITS] IN CASES INVOLVING SETTLED PROPERTY

Textual Amendments

- F1** Words in Sch. 1 heading inserted (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 2\(1\)](#)

- ^[F2]A1 (1) In determining the exempt amount available to the trustees of a settlement in relation to a year of assessment—
- (a) a principal settlement and its sub-fund settlements shall be treated, for the purposes of paragraphs 1 and 2 below, as if no sub-fund elections had been made, and
 - (b) paragraph 3 below shall apply for the purposes of determining the exempt amount available to each member of the class consisting of a principal settlement and its sub-fund settlements.
- (2) The reference in sub-paragraph (1) above to a principal settlement and its sub-fund settlements means a principal settlement in respect of which one or more sub-fund elections are treated as having taken effect.]

Textual Amendments

- F2** Sch. 1 para. A1 inserted (with effect in accordance with Sch. 12 para. 45 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 44\(1\)](#)

- 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,
- ^[F3]sections 3(1) to (5C) and 3A] shall apply to the trustees of the settlement as they apply to an individual^[F4], 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 ^{M1}Trustee Act 1925 or section 33 of the ^{M2}Trustee Act (Northern Ireland) 1958 (powers of advancement); and the reference in that sub-paragraph to

Status: Point in time view as at 08/07/2008.

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 04 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)

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 ^{M3}Trustee Act 1925 (protective trusts), be construed as a reference to the period during which the income is held on trust for him.

[^{F5}(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 [^{F6}sections 3 and 3A(1)(a)] to the exempt amount for the year [^{F7}(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-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.

[^{F8}(5A) In its application to the trustees of a settlement, section 3A(1) has effect with the substitution for the reference to section 8 of the Management Act of a reference to section 8A of that Act.]

(6) In this paragraph—

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

“attendance allowance” means an allowance under section 64 of the ^{M5}Social Security Contributions and Benefits Act 1992 or section 64 of the ^{M6}Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“disability living allowance” means a disability living allowance under section 71 of the ^{M7}Social Security Contributions and Benefits Act 1992 or section 71 of the ^{M8}Social Security Contributions and Benefits (Northern Ireland) Act 1992; and

[^{F9}“excluded settlement” has the same meaning] as in paragraph 2 below.

(7) [^{F10}An officer of the Board] 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.

*Status: Point in time view as at 08/07/2008.**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 04 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)***Textual Amendments**

- F3** Words in Sch. 1 para. 1(1) substituted (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 4\(2\)\(a\)](#)
- F4** Words in Sch. 1 para. 1(1) inserted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 4\(2\)\(b\), 8](#)
- F5** Sch. 1 para. 1(2A) inserted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 4\(3\), 8](#)
- F6** Words in Sch. 1 para. 1(3) substituted (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 4\(4\)\(a\)](#)
- F7** Words in Sch. 1 para. 1(3) inserted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 4\(4\)\(b\), 8](#)
- F8** Sch. 1 para. 1(5A) inserted (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 2\(2\)](#)
- F9** Words in Sch. 1 para. 1(6) substituted (with effect in accordance with Sch. 12 para. 28(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 28\(1\)](#)
- F10** Words in Sch. 1 para. 1(7) substituted (with effect in accordance with Sch. 28 para. 9 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 4\(5\)](#)

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, [F11sections 3(1) to (5C) and 3A] shall apply to the trustees of a settlement as they apply to an individual but with the following modifications.
- (2) In [F12section 3(1), (5A), (5B) and (5C)][F13and section 3A(1)(a)] for “the exempt amount for the year” there shall be substituted “one-half of the exempt amount for the year”.
- [F14(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)”.]
- [F15(3)
- (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.

Status: Point in time view as at 08/07/2008.

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 04 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)

- (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, subparagraph (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.
- [^{F16}(6A) In its application to the trustees of a settlement, section 3A(1) has effect with the substitution for the reference to section 8 of the Management Act of a reference to section 8A of that Act.]
- (7) In this paragraph ^{F17}... “excluded settlement” means—
- (a) any settlement the trustees of which are not for the whole or any part of the year of assessment ^{F18}... 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 [^{F19}a registered pension scheme, a superannuation fund to which section 615(3) of the Taxes Act applies or an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004) that is not a registered pension scheme].
- ^{F20}(8)
- (9) [^{F21}An officer of the Board] 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

- F11** Words in Sch. 1 para. 2(1) substituted (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 28 para. 5(2)**
- F12** Words in Sch. 1 para. 2(2) substituted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 5\(3\)\(a\)](#), **8**
- F13** Words in Sch. 1 para. 2(2) inserted (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 28 para. 5(3)(b)**
- F14** Sch. 1 para. 2(2A) inserted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 5\(4\)](#), **8**
- F15** Sch. 1 para. 2(3) repealed (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 5\(5\)](#), **Sch. 43 Pt. 3(7)**
- F16** Sch. 1 para. 2(6A) inserted (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 28 para. 2(3)**
- F17** Words in Sch. 1 para. 2(7) repealed (with effect in accordance with Sch. 12 para. 28(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 28\(2\)](#), **Sch. 26 Pt. 3(15)**
- F18** Words in Sch. 1 para. 2(7)(a) repealed (6.4.2007) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 paras. 38, 41](#), **Sch. 26 Pt. 3(15)**
- F19** Words in Sch. 1 para. 2(7)(b)(ii) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [s. 284\(1\)](#), **Sch. 35 para. 42(2)** (with [Sch. 36](#))
- F20** Sch. 1 para. 2(8) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [s. 284\(1\)](#), [Sch. 35 para. 42\(3\)](#), **Sch. 42 Pt. 3** (with [Sch. 36](#))

Status: Point in time view as at 08/07/2008.

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 04 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)

F21 Words in Sch. 1 para. 2(9) substituted (with effect in accordance with Sch. 28 para. 9 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 5\(6\)](#)

- [^{F223} (1) The exempt amount available in relation to a year of assessment to the trustees of each settlement in the class consisting of a principal settlement and its sub-fund settlements shall be the exempt amount available to the trustees of the principal settlement in relation to the year, determined in accordance with paragraph 1 or 2 above as if no sub-fund elections had been made.
- (2) But if there are two or more non-excluded settlements in the class consisting of a principal settlement and its sub-fund settlements, the exempt amount available to the trustees of each settlement in the class in relation to the year shall be the amount specified in sub-paragraph (1) above divided by the number of non-excluded settlements in the class.
- (3) In this paragraph—
“excluded settlement” has the meaning given by paragraph 2(7) above,
and
references to a settlement having sub-fund settlements, and similar expressions, are references to a settlement being the principal settlement in respect of which one or more sub-fund elections are treated as having taken effect.]

Textual Amendments

F22 Sch. 1 para. 3 inserted (with effect in accordance with Sch. 12 para. 45 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 44\(2\)](#)

Status:

Point in time view as at 08/07/2008.

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 04 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.