



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART III

#### INDIVIDUALS, PARTNERSHIPS, TRUSTS AND COLLECTIVE INVESTMENT SCHEMES

### CHAPTER II

#### SETTLEMENTS

#### *General provisions*

#### **[<sup>F1</sup>68C Variation of will or intestacy, etc: identification of settlor**

- (1) This section applies where—
  - (a) a disposition of property following a person's death is varied, and
  - (b) section 62(6) applies in respect of the variation.
- (2) Where property becomes settled property in consequence of the variation (and would not, but for the variation, have become settled property), a person mentioned in subsection (3) shall be treated for the purposes of this Act, except where the context otherwise requires—
  - (a) as having made the settlement, and
  - (b) as having provided the property for the purposes of the settlement.
- (3) Those persons are—
  - (a) a person who immediately before the variation was entitled to the property, or to property from which it derives, absolutely as legatee,
  - (b) a person who would have become entitled to the property, or to property from which it derives, absolutely as legatee but for the variation,
  - (c) a person who immediately before the variation would have been entitled to the property, or to property from which it derives, absolutely as legatee but for being an infant or other person under a disability, and

*Status: Point in time view as at 19/07/2006.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 68C is up to date with all changes known to be in force on or before 21 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)*

- (d) a person who would, but for the variation, have become entitled to the property, or to property from which it derives, absolutely as legatee if he had not been an infant or other person under a disability.
- (4) In subsection (3) references to a person being entitled to property absolutely as legatee shall be construed in accordance with section 64(3) (reading the references to “an asset” and “any asset” as references to “property”).
- (5) Where—
- (a) property would have become comprised in a settlement—
- (i) which arose on the deceased person's death (whether in accordance with his will, on his intestacy or otherwise), or
- (ii) which was already in existence on the deceased person's death (whether or not the deceased person was a settlor in relation to that settlement), but
- (b) in consequence of the variation the property, or property derived from it, becomes comprised in another settlement,
- the deceased person shall be treated for the purposes of this Act, except where the context otherwise requires, as having made the other settlement.
- (6) Where—
- (a) immediately before the variation property is comprised in a settlement and is property of which the deceased person is a settlor, and
- (b) immediately after the variation the property, or property derived from it, becomes comprised in another settlement,
- the deceased person shall be treated for the purposes of this Act, except where the context otherwise requires, as having made the other settlement.
- (7) If a person is treated as having made a settlement under subsection (5) or (6), for the purposes of this Act he shall be treated as having made the settlement immediately before his death.
- (8) But subsection (7) does not apply in relation to a settlement which arose on the person's death.]

#### **Textual Amendments**

- F1** S. 68C inserted (with effect in accordance with Sch. 12 para. 1(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 1\(2\)](#)

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