



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART III

INDIVIDUALS, PARTNERSHIPS, TRUSTS AND COLLECTIVE INVESTMENT SCHEMES

CHAPTER II

SETTLEMENTS

General provisions

[^{F1}77] Charge on settlor with interest in settlement.

- (1) Where in a year of assessment—
 - (a) chargeable gains accrue to the trustees of a settlement from the disposal of any or all of the settled property,
 - (b) after making any deduction provided for by section 2(2) in respect of disposals of the settled property there remains an amount on which the trustees would, disregarding section 3, be chargeable to tax for the year in respect of those gains, and
 - (c) at any time during the year the settlor has an interest in the settlement,the trustees shall not be chargeable to tax in respect of those [^{F2}gains] but instead chargeable gains of an amount equal to that referred to in paragraph (b) shall be treated as accruing to the settlor in that year.
- (2) Subject to the following provisions of this section, a settlor shall be regarded as having an interest in a settlement if—
 - (a) any property which may at any time be comprised in the settlement, or any derived property is, or will or may become, payable to or applicable for the benefit of the settlor or his spouse in any circumstances whatsoever, or
 - (b) the settlor or his spouse enjoys a benefit deriving directly or indirectly from any property which is comprised in the settlement or any derived property.

Status: Point in time view as at 12/01/2000. This version of this provision has been superseded.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 77 is up to date with all changes known to be in force on or before 05 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)

- (3) The references in subsection (2)(a) and (b) above to the spouse of the settlor do not include—
- (a) a person to whom the settlor is not for the time being married but may later marry, or
 - (b) a spouse from whom the settlor is separated under an order of a court, or under a separation agreement or in such circumstances that the separation is likely to be permanent, or
 - (c) the widow or widower of the settlor.
- (4) A settlor shall not be regarded as having an interest in a settlement by virtue of subsection (2)(a) above if and so long as none of the property which may at any time be comprised in the settlement, and no derived property, can become payable or applicable as mentioned in that provision except in the event of—
- (a) the bankruptcy of some person who is or may become beneficially entitled to the property or any derived property, or
 - (b) an assignment of or charge on the property or any derived property being made or given by some such person, or
 - (c) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, or
 - (d) the death of a child of the settlor who had become beneficially entitled to the property or any derived property at an age not exceeding 25.
- (5) A settlor shall not be regarded as having an interest in a settlement by virtue of subsection (2)(a) above if and so long as some person is alive and under the age of 25 during whose life the property or any derived property cannot become payable or applicable as mentioned in that provision except in the event of that person becoming bankrupt or assigning or charging his interest in that property.
- (6) This section does not apply—
- (a) where the settlor dies during the year; or
 - (b) in a case where the settlor is regarded as having an interest in the settlement by reason only of—
 - (i) the fact that property is, or will or may become, payable to or applicable for the benefit of his spouse, or
 - (ii) the fact that a benefit is enjoyed by his spouse,
 where the spouse dies, or the settlor and the spouse cease to be married, during the year.
- [^{F3}(6A) Without prejudice to so much of this section as requires section 2A to be applied in the computation of any amount that is treated under this section as an amount of chargeable gains accruing to the settlor, chargeable gains that are treated as accruing to the settlor under this section shall not be eligible for taper relief.]
- (7) This section does not apply unless the settlor is, and the trustees are, either resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year.
- [^{F4}(8) In this section “derived property”, in relation to any property, means—
- (a) income from that property,
 - (b) property directly or indirectly representing—
 - (i) proceeds of that property, or

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- (ii) proceeds of income from that property, or
(c) income from property which is derived property by virtue of paragraph (b) above.]]

Textual Amendments

- F1** S. 77 substituted (with effect in accordance with s. 74(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 17 para. 27](#)
- F2** Word in s. 77(1) inserted (retrospective to 1.5.1995) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 13\(1\)\(3\)](#)
- F3** [S. 77\(6A\)](#) inserted (with effect in accordance with s. 121(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 21 para. 6\(1\)](#)
- F4** S. 77(8) substituted (retrospective to 1.5.1995) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 13\(2\)\(3\)](#)

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