



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART III

INDIVIDUALS, PARTNERSHIPS, TRUSTS AND COLLECTIVE INVESTMENT SCHEMES

CHAPTER II

SETTLEMENTS

Migration of settlements, non-resident settlements and dual resident settlements

86 Attribution of gains to settlors with interest in non-resident or dual resident settlements.

- (1) This section applies where the following conditions are fulfilled as regards a settlement in a particular year of assessment—
- (a) the settlement is a qualifying settlement in the year;
 - (b) the trustees of the settlement fulfil the condition as to residence specified in subsection (2) below;
 - (c) a person who is a settlor in relation to the settlement (“the settlor”) is domiciled in the United Kingdom at some time in the year and is either resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year;
 - (d) at any time during the year the settlor has an interest in the settlement;
 - (e) by virtue of disposals of any of the settled property originating from the settlor, there is an amount on which the trustees would be chargeable to tax for the year under section 2(2) if the assumption as to residence specified in subsection (3) below were made;
 - (f) paragraph 3, 4 or 5 of Schedule 5 does not prevent this section applying.
- (2) The condition as to residence is that—

Status: Point in time view as at 31/07/1998. This version of this provision has been superseded.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 86 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)

- (a) the trustees are not resident or ordinarily resident in the United Kingdom during any part of the year, or
 - (b) the trustees are resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year, but at any time of such residence or ordinary residence they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (3) Where subsection (2)(a) above applies, the assumption as to residence is that the trustees are resident or ordinarily resident in the United Kingdom throughout the year; and where subsection (2)(b) above applies, the assumption as to residence is that the double taxation relief arrangements do not apply.
- (4) Where this section applies—
- (a) chargeable gains of an amount equal to that referred to in subsection (1)(e) above shall be treated as accruing to the settlor in the year, and
 - (b) those gains shall be treated as forming the highest part of the amount on which he is chargeable to capital gains tax for the year.
- [^{F1}(4A) 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.]
- (5) Schedule 5 (which contains provisions supplementary to this section) shall have effect.

Textual Amendments

- F1** S. 86(4A) inserted (with effect in accordance with s. 121(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 21 para. 6\(2\)](#)

Modifications etc. (not altering text)

- C1** S. 86 modified (with effect in accordance with Sch. 23 paras. 1(1), 2(1)(5)(6), 3(1)(4)(6) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 23 paras. 1\(2\)\(3\), 2\(2\)-\(4\), 3\(2\)\(3\)](#)
- C2** S. 86(1)(e) modified (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 132\(5\)](#)
- C3** S. 86(1)(e) modified (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [Sch. 23 para. 4\(1\)](#)

Status:

Point in time view as at 31/07/1998. This version of this provision has been superseded.

Changes to legislation:

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