



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART III

INDIVIDUALS, PARTNERSHIPS, TRUSTS AND COLLECTIVE INVESTMENT SCHEMES [^{F1}ETC]

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 [^{F1}resident in the United Kingdom for 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) [^{F2}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.

[^{F3}(2) The condition as to residence is that—

- (a) there is no time in the year when the trustees are resident in the United Kingdom, or

Status: Point in time view as at 26/03/2015. This version of this provision has been superseded.

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- (b) there is such a time but, whenever the trustees are resident in the United Kingdom during the year, 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 [^{F4}resident ^{F5}... 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 [^{F6}or if, as respects the settlor, the year is a split year, in the UK part of that 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.
- [^{F7}(4ZA) Where a disposal of any settled property (which would apart from this subsection meet the condition in subsection (1)(e) with respect to the tax year) is a non-resident CGT disposal—
- (a) any chargeable gain or allowable loss accruing on the disposal, other than an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D, is to be treated as if it were a chargeable gain or (as the case requires) allowable loss falling to be taken into account in calculating the amount mentioned in subsection (1)(e) for the tax year, and
- (b) the disposal is otherwise to be disregarded for the purposes of subsection (1)(e).]
- ^{F8}(4A)
- (5) Schedule 5 (which contains provisions supplementary to this section) shall have effect.

Textual Amendments

- F1** Words in s. 86(1)(c) substituted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 91\(2\)](#)
- F2** Words in s. 86(1)(e) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 30](#)
- F3** S. 86(2) substituted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 91\(3\)](#)
- F4** Words in s. 86(3) substituted (with effect in accordance with Sch. 12 para. 34(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 34\(1\)\(2\)\(c\)](#)
- F5** Words in s. 86(3) omitted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 91\(4\)](#)
- F6** Words in s. 86(4)(a) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 100](#)
- F7** S. 86(4ZA) inserted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 7 para. 19](#)
- F8** S. 86(4A) repealed (with effect in accordance with Sch. 11 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 40 Pt. 3\(4\)](#)

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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:

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