

Status: Point in time view as at 15/09/2003.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, SCHEDULE 6. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 79.

TAXATION OF DISTRIBUTIONS: SUPPLEMENTAL PROVISIONS

The Taxes Act 1988

- 1 In each of sections 167(2A), ^{F1} . . . , ^{F2} . . . and 819(2) of the Taxes Act 1988 (definitions of excess liability), and in the definition of “excess liability” in paragraph 19(1) of Schedule 7 to that Act, for “were charged at the basic rate” there shall be substituted “ by virtue of section 1(2)(aa) were charged at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate, ”.

Textual Amendments

- F1** Words in Sch. 6 para. 1 repealed (3.5.1994 with effect in accordance with s. 81(6) of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(2)** Note
- F2** Words in Sch. 6 para. 1 repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**

- 2 (1) In subsection (1) of section 233 of that Act (taxation of certain recipients and in respect of non-qualifying distributions)—
- (a) for the words “basic rate”, in each place where they occur, there shall be substituted “ lower rate ”; and
 - (b) in paragraph (c), the words “as income which is not chargeable at the lower rate and” shall be omitted.
- (2) After that subsection there shall be inserted the following subsections—
- “(1A) Where in any year of assessment the income of any person who is not a company includes a qualifying distribution in respect of which that person, not being resident in the United Kingdom, is not entitled to a tax credit—
- (a) the amount or value of the distribution so far as it is comprised in—
 - (i) income to which an assessment such as is mentioned in paragraph (b) of subsection (1) above relates, or
 - (ii) income chargeable to tax in accordance with section 686 at the rate applicable to trusts,shall be deemed for the purposes of that assessment or, as the case may be, that section to be the sum which if reduced by an amount equal to income tax on that sum at the lower rate would be equal to the amount or value of the distribution actually made; and
 - (b) that person shall be treated for the purposes of section 686 as having paid tax at the lower rate on any amount which under paragraph (a) above is deemed to be the amount or value of the distribution for the purpose of that section;

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but no repayment shall be made of any income tax treated by virtue of this subsection as having been paid.

(1B) Where in any year of assessment the income of any trustees which is chargeable to income tax in accordance with section 686 includes any non-qualifying distribution (within the meaning of subsection (2) below), the trustees’ liability under any assessment made in respect of income tax at the rate applicable to trusts on the amount or value of the distribution, or on any part of the distribution, shall be reduced by a sum equal to income tax at the lower rate on so much of the distribution as is assessed at the rate applicable to trusts.”

- (3) In subsection (2) of that section, in the definition of “excess liability”—
 - (a) for the words from “not chargeable” to “basic rate” there shall be substituted “ were charged at the lower rate ”; and
 - (b) for “any higher rate” there shall be substituted “ the higher rate or, as the case may be, the rate applicable to trusts ”.

F33

Textual Amendments

F3 Sch. 6 para. 3 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(9)** Note 3

F44

Textual Amendments

F4 Sch. 6 para. 4 repealed (3.5.1994 with effect in accordance with s. 111 and **Sch. 14** of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(13)** Note

F55

Textual Amendments

F5 Sch. 6 para. 5 repealed (3.5.1994 with effect in accordance with s. 111 and **Sch. 14** of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(13)** Note

6 In each of sections 549(2), ^{F6} . . . and 699(2) of that Act (definitions of excess liability), for “were chargeable at the basic rate” there shall be substituted “ by virtue of section 1(2)(aa) were chargeable at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate, ”.

Textual Amendments

F6 Words in **Sch. 6 para. 6** repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**, note

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- 7 (1) In each of subsections (2)(h) and (7)(a) of section 677 of that Act (sums paid to settlor), for the words from “the sum” to “additional rate” there shall be substituted “ tax at the rate applicable to trusts ”.
- (2) In subsection (6) of that section, for “both tax at the basic rate and tax at the additional rate” there shall be substituted “ tax at the rate applicable to trusts ”.
- (3) In subsection (7)(b) of that section, for “that sum” there shall be substituted “ the amount of tax at that rate ”.
- 8 (1) In subsection (1) of section 686 of that Act (income of discretionary trusts subject to additional rate tax), for the words from “in addition” onwards there shall be substituted “ be chargeable to income tax at the rate applicable to trusts, instead of at the basic rate or, in accordance with section 207A, at the lower rate. ”
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) The rate applicable to trusts for any year of assessment shall be the rate equal to the sum of the basic rate and the additional rate in force for that year; and, for the purposes of assessments for the year 1993-94 and in relation to years of assessment for which tax at the basic rate and the additional rate was separately chargeable, references to the charging of income with tax at the rate applicable to trusts shall be taken to include references to the charging of income with tax both at the basic rate and at the additional rate.”
- (3) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) For the purposes of this section where—
- (a) any trustees have expenses in any year of assessment (“management expenses”) which are properly chargeable to income or would be so chargeable but for any express provisions of the trust, and
- (b) there is income arising to them in that year (“the untaxed income”) which does not bear income tax for that year by reason wholly or partly of the trustees not having been resident in the United Kingdom or being deemed under any arrangements under section 788, or any arrangements having effect by virtue of that section, to have been resident in a territory outside the United Kingdom,
- there shall be disregarded for the purposes of subsection (2)(d) above such part of the management expenses as bears the same proportion to all those expenses as the untaxed income bears to all the income arising to the trustees in that year.”
- (4) In subsection (6) of that section (payments by personal representatives to trustees), for “basic rate” there shall be substituted “ applicable rate ”.
- 9 (1) In subsection (2) of section 687 of that Act (deemed deduction from payment under discretionary trust), for the words from “a rate” to “in force” there shall be substituted “ the rate applicable to trusts ”.
- (2) In subsection (3) of that section—
- (a) in paragraph (a), for “and charged at the additional as well as at the basic rate” there shall be substituted “ which (not being income the tax on which falls within paragraph (aa) or (b) below) is charged at the rate applicable to trusts ”;
- (b) after that paragraph there shall be inserted the following paragraph—

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- “(aa) the amount of tax which, by virtue of section 233(1B), is charged, at a rate equal to the difference between the lower rate and the rate applicable to trusts, on the amount or value of the whole or any part of any non-qualifying distribution included in the income arising to the trustees;”
 - (c) in paragraph (b), as it has effect by virtue of section 79(2) of this Act, for “the additional rate” there shall be substituted “ a rate equal to the difference between the lower rate and the rate applicable to trusts ”;
 - (d) in each of paragraphs (e) to (i) (except paragraph (g)), and in paragraph (j) as it so has effect, for the words from “at a rate” to “additional rate” there shall be substituted “ at the rate applicable to trusts ”.
- 10 In section 694(2A) of that Act (special charge for trustees in certain cases), for “sum of the basic and additional rates” there shall be substituted “ amount of the rate applicable to trusts ”.
- 11 (1) In each of sections 695(4)(a), 696(3) to (5) and 698(2) of that Act (deemed payments out of the residue of a deceased’s estate), for the words “basic rate”, wherever they occur, there shall be substituted “ applicable rate ”.
- (2) After section 698 of that Act there shall be inserted the following section—

“698A Taxation at the lower rate of the income of beneficiaries.

- (1) Subject to subsection (2) below, in so far as the income of any person is treated under this Part as having borne income tax at the lower rate, section 207A shall apply to that income as it applies to income chargeable under Schedule F.
 - (2) Subsection (1) above shall not apply to income paid indirectly through a trustee and treated as having borne income tax at the lower rate by virtue of section 698(3); but (subject to section 686(1)) section 207A shall apply as if the payment made to the trustee were income of the trustee chargeable under Schedule F.”
- (3) In section 701 of that Act (interpretation of provisions relating to deemed payments), after subsection (3) there shall be inserted the following subsection—
- “(3A) “Applicable rate”, in relation to any amount which a person is deemed by virtue of this Part to receive or to have a right to receive, means the basic rate or the lower rate according as the income of the residue of the estate out of which that amount is or would be paid bears tax at the basic rate or the lower rate; and in determining for the purposes of this Part whether or how much of any payment is or would be deemed to be made out of income that bears tax at one rate rather than another—
- (a) such apportionments of the amounts bearing tax at different rates shall be made between different persons with interests in the residue of the estate as are just and reasonable in relation to their different interests; and
 - (b) subject to paragraph (a) above, it shall be assumed that payments are to be made out of income bearing tax at the basic rate before they are made out of income bearing tax at the lower rate.”

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Textual Amendments

F7 Sch. 6 para. 12 repealed (31.7.1998 with effect in accordance with [Sch. 3](#) of the amending Act) by [1998 c. 36, s. 165](#), [Sch. 27 Pt. III\(2\)](#) Note

13 In each of sections 720(5) and 764 of that Act (taxation of other income of trustees), for the words from “at a rate” to “additional rate” there shall be substituted “ at the rate applicable to trusts ”.

F8¹⁴

Textual Amendments

F8 Sch. 6 para. 14 repealed (29.4.1996 and coming into force in accordance with s. 73 and [Sch. 6](#) of the amending Act) by [1996 c. 8, s. 205](#), [Sch. 41 Pt. V\(1\)](#)

15 In section 832(1) of that Act (interpretation), after the definition of “qualifying policy” there shall be inserted the following definition—

““the rate applicable to trusts” shall be construed in accordance with section 686(1A);”.

F9¹⁶

Textual Amendments

F9 Sch. 6 para. 16 repealed (31.7.1998 with effect in accordance with [Sch. 3](#) of the amending Act) by [1998 c. 36, s. 165](#), [Sch. 27 Pt. III\(2\)](#) Note

F10¹⁷

Textual Amendments

F10 Sch. 6 para. 17 repealed (29.4.1996 with effect as mentioned in Note to [Sch. 41 Pt. V\(2\)](#) of amending Act) by [1996 c. 8, s. 205](#), [Sch. 41 Pt. V\(2\)](#) Note

F11¹⁸

Textual Amendments

F11 Sch. 6 para. 18 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of [Pt. IV](#) of the amending Act) by [1996 c. 8, s. 205](#), [Sch. 41 Pt. V\(3\)](#)

F12¹⁹

Textual Amendments

F12 Sch. 6 para. 19 repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order under [Sch. 10 para. 7\(1\)](#) of the amending Act) by [1997 c. 16, ss. 76, 113](#), [Sch. 10 Pt. I para. 7\(1\)](#), [Sch. 18 Pt. VI\(10\)](#) Note 1

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The Finance Act 1989 (c. 26)

20 In each of sections 68(2)(c) and 71(4)(c) of the Finance Act 1989 ^{F13} . . . (which contain references to a rate equal to the sum of the basic rate and the additional rate), for the words from “a rate” to “additional rate” there shall be substituted “the rate applicable to trusts”.

Textual Amendments

F13 Words in Sch. 6 para. 20 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

The Finance Act 1990 (c. 29)

^{F14}21

Textual Amendments

F14 Sch. 6 para. 21 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

The Taxation of Chargeable Gains Act 1992 (c. 12)

^{F15}22

Textual Amendments

F15 Sch. 6 para. 22 repealed (27.7.1999 with effect for the year 1999-00 and subsequent years of assessment) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(1)** Note

^{F16}23

Textual Amendments

F16 Sch. 6 para. 23 repealed (31.7.1998 with application for the year 1998-99 and subsequent years of assessment) by 1998 c. 36, ss. 120(2), 165, **Sch. 27 Pt. III(29)** Note

^{F17}24

Textual Amendments

F17 Sch. 6 para. 24 repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**, note

Commencement

25 (1) This Schedule, except the provisions to which sub-paragraphs (2) to (5) below apply, shall have effect for the year 1993-94 and subsequent years of assessment.

^{F18}(2)

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F19(3)

F19(4)

F20(5)

Textual Amendments

- F18** Sch. 6 para. 25(2) repealed (3.5.1994 with effect in accordance with s. 111 and [Sch. 14](#) of the amending Act) by [1994 c. 9, s. 258](#), [Sch. 26 Pt. V\(13\)](#) Note
- F19** Sch. 6 para. 25(3)(4) repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order under [Sch. 10 para. 7\(1\)](#) of the amending Act) by [1997 c. 16, ss. 76, 113](#), [Sch. 10 Pt. 1 para. 7\(1\)](#), [Sch. 18 Pt. VI\(10\)](#) Note 1
- F20** Sch. 6 para. 25(5) repealed (29.4.1996 with effect in accordance with the Note to [Sch. 41 Pt. V\(2\)](#) of the amending Act) by [1996 c. 8, s. 205](#), [Sch. 41 Pt. V\(2\)](#) Note

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