



Finance Act 2000

2000 CHAPTER 17

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

OTHER PROVISIONS

Capital gains tax: gifts and trusts

90 Restriction of gifts relief

- (1) In section 165(1) of the Taxation of Chargeable Gains Act 1992 (relief for gifts of business assets), in the closing words (which list the provisions restricting relief), for “sections 166 and 167” substitute “sections 166, 167 and 169”.
- (2) In section 260(1) of that Act (gifts on which inheritance tax is chargeable etc.), in the closing words (which list the provisions restricting relief), for “section 261” substitute “sections 169 and 261”.
- (3) In section 165(2)(b)(i) of, and paragraph 2(2)(b)(i) of Schedule 7 to, that Act (shares or securities in respect of which gifts relief may be claimed), for “neither listed on a recognised stock exchange nor dealt in on the Unlisted Securities Market” substitute “not listed on a recognised stock exchange”.
- (4) In section 165(3)(b) of that Act (disposals of shares or securities excepted from gifts relief), after “shares or securities,” insert “the transferee is a company or”.
- (5) This section has effect in relation to disposals made on or after 9th November 1999.

91 Disposal of interest in settled property: deemed disposal of underlying assets

- (1) After section 76 of the Taxation of Chargeable Gains Act 1992, insert—

Status: This is the original version (as it was originally enacted).

“76A Disposal of interest in settled property: deemed disposal of underlying assets

Schedule 4A to this Act has effect with respect to disposals for consideration of an interest in settled property.”

- (2) After Schedule 4 to that Act insert the Schedule 4A set out in Schedule 24 to this Act.
- (3) This section applies to any disposal of an interest in settled property made, or the effective completion of which falls, on or after 21st March 2000.

Expressions used in this subsection have the same meaning as in Schedule 4A to the Taxation of Chargeable Gains Act 1992.

92 Transfers of value by trustees linked with trustee borrowing

- (1) After section 76A of the Taxation of Chargeable Gains Act 1992 (inserted by section 91(1) above), insert—

“76B Transfers of value by trustees linked with trustee borrowing

Schedule 4B to this Act has effect with respect to transfers of value by trustees that are, in accordance with the Schedule, treated as linked with trustee borrowing.”

- (2) After Schedule 4A to that Act (inserted by section 91(2) above), insert the Schedule 4B set out in Schedule 25 to this Act.
- (3) After section 85 of that Act, insert—

“85A Transfers of value: attribution of gains to beneficiaries

Schedule 4C to this Act has effect with respect to the attribution to beneficiaries of gains accruing under Schedule 4B.”

- (4) After Schedule 4B to the Taxation of Chargeable Gains Act 1992 (inserted by subsection (2) above), insert the Schedule 4C set out in Part I of Schedule 26 to this Act.

The consequential amendments in Part II of Schedule 26 to this Act have effect.

- (5) The provisions of this section have effect in relation to any transfer of value in relation to which the material time is on or after 21st March 2000.

The expressions “transfer of value” and “material time” have the same meaning in this subsection as in Schedule 4B to the Taxation of Chargeable Gains Act 1992.

93 Restriction on set-off of trust losses

- (1) After section 79 of the Taxation of Chargeable Gains Act 1992, insert—

Status: This is the original version (as it was originally enacted).

“79A Restriction on set-off of trust losses

- (1) This section applies to a chargeable gain accruing to the trustees of a settlement where—
 - (a) in computing the gain, the allowable expenditure is reduced in consequence, directly or indirectly, of a claim to gifts relief in relation to an earlier disposal to the trustees;
 - (b) the transferor on that earlier disposal, or any person connected with the transferor, has at any time—
 - (i) acquired an interest in the settled property, or
 - (ii) entered into an arrangement to acquire such an interest; and
 - (c) in connection with that acquisition or arrangement any person has at any time received, or become entitled to receive, any consideration.
 - (2) Where this section applies to a chargeable gain, no allowable losses accruing to the trustees (in the year in which the gain accrues or any earlier year) may be set against the gain.

This applies to the whole of the chargeable gain (and not just the element deferred as a result of the claim to gifts relief).
 - (3) In this section—
 - (a) “gifts relief” means relief under section 165 or 260; and
 - (b) references to losses not being allowed to be set against a chargeable gain are to the losses not being allowed as a deduction against chargeable gains to the extent that they include that gain.
 - (4) The references in subsection (1)(b) above to an interest in settled property have the same meaning as in Schedule 4A.”.
- (2) This section applies to gains accruing on or after 21st March 2000.

94 Attribution to trustees of gains of non-resident companies

- (1) After section 79A of the Taxation of Chargeable Gains Act 1992 (inserted by section 93 above), insert—

“79B Attribution to trustees of gains of non-resident companies

- (1) This section applies where trustees of a settlement are participators—
 - (a) in a close company, or
 - (b) in a company that is not resident in the United Kingdom but would be a close company if it were resident in the United Kingdom.

For this purpose “participator” has the same meaning as in section 13.
- (2) Where this section applies, nothing in any double taxation relief arrangements shall be read as preventing a charge to tax arising by virtue of the attribution to the trustees under section 13, by reason of their participation in the company mentioned in subsection (1) above, of any part of a chargeable gain accruing to a company that is not resident in the United Kingdom.

Status: This is the original version (as it was originally enacted).

- (3) Where this section applies and—
- (a) a chargeable gain accrues to a company that is not resident in the United Kingdom but would be a close company if it were resident in the United Kingdom, and
 - (b) all or part of the chargeable gain is treated under section 13(2) as accruing to a close company which is not chargeable to corporation tax in respect of the gain by reason of double taxation relief arrangements, and
 - (c) had the company mentioned in paragraph (b) (and any other relevant company) not been resident in the United Kingdom, all or part of the chargeable gain would have been attributed to the trustees by reason of their participation in the company mentioned in subsection (1) above,

section 13(9) shall apply as if the company mentioned in paragraph (b) above (and any other relevant company) were not resident in the United Kingdom.

- (4) The references in subsection (3) above to “any other relevant company” are to any other company which if it were not resident in the United Kingdom would be a company in relation to which section 13(9) applied with the result that all or part of the chargeable gain was attributed to the trustees as mentioned in that subsection.”.

- (2) This section applies where a chargeable gain accrues on or after 21st March 2000 to a company that is not resident in the United Kingdom.

95 Disposal of interest in non-resident settlement

- (1) Section 85 of the Taxation of Chargeable Gains Act 1992 (disposal of interest in non-resident settlements) is amended as follows.
- (2) In subsection (2) (market value uplift for interest where trustees become non-resident) for “Subject to subsections (4) and (9) below,” substitute “Subject to subsections (4), (9) and (10) below,”.
- (3) In subsection (5) (market value uplift for interest where trustees become treaty non-resident), at the beginning insert “Subject to subsection (10) below,”.
- (4) After subsection (9) add—

“(10) Subsection (3) or (7) above does not apply to the disposal of an interest created by or arising under a settlement which has relevant offshore gains at the material time.

The material time is—

- (a) in relation to subsection (3) above, the relevant time within the meaning of section 80;
- (b) in relation to subsection (7) above, the time found under subsection (8) above.

- (11) For the purposes of subsection (10) above, a settlement has relevant offshore gains at any time if, were the year of assessment to end at that time, there would be an amount of trust gains which by virtue of section 89(2) or paragraph 8(3) of Schedule 4C would be available to be treated as

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chargeable gains accruing to any beneficiaries of the settlement receiving capital payments in the following year of assessment.”.

- (5) This section applies where the material time (within the meaning of section 85(10) of the Taxation of Chargeable Gains Act 1992, inserted by subsection (4) above) falls on or after 21st March 2000.

96 Payments by trustees to non-resident companies

- (1) In section 96(5) of the Taxation of Chargeable Gains Act 1992 (capital payments by trustees to non-resident company), in the opening words (which refer to the persons by whom the company is controlled), omit “and each of them is then resident or ordinarily resident in the United Kingdom”.
- (2) This section applies to payments received on or after 21st March 2000.