

Status: Point in time view as at 19/07/2006.

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SCHEDULES

SCHEDULE 12

SETTLEMENTS: AMENDMENT OF TCGA 1992 ETC

PART 3

CONSEQUENTIAL AND MINOR AMENDMENTS

General

- 8 (1) In section 13(10) (participants in non-resident companies) for “trustees who are participants” substitute “the trustees of a settlement who are participants”.
- (2) This paragraph shall have effect in relation to gains accruing on or after 6th April 2006.
- 9 For section 21(1)(b) (definition of “asset”) substitute—
- “(b) currency, with the exception (subject to express provision to the contrary) of sterling.”
- 10 (1) In section 60(1) (nominees and bare trustees) in each place for “assets” substitute “property”.
- (2) In section 60(2) (interpretation: property held for person absolutely entitled) in each place for “asset” substitute “property”.
- (3) This paragraph shall have effect from 6th April 2006.
- 11 (1) In section 63 (death: application of law in Scotland)—
- (a) in subsection (1) omit the words “an heir of entail in possession of any property in Scotland subject to an entail, whether sui juris or not, or of”, and
- (b) in subsection (2)—
- (i) omit the words “For the purposes of this Act,”,
- (ii) omit the words “heir or” before “liferenter”, and
- (iii) omit the words “the heir of entail next entitled to the entailed property under the entail or, as the case may be,”.
- (2) After section 63 insert—

“63A Death: application of law in Northern Ireland

- (1) The provisions of this Act, so far as relating to the consequences of the death of a person to whom property in Northern Ireland stands limited for life (“the deceased”), shall have effect subject to the provisions of this section.
- (2) A person who acquires property in fee simple absolute or fee tail in possession as a consequence of the deceased's death shall be deemed to

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have acquired all the assets forming part of the property at the date of the deceased's death for a consideration equal to their market value at that date.”

- (3) The provisions of this paragraph shall have effect in relation to a death occurring on or after 6th April 2006.
- 12 (1) In section 64(1) (expenses in administration)—
- (a) for the words from “an asset” to the beginning of paragraph (a) substitute “an asset held by another person as trustee, or as a personal representative of a deceased person, to which he became absolutely entitled as legatee or as against the trustee”, and
 - (b) in paragraphs (a) and (b) for “personal representatives or trustees” substitute “personal representative or trustee”.
- (2) This paragraph shall have effect in relation to disposals made on or after 6th April 2006.
- 13 (1) In section 77(1) (charge on settlor with interest in settlement), in the words following paragraph (c), after “those” insert “gains”.
- (2) For section 77(8) (meaning of “derived property”) substitute—
- “(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
 - (ii) proceeds of income from that property, or
 - (c) income from property which is derived property by virtue of paragraph (b) above.”
- (3) This paragraph shall be deemed always to have had effect.
- 14 (1) In section 79B(1) (attribution to trustees of gains of non-resident company) before “trustees of a settlement” insert “the”.
- (2) This paragraph shall have effect in relation to gains accruing on or after 6th April 2006.
- 15 (1) In section 97(7) (supplementary provisions for offshore settlements: interpretation)
- (a) omit “the preceding provisions of”,
 - (b) for the definition of “settlement” and “settlor” substitute—

““settlement” has the meaning given by section 620 of ITTOIA 2005, and

“settled property” and references (however expressed) to property comprised in a settlement shall be construed accordingly.”
- (2) After section 97(7) insert—
- “(7A) In this section, sections 86A to 96 and Schedule 4C “trustee”, in relation to a settlement in relation to which there would be no trustees apart from this subsection, means any person in whom the settled property or its management is for the time being vested (and a person who is treated as a trustee of the settlement by virtue of this subsection shall be treated as a trustee of the settlement for the purposes of section 69).”

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- (3) This paragraph shall come into force on 6th April 2006 (in relation to settlements whenever created).
- 16 (1) In section 98(2) (information: application of section 745 of ICTA)—
- (a) for “(2) to (5)” substitute “(2) to (6)”,
 - (b) omit “and” at the end of paragraph (a), and
 - (c) omit paragraph (b).
- (2) This paragraph shall come into force on 6th April 2006 (in relation to settlements whenever created).
- 17 (1) In section 104(1) (share pooling) after “for the purposes of this Act” insert “(subject to express provision to the contrary) ”.
- (2) This paragraph shall come into force on 6th April 2006.
- 18 (1) In section 109(2)(a) (share pooling: pre-1982 holdings) after “for the purposes of this Act” insert “(subject to express provision to the contrary) ”.
- (2) This paragraph shall come into force on 6th April 2006.
- 19 (1) In section 169D(5) after “(3)” insert “and to an individual's dependent child in section 169F(2A) ”.
- (2) This paragraph shall come into force on 6th April 2006.
- 20 (1) In section 217 (building societies: successor companies)—
- (a) in subsection (3)(a)—
 - (i) for “trustees” substitute “the trustees of a settlement”, and
 - (ii) omit the word “and” at the end of the paragraph,
 - (b) omit subsection (3)(b), and
 - (c) in subsection (5) for “arising” substitute “accruing ”.
- (2) This paragraph shall have effect in relation to a transfer falling within section 216(1) which is effected on or after 6th April 2006.
- 21 (1) In section 227(2) (employee share ownership trusts: conditions for roll-over relief) for “the trustees of a trust” substitute “the trustees of a settlement ”.
- (2) This paragraph shall have effect in relation to disposals made on or after 6th April 2006.
- 22 (1) In section 228(5)(b) (employee share ownership trusts: unauthorised arrangement) for “a beneficiary under the trust” substitute “a beneficiary under the settlement ”.
- (2) In section 228(7) (qualifying employee share ownership trust) for “whether a trust is” substitute “whether a settlement is ”.
- (3) Sub-paragraph (1) shall have effect in relation to arrangements which allow an acquisition to be made on or after 6th April 2006 (irrespective of when the arrangements were made).
- (4) Sub-paragraph (2) shall have effect for the purposes of determining what constitutes a qualifying share ownership trust for the purpose of section 227 on or after 6th April 2006.
- 23 (1) In section 251(5) (debts: trustee creditors)—

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- (a) for “Where the original creditor is a trustee and the debt, when created, is settled property” substitute “ Where the trustees of a settlement are the original creditor ”, and
- (b) for “as against the trustee” substitute “ as against the trustees ”.
- (2) This paragraph shall have effect in relation to debts created on or after 6th April 2006.
- 24 (1) In section 283(4) (repayment supplements)—
- (a) for “a trust or,” substitute “ the trustees of a settlement or ”, and
- (b) omit “as such (within the meaning of section 701(4) of that Act)”.
- (2) Sub-paragraph (1)(a) shall have effect in relation to a repayment made on or after 6th April 2006.
- (3) Sub-paragraph (1)(b) shall have effect in relation to a repayment made on or after 6th April 2006 (irrespective of the date on which the deceased person died).
- 25 (1) In section 286(3) (connected persons: trustees) omit the words following paragraph (c).
- (2) After section 286(3) insert—
- “(3ZA) For the purpose of subsection (3) above—
- (a) “settlement” has the same meaning as in section 620 of ITTOIA 2005, and
- (b) “trustee”, in relation to a settlement in relation to which there would be no trustees apart from this paragraph, means any person in whom the settled property or its management is for the time being vested.”
- (3) This paragraph shall come into force (in relation to settlements whenever created) on 6th April 2006.
- 26 (1) In section 288(8) (interpretation) at the appropriate places insert—

““Principal settlement”... ..	Sch.4ZA para. 1”,
““Settlor”	S.68A”,
““Settlor of property”... ..	S.68A”,
““Sub-fund”... ..	Sch.4ZA para. 1”,
““Sub-fund election”... ..	Sch.4ZA para. 2”,
““Sub-fund settlement” ...	Sch.4ZA para. 1”.

- (2) This paragraph shall come into force on 6th April 2006 (in relation to settlements whenever created).
- 27 (1) For paragraph 17(4) of Schedule A1 (taper relief: meaning of “derived property”) substitute—

“(4) In this paragraph “derived property”, in relation to any property, means—

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- (a) income from that property,
 - (b) property directly or indirectly representing—
 - (i) proceeds of that property, or
 - (ii) proceeds of income from that property, or
 - (c) income from property which is derived property by virtue of paragraph (b) above.”
- (2) In paragraph 17(5) of Schedule A1 (property settled by company) for “section” substitute “ paragraph ”.
- (3) Paragraph 17(6) of Schedule A1 (meaning of “settlor”) shall cease to have effect.
- (4) In paragraph 20(2) of Schedule A1 (application of section 79 to paragraph 20(1)) for “Subsections (1) to (5)” substitute “ Subsections (1) to (5A) ”.
- (5) Sub-paragraphs (1) and (3) shall have effect for the purpose of determining whether a company which is a settlor in relation to a settlement (whenever created) is to be regarded as having an interest in the settlement for the purposes of paragraph 17(1) of Schedule A1 on or after 6th April 2006.
- (6) Sub-paragraph (4) shall have effect to determine any question arising on or after 6th April 2006 as to whether, for the purposes of Schedule A1, settled property in relation to a settlement (whenever created) originated from more than one settlor (irrespective of when the property was provided).
- 28 (1) In paragraph 1(6) of Schedule 1 (exempt amount: interpretation) for the words “ “settlor” and “excluded settlement” have the same meanings” substitute “ “excluded settlement” has the same meaning ”.
- (2) In paragraph 2(7) of that Schedule (meaning of “settlor” and “excluded settlement”) omit the words from “settlor” to “intestate and”.
- (3) This paragraph shall have effect for the purposes of determining, for the purposes of Schedule 1, whether a person is a settlor in relation to a settlement (whenever created) on or after 6th April 2006.
- 29 (1) In paragraph 12 of Schedule 4A (meaning of “settlor”) for “(3) to (5)” substitute “ (3) to (5A) ”.
- (2) This paragraph shall have effect to determine any question arising on or after 6th April 2006 as to whether, for the purposes of Schedule 4A, a person is a settlor in relation to a settlement (whenever created).

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