

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, Cross Heading: Residence of trustees. (See end of Document for details)

SCHEDULES

SCHEDULE 12

SETTLEMENTS: AMENDMENT OF TCGA 1992 ETC

PART 3

CONSEQUENTIAL AND MINOR AMENDMENTS

Residence of trustees

- 30 (1) In each of the provisions set out in sub-paragraph (2) for “not resident or ordinarily resident in the United Kingdom” substitute “neither resident nor ordinarily resident in the United Kingdom”.
- (2) Those provisions are—
- (a) section 76(1B)(a) (disposal of interest in settled property),
 - (b) section 86(2)(a) (attribution of gains to settlors: residence condition), and
 - (c) paragraphs 2(1)(c), 3(1)(a) and 4(1)(a) of Schedule 5A (settlements with foreign element).
- (3) In paragraph (2)(1)(d) of Schedule 5A for “resident or ordinarily resident” substitute “resident and ordinarily resident”.
- (4) The amendments to sections 76(1B)(a) and 86(2)(a) shall come into force on 6th April 2007 (in relation to settlements whenever created).
- (5) The amendments to paragraph 2(1)(c) and (d) of Schedule 5A shall have effect in relation to transfers of property made on or after 6th April 2007 (in relation to settlements whenever created).
- (6) The amendments to paragraphs 3(1)(a) and 4(1)(a) of Schedule 5A shall have effect in relation to settlements created on or after 6th April 2007.
- 31 In section 77(7) (settlor with interest in settlement) for “the settlor is, and the trustees are, either resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year” substitute “—
- (a) the settlor is either resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year, and
 - (b) the trustees are resident and ordinarily resident in the United Kingdom during any part of the year.”
- 32 In section 83A(3) (trustee residence: split years)—
- (a) in paragraph (a)—
 - (i) after “resident” insert “and ordinarily resident”, and
 - (ii) at the end omit “or”, and

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- (b) omit paragraph (b).
- 33 Paragraphs 31 and 32 shall come into force on 6th April 2007 (in relation to settlements whenever created).
- 34 (1) In each of the provisions set out in sub-paragraph (2) for “resident or ordinarily resident in the United Kingdom” substitute “ resident and ordinarily resident in the United Kingdom ”.
- (2) Those provisions are—
- (a) section 83A(4)(b) (trustees to be treated as non-resident),
 - (b) section 85A(3) (attribution of gains to beneficiaries on transfer of value to trustees),
 - (c) section 86(3) (assumption as to residence),
 - (d) section 87(2) (computation of gains),
 - (e) paragraph 5(2) of Schedule 4A (dual resident trustees),
 - (f) paragraphs 4(2) and 10(1) and (3) of Schedule 4C (trustees: chargeable amount and residence), and
 - (g) paragraphs 3(1)(b) and 4(1)(b) of Schedule 5A (settlement with foreign element: information).
- (3) The amendments to sections 83A(4)(b), 85A(3), 86(3) and 87(2), paragraph 5(2) of Schedule 4A and paragraphs 4(2) and 10(1) and (3) of Schedule 4C shall come into force on 6th April 2007 (in relation to settlements whenever created).
- (4) The amendments to paragraphs 3(1)(b) and 4(1)(b) of Schedule 5A shall have effect in relation to settlements created on or after 6th April 2007.
- 35 (1) In each of the provisions set out in sub-paragraph (2)—
- (a) for “resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year” substitute “ resident and ordinarily resident in the United Kingdom during any part of the year ”, and
 - (b) for “such residence or ordinary residence” substitute “ such residence and ordinary residence ”.
- (2) Those provisions are—
- (a) section 86(2)(b) (trustees resident outside United Kingdom),
 - (b) section 88(1) (gains of dual resident settlements), and
 - (c) paragraph 5(1) of Schedule 4C (chargeable amount: dual resident settlement).
- (3) Sub-paragraph (2)(c) shall have effect in relation to a transfer of value made on or after 6th April 2007 (in relation to settlements whenever created).

Commencement Information

II [Sch. 12 paras. 35-40](#) in force at 6.4.2007 unless otherwise expressly provided see [Sch. 12 para. 41](#)

- 36 (1) In each of the provisions set out in sub-paragraph (2) for “at no time resident or ordinarily resident in the United Kingdom” substitute “ at no time resident and ordinarily resident in the United Kingdom ”.
- (2) Those provisions are—
- (a) section 87(1) (attribution of gains to beneficiaries), and

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(b) paragraph 4(1) of Schedule 4C (chargeable amount: non-resident settlement).

(3) Sub-paragraph (2)(b) shall have effect in relation to a transfer of value made on or after 6th April 2007 (in relation to settlements whenever created).

Commencement Information

I2 [Sch. 12 paras. 35-40](#) in force at 6.4.2007 unless otherwise expressly provided see [Sch. 12 para. 41](#)

- 37 (1) In section 169(3)(a) (availability of hold-over relief)—
- (a) for “fall to be treated, under section 69, as” substitute “ are ”, and
 - (b) omit the words from “, although” to the end of the paragraph.
- (2) In section 169(3)(b)(ii) (notional disposal) for “arising” substitute “ accruing ”.
- (3) This paragraph shall have effect in relation to relevant disposals (within the meaning given by section 169(2)) made on or after 6th April 2007 (in relation to settlements whenever created).

Commencement Information

I3 [Sch. 12 paras. 35-40](#) in force at 6.4.2007 unless otherwise expressly provided see [Sch. 12 para. 41](#)

- 38 In paragraph 2(7)(a) of Schedule 1 (meaning of “excluded settlement”) omit “treated under section 69(1) as”.

Commencement Information

I4 [Sch. 12 paras. 35-40](#) in force at 6.4.2007 unless otherwise expressly provided see [Sch. 12 para. 41](#)

- 39 In paragraph 5(1) of Schedule 4A (residence of trustees) for the words from “either” to the end of the sub-paragraph substitute “ resident and ordinarily resident in the United Kingdom during any part of the year ”.

Commencement Information

I5 [Sch. 12 paras. 35-40](#) in force at 6.4.2007 unless otherwise expressly provided see [Sch. 12 para. 41](#)

- 40 In paragraph 10(2) of Schedule 4C (capital payments received by beneficiaries when trustees resident in United Kingdom) for paragraphs (a) and (b) substitute “ during the whole of which the trustees are resident and ordinarily resident in the United Kingdom ”.

Commencement Information

I6 [Sch. 12 paras. 35-40](#) in force at 6.4.2007 unless otherwise expressly provided see [Sch. 12 para. 41](#)

- 41 Paragraphs 35 to 40 shall, unless otherwise expressly provided, come into force on 6th April 2007 (in relation to settlements whenever created).

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