
Changes to legislation: Finance Act 2008, Paragraph 108 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 7

REMITTANCE BASIS

PART 2

NON-RESIDENT COMPANIES AND TRUSTS ETC

Attribution of gains to beneficiaries

108 For section 87 substitute—

“87 Non-UK resident settlements: attribution of gains to beneficiaries

- (1) This section applies to a settlement for a tax year (“the relevant tax year”) if the trustees are neither resident nor ordinarily resident in the United Kingdom in that year.
- (2) Chargeable gains are treated as accruing in the relevant tax year to a beneficiary of the settlement who has received a capital payment from the trustees in the relevant tax year or any earlier tax year if all or part of the capital payment is matched (under section 87A as it applies for the relevant tax year) with the section 2(2) amount for the relevant tax year or any earlier tax year.
- (3) The amount of chargeable gains treated as accruing is equal to—
 - (a) the amount of the capital payment, or
 - (b) if only part of the capital payment is matched, the amount of that part.
- (4) The section 2(2) amount for a settlement for a tax year for which this section applies to the settlement is—
 - (a) the amount upon which the trustees of the settlement would be chargeable to tax under section 2(2) for that year if they were resident and ordinarily resident in the United Kingdom in that year, or
 - (b) if section 86 applies to the settlement for that year, the amount mentioned in paragraph (a) minus the total amount of chargeable gains treated under that section as accruing in that year.
- (5) The section 2(2) amount for a settlement for a tax year for which this section does not apply to the settlement is nil.
- (6) For the purposes of this section a settlement arising under a will or intestacy is treated as made by the testator or intestate at the time of death.

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87A Section 87: matching

- (1) This section supplements section 87.
- (2) The following steps are to be taken for the purposes of matching capital payments with section 2(2) amounts.

Step 1

Find the section 2(2) amount for the relevant tax year.

Step 2

Find the total amount of capital payments received by the beneficiaries from the trustees in the relevant tax year.

Step 3

The section 2(2) amount for the relevant tax year is matched with—

- (a) if the total amount of capital payments received in the relevant tax year does not exceed the section 2(2) amount for the relevant tax year, each capital payment so received, and
- (b) otherwise, the relevant proportion of each of those capital payments.

“The relevant proportion” is the section 2(2) amount for the relevant tax year divided by the total amount of capital payments received in the relevant tax year.

Step 4

If paragraph (a) of Step 3 applies—

- (a) reduce the section 2(2) amount for the relevant tax year by the total amount of capital payments referred to there, and
- (b) reduce the amount of those capital payments to nil.

If paragraph (b) of that Step applies—

- (a) reduce the section 2(2) amount for the relevant tax year to nil, and
- (b) reduce the amount of each of the capital payments referred to there by the relevant proportion of that capital payment.

Step 5

Start again at Step 1 (unless subsection (3) applies).

If the section 2(2) amount for the relevant tax year (as reduced under Step 4) is not nil, read references to capital payments received in the relevant tax year as references to capital payments received in the latest tax year which—

- (a) is before the last tax year for which Steps 1 to 4 have been undertaken, and
- (b) is a tax year in which capital payments (the amounts of which have not been reduced to nil) were received by beneficiaries.

If the section 2(2) amount for the relevant tax year (as so reduced) is nil, read references to the section 2(2) amount for the relevant tax year as the section 2(2) amount for the latest tax year—

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- (a) which is before the last tax year for which Steps 1 to 4 have been undertaken, and
 - (b) for which the section 2(2) amount is not nil.
- (3) This subsection applies if—
- (a) all of the capital payments received by beneficiaries from the trustees in the relevant tax year or any earlier tax year have been reduced to nil, or
 - (b) the section 2(2) amounts for the relevant tax year and all earlier tax years have been reduced to nil.
- (4) The effect of any reduction under Step 4 of subsection (2) is to be taken into account in any subsequent application of this section.

87B Section 87: remittance basis

- (1) This section applies if—
- (a) chargeable gains are treated under section 87 as accruing to an individual in a tax year,
 - (b) section 809B, 809D or 809E (remittance basis) applies to the individual for that year, and
 - (c) the individual is not domiciled in the United Kingdom in that year.
- (2) The chargeable gains are foreign chargeable gains within the meaning of section 12 (non-UK domiciled beneficiaries to whom remittance basis applies).
- (3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) treat relevant property or benefits as deriving from the chargeable gains.
- (4) For the purposes of subsection (3) property or a benefit is “relevant” if the capital payment by reason of which the chargeable gains are treated as accruing consists of—
- (a) the payment or transfer of the property or its becoming property to which section 60 applies, or
 - (b) the conferring of the benefit.

87C Sections 87 and 87A: disregard of certain capital payments

- (1) For the purposes of sections 87 and 87A as they apply in relation to a settlement, no account is to be taken of a capital payment (or a part of a capital payment) within subsection (2).
- (2) A capital payment is within this subsection if (and to the extent that) it is received (or treated as received) in a tax year from the trustees of the settlement by a company that—
- (a) is not resident in the United Kingdom in that year, and
 - (b) would be a close company if it were resident in the United Kingdom, (and is not treated under any of subsections (3) to (5) of section 96 as received by another person).”

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)