
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, SCHEDULE 10. (See end of Document for details)

SCHEDULES

SCHEDULE 10

Section 35

SETTLEMENTS: ANTI-AVOIDANCE ETC

PART 1

CAPITAL GAINS TAX

TCGA 1992

- 1 (1) In TCGA 1992, after section 87C insert—

“87D Sections 87 and 87A: disregard of capital payments to non-residents

- (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), but this—
- (a) is subject to subsection (3) and section 87E, and
 - (b) does not affect the operation of sections 87I to 87L (see, in particular, sections 87K(2) and 87L(2) which apply sections 87 and 87A by reference to the payment mentioned in section 87I(1)(a)).
- (2) A capital payment is within this subsection if (and to the extent that) it is in a tax year received from the trustees of the settlement by a beneficiary who at all times in that year is not resident in the United Kingdom, but this is subject to section 87F.
- (3) Subsection (1) does not apply in relation to a capital payment (or a part of a capital payment) if—
- (a) the recipient beneficiary is a close member of the settlor's family (see section 87H) when the beneficiary receives (or is treated as receiving) the payment (or part),
 - (b) the payment (or part) is received on or after 6 April 2018, and
 - (c) the settlor is resident in the United Kingdom in the tax year in which the payment (or part) is received.

87E Sections 87 and 87A: disregarded payments to temporary non-resident

- (1) If—
- (a) as a result of section 87D, no account is taken of a capital payment (or a part of a capital payment) for the purposes of sections 87 and 87A,
 - (b) the recipient beneficiary is an individual who is temporarily non-resident, and

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- (c) the payment (or part) is received in the beneficiary's temporary period of non-residence,
- the payment (or part) is treated for the purposes of sections 87 and 87A as received (by the beneficiary) in the beneficiary's period of return, and account is to be taken of it accordingly for those purposes.
- (2) Part 4 of Schedule 45 to FA 2013 explains—
 - (a) when an individual is to be regarded as “temporarily non-resident”, and
 - (b) what “the temporary period of residence” and “the period of return” mean.

87F Sections 87 and 87A: disregarded payments in year settlement ends

- (1) This section applies in relation to a settlement if—
 - (a) in a particular tax year, the settlement ceases to exist,
 - (b) two or more beneficiaries (“the recipients”) in the year receive capital payments from the trustees, and
 - (c) at least one of the recipients is, and at least one is not, a non-resident beneficiary.
- (2) Those capital payments, so far as received by such of the recipients as are non-resident beneficiaries, are not within section 87D(2).
- (3) In this section “non-resident beneficiary” means a beneficiary who at all times in the year is not resident in the United Kingdom.

87G Settlor liable if capital payment received by close family member

- (1) Subsection (2) applies if in the case of a settlement—
 - (a) a beneficiary of the settlement receives a capital payment from the trustees in a tax year,
 - (b) the settlor is resident in the United Kingdom at any time in that year, and
 - (c) the beneficiary (“the original recipient”) is a close member of the settlor's family (see section 87H) at the time of receipt.
- (2) Sections 87 and 87A have effect as if the capital payment—
 - (a) was received from the trustees by the settlor—
 - (i) as a beneficiary of the settlement (whether or not the settlor is otherwise a beneficiary of the settlement), and
 - (ii) at the time it was received by the original recipient, and
 - (b) was not received by the original recipient.
- (3) Where any tax is chargeable on the settlor as a result of subsection (2) and is paid, the settlor is entitled to recover the full amount of the tax from the original recipient.
- (4) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
 - (a) the amount of tax paid, and
 - (b) the amount of the gains on which the tax is paid,

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and any such certificate is conclusive evidence of the facts stated in it.

87H Meaning of “close member of the settlor's family”

- (1) For the purposes of sections 87D, 87G and 87L as they apply in relation to a settlement, a person is a close member of the settlor's family at any time if the settlor is living at that time and—
 - (a) the person is the settlor's spouse or civil partner at that time, or
 - (b) the person—
 - (i) is a child of the settlor, or of a person who at that time is the settlor's spouse or civil partner, and
 - (ii) at that time has not reached the age of 18.
- (2) For the purposes of subsection (1)—
 - (a) two people living together as if they were spouses of each other are treated as if they were spouses of each other, and
 - (b) two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other.

87I Non-UK resident settlements: recipients of onward gifts

- (1) Sections 87J and 87K apply if in the case of a settlement—
 - (a) a capital payment (“the original payment”) is received in a tax year (“the payment year”) by a person (“the original beneficiary”) from the trustees of the settlement,
 - (b) at the time of receipt—
 - (i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole or part of the original payment, and
 - (ii) it is reasonable to expect that, in the event of the whole or part of the original payment being passed on to another person as envisaged by the arrangements or intention, that other person will be resident in the United Kingdom when they receive at least part of what is passed on to them,
 - (c) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”)—
 - (i) at the time the original payment is received, or at any later time in the 3 years beginning with the day containing the start time, or
 - (ii) at any time before the original payment is received and, it is reasonable to assume, in anticipation of receipt of the original payment,
 - (d) the gift is of or includes—
 - (i) the whole or part of the original payment,
 - (ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of the original payment, or
 - (iii) any other property, but only if the original payment is made with a view to enabling or facilitating, or otherwise in

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- connection with, the making of the gift of the property to the subsequent recipient,
- (e) the subsequent recipient is resident in the United Kingdom in the tax year in which the onward payment is received by the subsequent recipient (“the gift year”, but see subsection (4)), and
 - (f) in the period beginning with the start of the payment year and ending with the end of the gift year, there is at least one tax year—
 - (i) for which the otherwise-liable person is not resident in the United Kingdom, or
 - (ii) for which section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the otherwise-liable person.
- (2) Where—
- (a) there is a series of two or more gifts,
 - (b) the first gift in the series is made, directly or indirectly, by the original beneficiary—
 - (i) at the time the original payment is received, or at any later time in the 3 years beginning with the day containing the start time, or
 - (ii) at any time before the original payment is received and, it is reasonable to assume, in anticipation of receipt of the original payment,
 - (c) the recipient of a gift in the series is the person who makes, directly or indirectly, the next gift in the series,
 - (d) the recipient of the last gift in the series is resident in the United Kingdom in the tax year in which that gift is received,
 - (e) as regards each earlier gift in the series, its recipient is not resident in the United Kingdom at any time in the tax year in which it is received, and
 - (f) the condition in subsection (1)(d) is met in relation to each gift in the series,
- the last gift in the series is treated for the purposes of subsection (1)(c) as if its maker were the original beneficiary (and not its actual maker).
- (3) For the purposes of subsections (1)(c)(i) and (2)(b)(i)—
- (a) if the original payment is a capital payment other than one that is treated as received by section 87M, “the start time” is the time the original payment is received, and
 - (b) if the original payment is a capital payment that is treated as received by section 87M in connection with the operation of this section, and sections 87J and 87K, on a previous occasion, “the start time” is the time given by this subsection as the start time on that occasion
- (4) Where the onward payment is made as mentioned in subsection (1)(c)(ii), the onward payment is to be treated—
- (a) for the purposes of the provisions of this section following subsection (1)(c), and
 - (b) for the purposes of sections 87K to 87M,
- as made and received immediately after the original payment is received (and in the payment year).

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- (5) Where this section provides for section 87K to apply in relation to two or more gifts received from the original beneficiary in the gift year by reference to the original payment—
- (a) treat that section as applying in relation to a single gift equal in amount to the total of the amount or value of each of the gifts (and as not applying in relation to each gift separately), and
 - (b) apportion between the gifts (in proportion to their amounts or values)—
 - (i) any capital payments given by section 87K(2), and
 - (ii) any gains given by section 87K(3),as a result of applying section 87K in accordance with paragraph (a).
- (6) Where this section provides for sections 87J and 87K to apply in relation to a gift received in a tax year—
- (a) take the steps required by section 87J before applying section 87K in relation to the gift, but
 - (b) in taking the steps required by section 87J, have regard to the application of section 87K in relation to gifts made in earlier tax years.
- (7) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
 - “gift” includes any benefit,
 - “make”, in relation to a gift that is a benefit, means confer, and
 - “the otherwise-liable person” means the original beneficiary unless section 87G(2) applies in relation to the original payment in which event the settlor is “the otherwise-liable person”.
- (8) Where subsection (1)(c) and (d) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(b) is also met in that case.

87J Relevant parts of payment from which onward gift derived

- (1) Where this section applies (see section 87I), for the purposes of section 87K treat the original payment as divided into slices as follows—
- (a) a slice consisting of the taxed part (if any) of each matched amount (if any),
 - (b) a slice (“U”) consisting of the untaxed part (if any) of each matched amount (if any), and
 - (c) a slice (“R”) consisting of the rest (if any) of the original payment.
- (2) For the purposes of this section, if all or part of the original payment is, in a tax year (“the matching year”) not later than the gift year, matched under section 87A with the section 2(2) amount for the matching year or any earlier tax year, so much of the original payment as is so matched is a “matched amount”.
- (3) For the purposes of subsection (1), if—

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- (a) as a result of there being a matched amount, gains are treated by section 87 as accruing to the otherwise-liable person,
 - (b) the otherwise-liable person is resident in the United Kingdom for the matching year, and
 - (c) none of sections 809B, 809D and 809E of ITA 2007 applies to the otherwise-liable person for the matching year,
- the whole of the matched amount is its “taxed part” (and it has no “untaxed part”).
- (4) For the purposes of subsection (1), if—
- (a) as a result of there being a matched amount, gains are treated by section 87 as accruing to the otherwise-liable person,
 - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the otherwise-liable person for the matching year, and
 - (c) the whole or part of those gains is remitted to the United Kingdom in a tax year—
 - (i) that is not later than the gift year, and
 - (ii) in which the otherwise-liable person is resident in the United Kingdom,
 so much of the matched amount as is equal to so much of the gains as is remitted as mentioned in paragraph (c) is the matched amount's “taxed part”, and the rest of the matched amount is its “untaxed part”.
- (5) For the purposes of subsection (1), if all or part of the original payment is in a tax year (“the pool-matching year”) not later than the gift year matched, under section 87A as applied by paragraph 8 of Schedule 4C, with the section 2(2) amount in the Schedule 4C pool for the pool-matching year or any earlier tax year—
- (a) so much of the original payment as is so matched is a “matched amount”, and
 - (b) the whole of the matched amount is its “taxed part” (and it has no “untaxed part”).

87K Attribution of gains or payments to recipient of onward gift

- (1) Where this section applies (see section 87I), G is—
- (a) the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 87I(1)(d), or
 - (b) if lower, the amount of the original payment.
- (For the meaning of R and U, see section 87J.)
- (2) If R is greater than nil, sections 87 and 87A have effect for the gift year and later tax years—
- (a) as if a capital payment was received from the trustees by the subsequent recipient—
 - (i) as a beneficiary of the settlement (whether or not the subsequent recipient is otherwise a beneficiary of the settlement), and
 - (ii) at the time the subsequent recipient received the onward payment,

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- (b) as if that capital payment consisted of—
 - (i) R, if G is greater than R, or
 - (ii) so much of R as is equal to G, if G is not greater than R, and
 - (c) as if so much of the original payment as is equal to that capital payment was not received by the otherwise-liable person.
- (3) If G is greater than R, and if U is greater than nil—
- (a) chargeable gains are treated as accruing to the subsequent recipient in the gift year (but see section 87L(3) and (4)),
 - (b) the amount of those gains is—
 - (i) U, if $(G - R)$ is greater than U, or
 - (ii) so much of U as is equal to $(G - R)$, if $(G - R)$ is not greater than U, and
 - (c) the chargeable gains treated by section 87 as accruing to the otherwise-liable person by reason of the original payment are treated as from the end of the gift year as reduced by that amount, with that reduction being made from so much of those gains as has not by then been remitted to the United Kingdom in a tax year in which the otherwise-liable person is resident in the United Kingdom.
- (4) If this section applies by reference to the original payment also in relation to a gift received from the original beneficiary in a tax year earlier than the gift year, this section applies in relation to the onward payment as if—
- (a) the amount given by section 87J for R were reduced by the amount of any capital payment given by subsection (2) in relation to that earlier year, and
 - (b) the amount given by section 87J for U were reduced by the amount of any gains given by subsection (3) in relation to that earlier year.

87L Cases where settlor liable following onward gift

- (1) Subsection (2) applies where—
- (a) ignoring this section and section 87M, a person is treated by section 87K(2) as receiving a capital payment from the trustees of a settlement at a time (“the time of receipt”) in a tax year,
 - (b) the settlor is resident in the United Kingdom at any time in that year, and
 - (c) the person mentioned in paragraph (a) is a close member of the settlor's family (see section 87H) at the time of receipt.
- (2) Sections 87 and 87A have effect for that year, and later tax years, as if the capital payment—
- (a) was received from the trustees by the settlor—
 - (i) as a beneficiary of the settlement (whether or not the settlor is otherwise a beneficiary of the settlement), and
 - (ii) at the time of receipt, and
 - (b) was not received by the person mentioned in subsection (1)(a).
- (3) Subsection (4) applies where—

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- (a) in the case of a settlement, chargeable gains are (ignoring this section and section 87M) treated by section 87K(3) as accruing to a person in a tax year (“the subsequent recipient”),
 - (b) the settlor is resident in the United Kingdom at any time in that year, and
 - (c) the subsequent recipient is a close member of the settlor's family when the subsequent recipient receives the onward payment (see section 87I(1)(c)) by reference to which the chargeable gains are treated as accruing.
- (4) Section 87K(3)(a) has effect as if its reference to the subsequent recipient were a reference to the settlor, and references (however expressed) to chargeable gains treated as accruing by this section are to chargeable gains treated by section 87K(3)(a) as accruing to the settlor as a result of the operation of this subsection.
- (5) Where, in the case of a settlement, any tax is chargeable on the settlor as a result of this section and is paid, the settlor is entitled to recover the full amount of the tax from the person mentioned in subsection (1)(a) or (3)(a), as the case may be.
- (6) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
- (a) the amount of tax paid, and
 - (b) the amount of the gains on which the tax is paid,
- and any such certificate is conclusive evidence of the facts stated in it.

87M Cases where recipient of onward gift is user of remittance basis

- (1) Subsection (2) applies where—
- (a) ignoring this section, a person is treated by section 87K(2) as receiving a capital payment from the trustees of a settlement at a time (“the time of receipt”) in a tax year,
 - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the person for that tax year, and
 - (c) the payment is not treated by section 87L(2) as received by the settlor.
- (2) Section 87I(1)(a) has effect as if the capital payment were received from the trustees by the person at the time of receipt, and section 87K(2)(a) and (b) do not have effect for the purposes of sections 87 and 87A in the case of the payment.
- (3) The rules in subsection (4) apply where—
- (a) in the case of a settlement, chargeable gains are (ignoring this section) treated by section 87K(3), but not as a result of the operation of section 87L(4), as accruing to a person in a tax year by reference to a gift within section 87I(1)(d) made to the person,
 - (b) section 809B, 809D or 809E of ITA 2007 applies to the person for that tax year, and
 - (c) none, or part only, of the gains is remitted to the United Kingdom in that tax year.

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- (4) The rules are—
- (a) section 87I(1)(a) has effect—
 - (i) as if a capital payment were received from the trustees by the person at the time the gift is made, and
 - (ii) as if the capital payment were equal in amount to so much of the gains as is not remitted in the tax year mentioned in subsection (3)(a) of this section,
 - (b) for the purposes of section 87J—
 - (i) the whole of the capital payment is a “matched amount”, and
 - (ii) the whole of the matched amount is its “untaxed part” (and the matched amount has no “taxed part”), and
 - (c) the amount of the gains treated by section 87K(3)(a) and (b) as accruing to the person by reference to the gift is reduced by the amount of the capital payment.
- (5) Where the capital payment mentioned in section 87I(1)(a) is one treated as received by subsection (2) or (4) of this section in connection with the operation of sections 87I to 87K on a previous occasion, section 87I(1) has effect—
- (a) with the omission of its paragraph (b),
 - (b) as if the reference in its paragraph (c) to the original payment were, instead, to what was the onward payment on that previous occasion, and
 - (c) as if the references in its paragraph (d) to the original payment were, instead, to so much of that onward payment as was on that previous occasion within any of sub-paragraphs (i) to (iii) of that paragraph.
- (6) Section 87I(4) and (7) (interpretation of references to gifts and their making) apply also for the purposes of subsections (3) and (4) of this section.

87N Sections 87 and 87A: disregard of payments to migrating beneficiary

- (1) For the purposes of sections 87 and 87A as they apply in relation to a settlement for a particular tax year, no account is to be taken of a capital payment (or part of a capital payment) within subsection (2), but this is subject to section 87P.
- (2) A capital payment is within this subsection—
- (a) if it is received by a beneficiary of the settlement before the particular tax year,
 - (b) if the relevant person is resident in the United Kingdom in the tax year in which it is received,
 - (c) if the relevant person is not resident in the United Kingdom in the particular tax year, and
 - (d) so far as it has not been matched (under section 87A as it applies for tax years before the particular tax year) with—
 - (i) the section 2(2) amount for any tax year before the particular tax year, but not earlier than the tax year 2018-19, in which the relevant person is resident in the United Kingdom, or

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(ii) the section 2(2) amount for any tax year earlier than the tax year 2018-19.

(3) For the purposes of subsection (2), the beneficiary is “the relevant person” unless section 87G(2) applies in relation to the capital payment in which event the settlor is “the relevant person”.

87P Sections 87 and 87A: temporary migration after payment disregarded

(1) If—

- (a) as a result of section 87N, no account is taken of a capital payment (or a part of a capital payment) for the purposes of sections 87 and 87A as they apply in relation to a settlement for a particular tax year,
- (b) the recipient beneficiary (where section 87G(2) does not apply in relation to the capital payment), or the settlor (where section 87G(2) does apply in relation to the capital payment), is an individual who is temporarily non-resident,
- (c) the whole or part of the particular tax year constitutes, or forms part of, that individual's temporary period of non-residence,
- (d) either—
 - (i) that individual's temporary period of non-residence begins with the start of a tax year and the payment (or part) is received before that tax year, or
 - (ii) that individual's temporary period of non-residence begins otherwise than at the start of a tax year and the payment (or part) is received before, or at any time in, the tax year in which that individual's temporary period of non-residence begins, and
- (e) the payment (or part) has not been matched (under section 87A as it applies for tax years before the particular tax year) with—
 - (i) the section 2(2) amount for any tax year before the particular tax year, but not earlier than the tax year 2018-19, in which that individual is resident in the United Kingdom, or
 - (ii) the section 2(2) amount for any tax year earlier than the tax year 2018-19,

the payment (or part) is treated for the purposes of sections 87 and 87A as received (by that individual) in that individual's period of return, and account is to be taken of it accordingly for those purposes.

(2) Part 4 of Schedule 45 to FA 2013 explains—

- (a) when an individual is to be regarded as “temporarily non-resident”, and
- (b) what “the temporary period of residence” and “the period of return” mean.”

(2) In sections 2(4) and (5), 16ZC(4) and 62(2A)(a) of TCGA 1992, after “87” insert “, 87K, 87L”.

(3) In section 86A(1) of TCGA 1992 (attribution of gains to settlor in temporary non-residence cases)—

- (a) in paragraph (b)—

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- (i) for “beneficiaries of the settlement” substitute “ , in the case of the settlement, individuals ”, and
 - (ii) after “87” insert “ , 87K, 87L ”, and
 - (b) in paragraph (c) omit “by the beneficiaries”.
- (4) In section 87 of TCGA 1992 (non-UK resident settlements: attribution of gains to beneficiaries)—
 - (a) after subsection (2) insert—
 - “(2A) If the relevant tax year is a split year as respects the beneficiary, the gains are treated as accruing in the UK part of that year.”, and
 - (b) omit subsection (7) (apportionment of gains where relevant year is a split year).
- (5) In section 87B of TCGA 1992 (section 87: remittance basis)—
 - (a) in subsection (1)(a), after “87” insert “ , 87K or 87L ”,
 - (b) in subsection (1)(b) (which refers to sections 809B, 809D and 809E of ITA 2007), after “809E” insert “ of ITA 2007 ”, and
 - (c) in subsection (4), after “capital payment” insert “ , or onward payment (see section 87I(1)(c)), ”.
- (6) In section 89(3) of TCGA 1992 (application of sections 87 to 87C in relation to migrant settlements), for “87C” substitute “ 87P ”.
- (7) In section 91 of TCGA 1992 (increase in tax payable under section 87 or 89(2))—
 - (a) in subsection (1)(a)—
 - (i) after “87” insert “ , 87K, 87L ”, and
 - (ii) for “a beneficiary” substitute “ an individual directly, or indirectly, ”, and
 - (b) in subsections (1)(b), (2) and (3), for “beneficiary” substitute “ individual ”.
- (8) In sections 279A(7)(b) and 279C(6)(c) of TCGA 1992, after “87” insert “ , 87K, 87L ”.
- (9) In paragraph 1A of Schedule 4C to TCGA 1992—
 - (a) in Step 2 in sub-paragraph (1)—
 - (i) after “applies if,” insert “ directly or indirectly ”
 - (ii) after “87” insert “ , 87K, 87L ”, and
 - (iii) for “a beneficiary” substitute “ an individual ”, and
 - (b) in sub-paragraph (3)—
 - (i) for “a beneficiary” substitute “ an individual ”, and
 - (ii) for “the beneficiary” substitute “ the individual ”.
- (10) In paragraph 8 of Schedule 4C to TCGA 1992, after sub-paragraph (5) insert—
 - “(6) Sections 87G(2), 87K(2) and 87L(2) (capital payment treated for purposes of sections 87 and 87A as received by someone other than actual recipient) apply also for the purposes of this paragraph, but this is subject to paragraph 9.”
- (11) In consequence of sub-paragraph (4)(b), in Schedule 45 to FA 2013 omit paragraph 101.

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- (12) The new sections 87D and 87E have effect—
- (a) except as provided by the new section 87D(3), in relation to payments received in the tax year 2018-19 or a later tax year, and
 - (b) in the tax year 2018-19 and later tax years, also in relation to payments received before the tax year 2018-19 that have not been matched under section 87A of TCGA 1992 as it applies for tax years before the tax year 2018-19.
- (13) The new sections 87F and 87G, and the amendments made by sub-paragraphs (4) and (11), have effect in relation to payments received in the tax year 2018-19 or a later tax year.
- (14) The new sections 87I to 87M have effect in relation to onward payments made on or after 6 April 2018, and do so even in cases where the original payment is received before that date.
- (15) The new sections 87N and 87P have effect where the particular tax year is the tax year 2018-19 or a later tax year.
- (16) The amendment made in section 89 has effect for the tax year 2018-19 and later tax years.
- 2 (1) Sub-paragraph (2) applies in a case where—
- (a) section 10A of TCGA 1992 (temporary non-residents) as substituted by paragraph 119 of Schedule 45 to FA 2013 applies in relation to an individual,
 - (b) the period of temporary non-residence began before 8 July 2015, and
 - (c) a capital payment (or part of a capital payment) is treated by section 87E or 87P of TCGA 1992 as received by the individual in the period of return.
- (2) For the purposes of capital gains tax in respect of any chargeable gain treated by section 87 of TCGA 1992 as accruing to the individual as a result of matching of the payment (or part), section 809B(1A) of ITA 2007 does not have effect in relation to the tax year which consists of or includes the period of return.
- (3) Where by virtue of sub-paragraph (2) the individual makes a claim under section 809B of ITA 2007 for any of the tax years 2018-19 to 2020-21 inclusive, sections 809C, 809G and 809H of ITA 2007 do not apply to the individual for that tax year.
- (4) Part 4 of Schedule 45 to FA 2013 explains what “temporary period of non-residence” and “period of return” mean.

PART 2

INCOME TAX

ITTOIA 2005

- 3 (1) Chapter 5 of Part 5 of ITTOIA 2005 (settlements: amounts treated as income of settlor) is amended as follows.
- (2) In the Chapter heading, after “settlor” insert “ or family ”.
- 4 In section 619(1) (list of provisions in the Chapter charging tax)—

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- (a) omit the “and” at the end of paragraph (c), and
 - (b) after paragraph (d) insert—
 - “(e) benefits whose amount or value is treated as income of the settlor or a close family member as a result of section 643A (benefits provided out of protected foreign-source income), and
 - (f) amounts treated as income of the settlor or a close family member by section 643J or 643L (gifts provided out of benefits).”
- 5 In section 621 (income charged under the Chapter), for “income and capital sums” substitute “ income, capital sums and benefits ”.
- 6 In section 622 (person liable), at the end insert “ , but this is subject to sections 643A and 643I to 643M. ”
- 7 In section 623 (deductions and reliefs allowed when calculating liability under the Chapter)—
- (a) for “a settlor” substitute “ an individual ”, and
 - (b) for “the settlor”, in both places it occurs, substitute “ the individual ”.
- 8 In section 635 (amount of available income for section 633 purposes)—
- (a) in subsection (3)(d)(i) (tax on certain income to be deducted when calculating available amount), before “income” insert “ unprotected ”, and
 - (b) in subsection (5) (meaning of “unprotected income”), for “subsection (2)” substitute “ this section and sections 636 and 637 ”.
- 9 In section 636 (amount of unprotected income that is undistributed for section 635 purposes)—
- (a) in subsection (2) (deducting payments that are or would be taxable as recipients' income)—
 - (i) in the words before paragraph (a) omit “such”,
 - (ii) in those words, for “as” substitute “ that are payments of unprotected income, or sums treated as representing unprotected income, and that ”, and
 - (iii) in paragraph (b), for “so treated” substitute “ treated as mentioned in paragraph (a) ”,
 - (b) in subsection (4) (deducting expenses properly chargeable to income), before “income” insert “ unprotected ”, and
 - (c) in subsection (6) (deducting amounts in respect of exempt income), in the definition of “A”, before “income” insert “ unprotected ”.
- 10 In section 637 (qualifications to section 636)—
- (a) in subsections (2), (3) and (4) (extent to which interest treated as deductible trust expenses), before “interest” insert “ relevant ”,
 - (b) in subsection (5) (the relevant fraction), in the definition of “A”, before “income” insert “ unprotected ”, and
 - (c) after subsection (7) insert—
 - “(7A) In this section “relevant interest” means interest which, in the absence of any express provision of the settlement, would be properly chargeable to unprotected income.”
- 11 After section 643 insert—

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“Benefits matched with protected foreign-source income

643A Deemed income because of benefits for settlor or close family member

- (1) If an individual has an untaxed benefits total for a settlement for a tax year (see section 643B), an amount equal to so much of that total as does not exceed the settlement's available protected income up to the end of the year (see section 643C) is—
- (a) where the individual is UK resident for the year, treated for income tax purposes as income of the individual for the year, subject to subsections (2) to (5), and
 - (b) where the individual is non-UK resident for the year, treated for the purposes of subsection (2) and sections 643I to 643L (but no other purpose) as income of the individual for the year, subject to subsection (5).
- (2) Subsections (3) and (4) apply if—
- (a) an amount (“the deemed income”) is treated by subsection (1), before the application of subsections (3) and (4), as income of an individual for a tax year,
 - (b) the individual is not the settlor,
 - (c) either—
 - (i) the individual is non-UK resident for the year, or
 - (ii) the individual is UK resident for the year and one of sections 809B, 809D and 809E of ITA 2007 (remittance basis) applies to the individual for the year,
 - (d) the settlor is UK resident for the year,
 - (e) there is no time in the year when the settlor is domiciled in the United Kingdom, and
 - (f) there is no time in the year when the settlor is regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.
- (3) If the case is one—
- (a) where the condition in subsection (2)(c)(i) is met, or
 - (b) where the condition in subsection (2)(c)(ii) is met and none of the deemed income is remitted to the United Kingdom in the year,
- the deemed income is to be treated for income tax purposes as income of the settlor for the year and, in a case within paragraph (b), not as income of the individual for the year.
- (4) If the case is one—
- (a) where the condition in subsection (2)(c)(ii) is met, and
 - (b) part only of the deemed income is remitted to the United Kingdom in the year,
- the remainder of the deemed income is to be treated for income tax purposes not as income of the individual for the year but as income of the settlor for the year.

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- (5) If there is a choice about the individuals in whose case income is to be treated as arising by subsection (1) (before the application of subsections (3) and (4))—
- (a) income is to be treated as arising to such one or more of them as appears to an officer of Revenue and Customs to be just and reasonable, and
 - (b) if more than one, in such respective proportions as appears to the officer to be just and reasonable.
- (6) Sections 809L to 809Z6 of ITA 2007 (remittance basis: rules about when income is remitted) apply for the purposes of this section.
- (7) If—
- (a) an enactment other than this section contains a reference (however expressed) to—
 - (i) income treated as arising by this section, or
 - (ii) an amount treated as income by this section, and
 - (b) the reference mentions this section without mentioning any particular provision of this section,
- the reference is (in accordance with subsection (1)(b)) to be read as not including amounts treated as income by subsection (1)(b) except so far as they are treated as income of the settlor of a settlement by subsection (3) or (4).

643B Meaning of “untaxed benefits total” in section 643A

- (1) For the purposes of section 643A, whether an individual has an untaxed benefits total for a settlement for a tax year (“the current year”), and (if so) its amount, are determined as follows—

Step 1 If the individual is the settlor, identify each benefit provided by the trustees to the individual at a time—

- (a) when the individual is not relevantly domiciled, and
- (b) in a tax year that is the current year or an earlier tax year.

If the individual is not the settlor, identify each benefit provided by the trustees to the individual at a time—

- (a) when the individual is a close member of the settlor's family (see section 643H), and
- (b) in a tax year that is the current year or an earlier tax year.

Step 2 Identify the amount or value of each benefit identified in the individual's case at Step 1, and calculate the total of those amounts and values.

Step 3 Take the total calculated at Step 2 and deduct from it the following—

- (a) any part of it on which the individual is liable to income tax otherwise than under section 643A,
- (b) any income treated by section 643A, 643J or 643L as arising, to a person for a tax year earlier than the current year, by reference to any of the benefits identified in the individual's case at Step 1,

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- (c) where the whole or part of a benefit identified in the individual's case at Step 1 is taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007, the amount or value of so much of the benefit as is taken into account in doing that, and
- (d) any amount required to be deducted by section 643D(2) (gains treated as accruing in a year before the current year).

Step 4 If the result of the calculation at Step 3 is an amount greater than nil, that amount is the individual's untaxed benefits total for the settlement for the current year.

- (2) For the purposes of Step 1 in subsection (1), an individual is “relevantly domiciled” at any time if at that time—
 - (a) the individual is domiciled in the United Kingdom, or
 - (b) the individual is regarded for the purposes of section 809(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.
- (3) Sections 742C to 742E of ITA 2007 (value of certain benefits) apply for the purpose of calculating the value of a benefit for the purposes of this section as they apply for the purpose of calculating an income tax charge under Chapter 2 of Part 13 of ITA 2007.
- (4) In this section and sections 643C to 643M, a reference to a benefit provided by trustees of a settlement is to—
 - (a) a benefit treated by subsection (6) as provided by the trustees, or
 - (b) any other benefit if it is provided by the trustees directly, or indirectly, out of—
 - (i) property comprised in the settlement, or
 - (ii) income arising under the settlement.
- (5) In this section and sections 643C to 643M, a reference to a benefit provided by trustees of a settlement to an individual is to—
 - (a) a benefit treated by subsection (6) as provided by the trustees to the individual, or
 - (b) any other benefit if it is provided by the trustees to the individual directly, or indirectly, out of—
 - (i) property comprised in the settlement, or
 - (ii) income arising under the settlement.
- (6) Where—
 - (a) income arises under a settlement, and
 - (b) the income, before being distributed, is the income of a person other than the trustees,

a benefit is for the purposes of subsection (4)(a) treated as provided by the trustees and is for the purposes of subsection (5)(a) treated as provided by the trustees to the person.
- (7) A benefit treated as provided by subsection (6) is treated—

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- (a) as consisting of the income mentioned in that subsection, but after any reduction in accordance with Chapter 8 of Part 9 of ITA 2007 for trustees' expenses, and
- (b) as provided at the time that income arises.

643C Meaning of “available protected income” in section 643A

- (1) For the purposes of the application of section 643A(1) in the case of an individual and a settlement, the settlement has available protected income up to the end of a tax year if—

$$\text{PFSI} - \text{TOAA} > \text{TI}$$

and, if the settlement has available protected income up to the end of a tax year, its amount is given by—

$$\text{PFSI} - \text{TOAA} - \text{TI}$$

- (2) In this section—

PFSI is the total of—

- (a) any protected foreign-source income—
 - (i) arising under the settlement in the year or in any earlier tax year,
 - (ii) that would be treated under section 624 as income of the settlor but for section 628A,
 - (iii) that can be used directly or indirectly to provide benefits for the individual, and
 - (iv) on which the individual is not liable to income tax (ignoring for this purpose any liability under section 643A), and
- (b) any protected foreign-source income—
 - (i) arising under the settlement in the year or in any earlier tax year,
 - (ii) that would be treated under section 629 as income of the settlor but for section 630A, and
 - (iii) on which the relevant child concerned (see section 629) is not liable to income tax (ignoring for this purpose any liability under section 643A),

TOAA is so much of PFSI as is, in respect of benefits provided by the trustees in the year or in an earlier tax year, taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) for the year or any earlier tax year, and

TI is the total of—

- (a) so much of PFSI as is, by reference to benefits provided by the trustees to the individual, treated by section 643A, 643J or 643L as income for any earlier tax year, and

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- (b) so much of PFSI as is, by reference to benefits provided by the trustees to other individuals, treated by section 643A, 643J or 643L as income for the year or any earlier tax year.
- (3) As regards the definition of PFSI in subsection (2)—
 - (a) section 648(3) to (5) (relevant foreign income treated as arising under settlement only if and when remitted) do not apply for the purposes of that definition,
 - (b) that definition has effect as if section 648(3) to (5) do not apply for the purposes of sections 624 and 629, and
 - (c) in that definition “protected foreign-source income” has the meaning given by sections 628A(2) to (13) and 628B.

643D Reduction in section 643A income: previous capital gains tax charge

- (1) Subsection (2) applies if—
 - (a) in the case of a settlement, benefits provided to an individual as mentioned at Step 1 in section 643B(1) are received in a tax year, and
 - (b) chargeable gains are treated by section 87, 87K, 87L or 89(2) of, or paragraph 8 of Schedule 4C to, TCGA 1992 as accruing to a person in that or a subsequent tax year by reference (direct or indirect) to the whole or part of any benefits so provided.
- (2) In the calculation under section 643B of the individual's untaxed benefits total for the settlement for any tax year after the one in which such chargeable gains are so treated, the amounts to be deducted at Step 3(d) of that calculation include the amount of those gains.
- (3) References in this section to chargeable gains treated as accruing to an individual include offshore gains treated as arising to the individual (see regulations 20 and 22 to 24 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001)).

643E Reimbursement of tax paid by settlor because of section 643A

- (1) Where any tax for which the settlor of a settlement is liable as a result of section 643A(3) or (4) is paid, the settlor is entitled to recover the amount of the tax from the individual concerned.
- (2) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
 - (a) the amount of the income concerned, and
 - (b) the amount of tax paid,
 and any such certificate is conclusive evidence of the facts stated in it.

643F Income attributed by section 643A to user of remittance basis

- (1) This section applies where—
 - (a) in the case of a settlement, income (“the deemed income”) is treated by section 643A as arising to an individual for a tax year, and
 - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year.

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- (2) The deemed income is treated as relevant foreign income of the individual.
- (3) In the application of section 832 to the deemed income, subsection (2) of that section has effect with the omission of paragraph (b).
- (4) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) treat a benefit, or any protected income, that relates to any part of the deemed income as deriving from that part of the deemed income.
- (5) In subsection (4) “relates” has the meaning given by section 643G.
- (6) In this section and section 643G—
 - “protected income” means the income that forms PFSI in the calculation of the settlement’s available protected income in the case of the relevant individual for the year, and
 - “the relevant individual”—
 - (a) where the deemed income is treated as income of an individual by section 643A(1)(a) both before and after the application of section 643A(3) and (4), means that individual, and
 - (b) where the deemed income is treated as income of the settlor by section 643A(3) or (4) after having been treated as income of another individual by section 643A(1), means that other individual.

643G Section 643F(4): benefits and income “relating” to deemed income

- (1) In this section—
 - (a) references to a step are to a step under section 643B(1) as it applies in the case of the settlement, the year and the relevant individual,
 - (b) “protected income” and “the relevant individual” have the meaning given by section 643F(6), and
 - (c) “the settlement” and “the year” mean, respectively, the settlement and tax year mentioned in section 643F.
- (2) For the purposes of section 643F(4)—
 - (a) place the benefits identified at Step 1 in the order in which they were received by the relevant individual (starting with the earliest benefit received),
 - (b) where a deduction is allowed by any of paragraphs (a), (c) and (d) of Step 3 by reference to the whole or part of any of those benefits, reduce the benefit by the amount of the deduction,
 - (c) place the protected income in the order in which it arose (starting with the earliest income to arise),
 - (d) where the whole or part of an item of the protected income is, in respect of benefits provided by the trustees in the year or in any earlier tax year, taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) for the year or any earlier tax year, reduce the item by so much of itself as is so taken into account,
 - (e) where the whole or part of an item of the protected income is, by reference to benefits provided by the trustees to individuals other than the relevant individual, treated by section 643A or 643J or 643L

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as income for the year or any earlier tax year, reduce the item by so much of itself as is so treated.”

- (f) place the income treated by section 643A(1) (before the application of section 643A(3) and (4)) as arising to the relevant individual in respect of the benefits referred to in paragraph (a) in the order in which it is treated as arising (starting with the earliest income treated as having arisen), and
 - (g) treat the income mentioned in paragraph (f) as related to—
 - (i) the benefits referred to in paragraph (a), and
 - (ii) the protected income,
 by matching the income mentioned in paragraph (f) with those benefits and the protected income (in the orders mentioned in paragraphs (a), (c) and (f)).
- (3) For the purposes of subsection (2)(d), the whole or part of an item of the protected income is to be treated as taken into account in respect of a benefit so far as the item or part—
- (a) is matched under section 735A of ITA 2007 with notional income with which the benefit is matched under that section, or
 - (b) would be matched under that section (if it applied also for this purpose) with notional income with which the benefit would be matched under that section (if it applied also for this purpose),
- and here “notional income” means income which is treated as arising under section 732 of ITA 2007.

643H Meaning of close member of settlor's family in sections 643B to 643M

- (1) For the purposes of sections 643B to 643M, a person is a close member of the family of the settlor of a settlement at any time if the settlor is living at that time and—
- (a) the person is the settlor's spouse or civil partner at that time, or
 - (b) the person—
 - (i) is a child of the settlor, or of a person who at that time is the settlor's spouse or civil partner, and
 - (ii) at that time has not reached the age of 18.
- (2) For the purposes of subsection (1)—
- (a) two people living together as if they were spouses of each other are treated as if they were spouses of each other, and
 - (b) two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other.

643I Recipients of onward gifts

- (1) Sections 643J to 643L apply if—
- (a) in the case of a settlement, an amount—
 - (i) is treated by section 643A(1)(a), both before and after the application of section 643A(3) and (4), as income of an individual (“the original beneficiary”) for a tax year (“the matching year”), or

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- (ii) having been treated by section 643A(1) before the application of section 643A(3) and (4) as income of an individual (“the original beneficiary”) for a tax year (“the matching year”), is treated by section 643A(3) or (4) as income of the settlor for the matching year, or
 - (iii) is treated by section 643A(1)(b), before the application of section 643A(3) and (4), as income of an individual (“the original beneficiary”) for a tax year (“the matching year”) but is not treated by section 643A(3), and is not treated by section 643A(4), as income of the settlor for the matching year,
- (b) under section 643G (if it applied also for this purpose) the amount would be matched with a benefit provided in the matching year, or an earlier tax year, to the original beneficiary,
- (c) at the time the benefit is provided to the original beneficiary—
 - (i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole, or part, of the benefit to another person, and
 - (ii) it is reasonable to expect that, in the event of the whole or part of the benefit being passed on to another person as envisaged by the arrangements or intention, that other person will be UK resident when they receive at least part of what is passed on to them,
- (d) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”)—
 - (i) at the time the benefit is provided to the original beneficiary, or at any later time in the 3 years beginning with the day containing the start time, or
 - (ii) at any time before the benefit is provided to the original beneficiary and, it is reasonable to assume, in anticipation of the benefit being provided,
- (e) the gift is of or includes—
 - (i) the whole or part of the benefit,
 - (ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of the benefit, or
 - (iii) any other property, but only if the benefit is provided with a view to enabling or facilitating, or otherwise in connection with, the making of the gift of the property to the subsequent recipient,
- (f) in a case within paragraph (a)(i), either—
 - (i) the original beneficiary is non-UK resident for the matching year, or
 - (ii) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the original beneficiary for the matching year and none of the amount is relevantly remitted in the matching year or in any tax year later than the matching year but not later than the tax year in which the onward payment is made,
- (g) in a case within paragraph (a)(ii), section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the settlor for the matching

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- year and none of the amount is relevantly remitted in the matching year or in any tax year later than the matching year but not later than the tax year in which the onward payment is made, and
- (h) the subsequent recipient—
- (i) is the settlor, or
 - (ii) is a close member of the settlor's family (see section 643H) at the time the onward payment is made or, where that time is given by subsection (4), at either or both of the time so given and the actual time the onward payment is made.
- (2) Where, in a case within subsection (1)(a)(i) and by reference to the amount mentioned in subsection (1)(a), income is treated by section 643J or 643L as arising to a person for a tax year, the original beneficiary is not liable to tax for any later tax year on so much of the amount mentioned in subsection (1)(a) as is equal to that income; and where, in a case within subsection (1)(a)(ii) and by reference to the amount mentioned in subsection (1)(a), income is treated by section 643J as arising to a person for a tax year, the settlor is not liable to tax for any later tax year on so much of the amount mentioned in subsection (1)(a) as is equal to that income.
- (3) The amount mentioned in subsection (1)(a) need not be—
- (a) the whole amount that in the case of the settlement is treated by section 643A(1), before the application of section 643A(3) and (4), as income of the original beneficiary for the matching year;
 - (b) the whole amount that would be matched with the benefit mentioned in subsection (1)(b).
- (4) Where the onward payment is made as mentioned in subsection (1)(d)(ii), the onward payment is to be treated—
- (a) for the purposes of the provisions of this section following subsection (1)(d), and
 - (b) for the purposes of sections 643J to 643L,
- as made immediately after, and in the tax year in which, the benefit is provided to the original beneficiary.
- (5) For the purposes of subsection (1)(d)(i)—
- (a) if the amount mentioned in subsection (1)(a) is not one that is treated as arising by section 643K, “the start time”—
 - (i) is the time the benefit mentioned in subsection (1)(b) is provided to the original beneficiary, or
 - (ii) where that benefit is one that section 643M(3) treats as provided, is the time the original benefit in that case (see section 643M(1)(a)) is provided, and
 - (b) if the amount mentioned in subsection (1)(a) is one that is treated as arising by section 643K in connection with the operation of this section and section 643K on a previous occasion, “the start time” is the time given by this subsection as the start time on that occasion.
- (6) Where subsection (1)(d) and (e) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(c) is also met in that case.
- (7) In this section (and sections 643J to 643L)—

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“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

“the charging year” means the gift year or, if later, the matching year,

“gift” includes any benefit,

“the gift year” means the tax year in which the onward payment is made (but see subsection (4)),

“make”, in relation to a gift that is a benefit, means confer, and

“relevantly remitted” means remitted to the United Kingdom in a tax year for which the original beneficiary is UK resident but, in a case within subsection (1)(a)(ii), means remitted to the United Kingdom in a tax year for which the settlor is UK resident.

- (8) Sections 742C to 742E of ITA 2007 (value of certain benefits)—
- (a) apply for the purpose of calculating the value of the onward payment for the purposes of sections 643J to 643L as they apply for the purpose of calculating an income tax charge under Chapter 2 of Part 13 of ITA 2007, and
 - (b) apply for that purpose as if their references to a benefit provided were references to a gift made.
- (9) Sections 809L to 809Z6 of ITA 2007 (remittance basis: rules about when income is remitted)—
- (a) apply for the purposes of this section and sections 643J to 643L, and
 - (b) apply for those purposes in relation to references to remittance of the onward payment as if the onward payment were relevant foreign income of the subsequent recipient.

643J Cases where income treated as arising to recipient of onward gift

- (1) Subsection (3) applies if—
- (a) this section applies (see section 643I(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) none of sections 809B, 809D and 809E of ITA 2007 (remittance basis) applies to the subsequent recipient for the charging year.
- (2) Subsection (3) also applies if—
- (a) this section applies (see section 643I(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year, and
 - (e) the whole, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (3) For income tax purposes, an amount of income—

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- (a) equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 643I(1)(e), or
 - (b) where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of that part,
- is treated as income of the subsequent recipient for the charging year, subject to subsection (4).
- (4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows—
- (a) deduct any part of the amount on which the subsequent recipient is liable to income tax otherwise than under this section, and
 - (b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 643I(1)(a), deduct the excess.

643K Cases where deemed income attributed to recipient of onward gift

- (1) Subsection (3) applies if this section applies (see section 643I(1)) and—
- (a) the subsequent recipient is non-UK resident for the gift year, or
 - (b) the matching year is later than the gift year and the subsequent recipient is UK resident for the gift year but non-UK resident for the matching year.
- (2) Subsection (3) also applies if—
- (a) this section applies (see section 643I(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year, and
 - (e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (3) Section 643I(1)(a) has effect—
- (a) as if the subsequent recipient were an individual to whom, in the case of the settlement, income is treated by section 643A(1)(a), both before and after the application of section 643A(3) and (4), as arising for the charging year, and
 - (b) as if, subject to subsection (4), the amount of that income—
 - (i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 643I(1)(e) and is not treated as arising to the settlor as a result of the operation of section 643L, or
 - (ii) were, where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment.

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- (4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows: if that amount exceeds the amount mentioned in section 643I(1)(a) in the case of the original beneficiary, deduct the excess.
- (5) Where the amount mentioned in section 643I(1)(a) is treated as arising by this section in connection with the operation of section 643I and this section on a previous occasion, section 643I(1) has effect—
 - (a) with the omission of its paragraphs (b) and (c),
 - (b) as if the references in its paragraph (d) to the benefit mentioned in its paragraph (b) were, instead, to what was the onward payment on that previous occasion,
 - (c) as if the references in its paragraph (d) to when that benefit is provided were, instead, to when that onward payment was made, and
 - (d) as if the references in its paragraph (e) to that benefit were, instead, to so much of that onward payment as was on that previous occasion within any of sub-paragraphs (i) to (iii) of that paragraph.

643L Cases where settlor liable following onward gift

- (1) Subsection (3) applies if—
 - (a) this section applies (see section 643I(1)),
 - (b) the subsequent recipient is a close member of the settlor's family (see section 643H) when the onward payment is made,
 - (c) the subsequent recipient is UK resident for the charging year,
 - (d) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year,
 - (e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year,
 - (f) there is a time in the charging year when the settlor is UK resident,
 - (g) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and
 - (h) there is no time in the charging year when the settlor is regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.
- (2) Subsection (3) also applies if—
 - (a) this section applies (see section 643I(1)),
 - (b) the subsequent recipient is a close member of the settlor's family when the onward payment is made,
 - (c) the subsequent recipient is non-UK resident for the charging year,
 - (d) there is a time in the charging year when the settlor is UK resident,
 - (e) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and
 - (f) there is no time in the charging year when the settlor is regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.

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- (3) For income tax purposes, an amount of income—
- (a) equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 643I(1)(e), or
 - (b) where this subsection applies because of subsection (1) in a case where part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment,
- is treated as arising to the settlor for the charging year, subject to subsection (4).
- (4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows—
- (a) deduct any part of the amount on which the settlor is liable to income tax otherwise than under this section, and
 - (b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 643I(1)(a), deduct the excess.
- (5) Where any tax for which the settlor is liable as a result of subsections (3) and (4) is paid, the settlor is entitled to recover the amount of the tax from the subsequent recipient.
- (6) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
- (a) the amount of the income concerned, and
 - (b) the amount of tax paid,
- and any such certificate is conclusive evidence of the facts stated in it.

643M Onward gift to settlor or close family member by other recipient

- (1) Subsection (3) applies if—
- (a) the trustees of a settlement provide a benefit (“the original benefit”) to an individual (“the original recipient”),
 - (b) the original recipient is not the settlor,
 - (c) at the time the original benefit is provided, the original recipient is not a close member of the settlor's family (see section 643H),
 - (d) the original recipient is not taxed on the original benefit (see subsection (7)),
 - (e) at the time the original benefit is provided—
 - (i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole, or part, of the original benefit to another person, and
 - (ii) it is reasonable to expect that, in the event of the whole or part of the original benefit being passed on to another person as envisaged by the arrangements or intention, that other person will be UK resident when they receive at least part of what is passed on to them,
 - (f) the original recipient makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”)—

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- (i) at the time the original benefit is provided to the original recipient, or at any later time in the 3 years beginning with the day containing that time, or
 - (ii) at any time before the original benefit is provided to the original recipient and, it is reasonable to assume, in anticipation of the original benefit being provided,
 - (g) the gift is of or includes—
 - (i) the whole or part of the original benefit,
 - (ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of the original benefit, or
 - (iii) any other property, but only if the original benefit is provided with a view to enabling or facilitating, or otherwise in connection with, the making of the gift of the property to the subsequent recipient, and
 - (h) the subsequent recipient—
 - (i) is the settlor, or
 - (ii) is a close member of the settlor's family at the time the onward payment is made or, where that time is given by subsection (4), at either or both of the time so given and the actual time the onward payment is made.
- (2) Where—
 - (a) there is a series of two or more gifts,
 - (b) the first gift in the series is made, directly or indirectly, by the original recipient—
 - (i) at the time the original benefit is provided, or at any later time in the 3 years beginning with the day containing that time, or
 - (ii) at any time before the original benefit is provided and, it is reasonable to assume, in anticipation of the original benefit being provided,
 - (c) the recipient of a gift in the series is the person who makes, directly or indirectly, the next gift in the series,
 - (d) the recipient of the last gift in the series is the settlor or, at the time that last gift is made, is a close member of the settlor's family,
 - (e) as regards any earlier gift in the series, its recipient—
 - (i) is not the settlor, and
 - (ii) is not, at the time that earlier gift is made, a close member of the settlor's family, and
 - (f) the condition in subsection (1)(g) is met in relation to each gift in the series,

the last gift in the series is to be treated for the purposes of subsection (1)(f) as if its maker were the original recipient (and not its actual maker).
- (3) So much of the onward payment as is within any of sub-paragraphs (i) to (iii) of subsection (1)(g) is treated for the purposes of Step 1 in section 643B(1) as a benefit provided by the trustees to the subsequent recipient at the time the onward payment is made.

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- (4) Where the onward payment is made as mentioned in subsection (1)(f)(ii), the onward payment is to be treated, for the purposes of subsections (1)(h) and (3), as made immediately after, and in the tax year in which, the original benefit is provided to the original recipient.
- (5) Where subsection (1)(f) to (h) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(e) is also met in that case.
- (6) Where the benefit mentioned in section 643I(1)(b) is one that subsection (3) of this section treats as provided, section 643I(1) has effect with the omission of its paragraph (c).
- (7) For the purposes of subsection (1)(d), the original recipient is taxed on the original benefit if the original recipient is liable to income tax, or capital gains tax, by reference to the amount or value of the original benefit; and where the original recipient is so liable by reference to the amount or value of part only of the original benefit, this section applies as if the two parts of the original benefit were separate benefits.
- (8) In this section—
 - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
 - “gift” includes any benefit, and
 - “make”, in relation to a gift that is a benefit, means confer,
 and see also section 643B(4) to (7) (interpretation of references to provision of benefits by trustees).

643N Person liable under section 643J or 643L and remittance basis applies

- (1) This section applies in relation to income if—
 - (a) the income is treated as arising to an individual for a tax year—
 - (i) by section 643J(3) and (4) where section 643J(3) applies because of section 643J(2), or
 - (ii) by section 643L, and
 - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year.
- (2) The income is treated as relevant foreign income of the individual.
- (3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) treat the onward payment, or (as the case may be) the part of it whose amount or value is equal to the amount of the income, as deriving from the income.
- (4) In the application of section 832 in relation to the income, subsection (2) of that section has effect with the omission of its paragraph (b).”

ITA 2007

12 Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) is amended as follows.

- 13 (1) Section 731 (charge to tax on income treated as arising under section 732) is amended as follows.

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- (2) After subsection (1B) insert—
- “(1C) Subsection (1A) does not restrict the charge to tax under this section on income treated as arising to the individual by section 733C or 733E (onward gifts: recipient or settlor treated as individual to whom income is treated as arising).”
- (3) In subsection (2A) (which signposts section 735), for “section 735” substitute “sections 735, 735B and 735C”.
- 14 In section 732(1)(e) (where benefit received, income treated as arising only if no tax on benefit apart from section 731)—
- (a) after “is not liable to income tax” insert “, under any provision that is none of section 731 of this Act and sections 643A, 643J and 643L of ITTOIA 2005, ”, and
- (b) omit “(apart from section 731)”.
- 15 In section 733A(7) (meaning of “close member” of settlor's family), for the words after “family of the settlor” substitute “at any time if the settlor is living at that time and—
- (a) the person is the settlor's spouse or civil partner at that time, or
- (b) the person—
- (i) is a child of the settlor, or of a person who at that time is the settlor's spouse or civil partner, and
- (ii) at that time has not reached the age of 18.”
- 16 After section 733A insert—

“733B Recipients of onward gifts

- (1) Sections 733C to 733E apply if—
- (a) an amount of income is treated as arising under section 732 to an individual (“the original beneficiary”) in a tax year (“the arising year”) but neither by section 733C nor by section 733E,
- (b) under section 735A (if it applied also for this purpose) that amount would be matched—
- (i) with an amount of relevant income that is protected income for the purposes of section 733A(1)(b)(i) (see sections 721(3BA) and 728(1B)), and
- (ii) with the whole or part of a benefit received by the original beneficiary,
- (c) at the time that benefit is received by the original beneficiary (“the distribution time”)—
- (i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole or part of that benefit to another person, and
- (ii) it is reasonable to expect that, in the event of the whole or part of that benefit being passed on to another person as envisaged by the arrangements or intention, that other person will be UK resident when they receive at least part of what is passed on to them,

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- (d) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”)—
 - (i) at the distribution time, or at any later time in the 3 years beginning with the start time, or
 - (ii) at any time before the distribution time and, it is reasonable to assume, in anticipation of receipt of the benefit mentioned in paragraph (b)(ii),
 - (e) the gift is of or includes—
 - (i) the whole or part of the benefit mentioned in paragraph (b)(ii),
 - (ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of that benefit, or
 - (iii) any other property, but only if the benefit mentioned in paragraph (b)(ii) is provided with a view to enabling or facilitating, or otherwise in connection with, the making of the gift of the property to the subsequent recipient,
 - (f) except where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on the amount mentioned in paragraph (a), either—
 - (i) the original beneficiary is non-UK resident for the arising year, or
 - (ii) section 809B or 809D or 809E (remittance basis) applies to the original beneficiary for the arising year and none of the amount mentioned in paragraph (a) is relevantly remitted before the end of the charging year, and
 - (g) where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on the amount mentioned in paragraph (a), section 809B or 809D or 809E applies to that individual for the arising year and none of the amount mentioned in paragraph (a) is relevantly remitted before the end of the charging year.
- (2) If—
- (a) the amount mentioned in subsection (1)(a) is not treated as arising by section 733D (and neither by section 733C nor by section 733E),
 - (b) except where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on that amount, section 809B or 809D or 809E applies to the original beneficiary for the arising year,
 - (c) where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on that amount, section 809B or 809D or 809E applies to that individual for the arising year, and
 - (d) part only of that amount is relevantly remitted before the end of the charging year,
- subsection (1)(a) is to be treated as referring instead only to the remainder of that amount.
- (3) The original beneficiary is not liable to tax for any year after the charging year on so much of the amount mentioned in subsection (1)(a) as is—
- (a) treated as arising to the subsequent recipient by section 733C, or

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- (b) treated as arising to the settlor by section 733E;
and the settlor is not is liable under section 733A(2) or (3) to tax for any year after the charging year on so much of the amount mentioned in subsection (1) (a) as is treated as arising to the subsequent recipient by section 733C.
- (4) For the purposes of subsection (1)(d)(i)—
- (a) if the amount mentioned in subsection (1)(a) is not one that is treated as arising by section 733D, “the start time” is the time the benefit mentioned in subsection (1)(b) is provided to the original beneficiary, and
- (b) if the amount mentioned in subsection (1)(a) is one that is treated as arising by section 733D in connection with the operation of this section on a previous occasion, “the start time” is the time given by this subsection as the start time on that occasion.
- (5) Where the onward payment is made as mentioned in subsection (1)(d)(ii), the onward payment is to be treated—
- (a) for the purposes of the provisions of this section following subsection (1)(d), and
- (b) for the purposes of sections 733C to 733E,
as made immediately after, and in the tax year containing, the distribution time.
- (6) Where subsection (1)(d) and (e) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(c) is also met in that case.
- (7) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
- “the charging year” means the gift year or, if later, the matching year,
- “gift” includes any benefit,
- “the gift year” means the tax year in which the onward payment is made, but see subsection (5),
- “make”, in relation to a gift that is a benefit, means provide,
- “the matching year” means the first tax year in which the matching mentioned in subsection (1)(b) would occur,
- “relevantly remitted” means remitted to the United Kingdom in a tax year for which the original beneficiary is UK resident but, where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on the amount mentioned in subsection (1)(a), means remitted to the United Kingdom in a tax year for which that individual is UK resident, and
- “the settlor” means the settlor of the settlement, mentioned in section 721A(3) or (4) or 729A(3) or (4), which because of subsection (1)(b)(i) is the settlement concerned.
- (8) Sections 742C to 742E (value of benefit provided to a person) apply in relation to the onward payment as if references in those sections to a benefit provided were references to a gift made.

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- (9) Sections 809L to 809Z6 (remittance basis: rules about when income is remitted, including rule treating pre-arising remittances of deemed income as made when the income arises)—
- (a) apply for the purposes of this section and sections 733C to 733E, and
 - (b) apply for those purposes in relation to references to remittance of the onward payment as if the onward payment were relevant foreign income of the subsequent recipient.

733C Cases where income treated as arising to recipient of onward gift

- (1) Subsection (3) applies if—
- (a) this section applies (see section 733B(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) none of sections 809B, 809D and 809E applies to the subsequent recipient for the charging year.
- (2) Subsection (3) also applies if—
- (a) this section applies (see section 733B(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) section 809B, 809D or 809E applies to the subsequent recipient for the charging year, and
 - (e) the whole, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (3) Section 731 has effect—
- (a) as if the subsequent recipient were an individual to whom income is treated as arising under section 732 for the charging year, and
 - (b) as if, subject to subsection (4), the amount of that income—
 - (i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 733B(1)(e), or
 - (ii) were, where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of that part.
- (4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows—
- (a) deduct any part of the amount on which the subsequent recipient is liable to income tax otherwise than under this section, and
 - (b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 733B(1)(a), deduct the excess.

733D Cases where deemed income attributed to recipient of onward gift

- (1) Subsection (3) applies if this section applies (see section 733B(1)) and—

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- (a) the subsequent recipient is non-UK resident for the gift year, or
 - (b) the matching year is later than the gift year and the subsequent recipient is UK resident for the gift year but non-UK resident for the matching year.
- (2) Subsection (3) also applies if—
- (a) this section applies (see section 733B(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) section 809B, 809D or 809E applies to the subsequent recipient for the charging year, and
 - (e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (3) Section 733B(1)(a) has effect—
- (a) as if the subsequent recipient were an individual to whom income is treated as arising under section 732 for the charging year, and
 - (b) as if, subject to subsection (4), the amount of that income—
 - (i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 733B(1)(e) and is not treated as arising to someone other than the subsequent recipient as a result of the operation of section 733E, or
 - (ii) were, where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment.
- (4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows: if that amount exceeds the amount mentioned in section 733B(1)(a) in the case of the original beneficiary, deduct the excess.
- (5) Where the amount mentioned in section 733B(1)(a) is one treated as arising by this section in connection with the operation of section 733B and this section on a previous occasion, section 733B(1) has effect—
- (a) with the omission of its paragraphs (b) and (c),
 - (b) as if the reference in its paragraph (d) to the benefit mentioned in its paragraph (b)(ii) were, instead, to what was the onward payment on that previous occasion,
 - (c) as if the references in its paragraph (d) to the distribution time were, instead, to the time when that onward payment was made, and
 - (d) as if the references in its paragraph (e) to the benefit mentioned in its paragraph (b)(ii) were, instead, to so much of that onward payment as was on that previous occasion within any of sub-paragraphs (i) to (iii) of its paragraph (e).

733E Cases where settlor liable following onward gift

- (1) Subsection (3) applies if—

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- (a) this section applies (see section 733B(1)),
 - (b) the subsequent recipient is a close member of the settlor's family when the onward payment is made,
 - (c) the subsequent recipient is UK resident for the charging year,
 - (d) section 809B, 809D or 809E applies to the subsequent recipient for the charging year,
 - (e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year,
 - (f) there is a time in the charging year when the settlor is UK resident,
 - (g) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and
 - (h) there is no time in the charging year when the settlor is regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.
- (2) Subsection (3) also applies if—
- (a) this section applies (see section 733B(1)),
 - (b) the subsequent recipient is a close member of the settlor's family when the onward payment is made,
 - (c) the subsequent recipient is non-UK resident for the charging year,
 - (d) there is a time in the charging year when the settlor is UK resident,
 - (e) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and
 - (f) there is no time in the charging year when the settlor is regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.
- (3) Section 731 applies—
- (a) as if the settlor were an individual to whom income is treated as arising under section 732 for the charging year, and
 - (b) as if, subject to subsection (4), the amount of that income—
 - (i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 733B(1)(e), or
 - (ii) were, where this subsection applies because of subsection (1) in a case where part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment.
- (4) The amount given by subsection (3)(b) (before adjustment under this subsection) is to be adjusted as follows—
- (a) deduct any part of the amount on which the settlor is liable to income tax otherwise than under this section, and
 - (b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 733B(1)(a), deduct the excess.

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- (5) Where any tax for which the settlor is liable as a result of subsections (3) and (4) is paid, the settlor is entitled to recover the amount of the tax from the subsequent recipient.
- (6) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
- (a) the amount of the income concerned, and
 - (b) the amount of tax paid,
- and any such certificate is conclusive evidence of the facts stated in it.
- (7) In this section—
- (a) “the settlor” means the settlor of the settlement, mentioned in section 721A(3) or (4) or 729A(3) or (4), which because of section 733B(1)(b)(i) is the settlement concerned, and
 - (b) “close member”, in relation to the family of the settlor, is to be read in accordance with section 733A(7) and (8).”
- 17 In section 734 (amount charged under section 731 is reduced by prior gains)—
- (a) in subsection (1) omit paragraphs (b) and (c), but not the “and” at the end of paragraph (c),
 - (b) for subsection (1)(d) substitute—
 - “(d) chargeable gains are treated by section 87, 87K, 87L or 89(2) of, or paragraph 8 of Schedule 4C to, TCGA 1992 as accruing to a person in that or a subsequent tax year by reference (direct or indirect) to the whole or part of any benefits so provided.”, and
 - (c) in subsection (4)—
 - (i) for “and “the available relevant income” have” substitute “ has ”, and
 - (ii) for “Steps 2 and 5” substitute “ Step 2 ”.
- 18 After section 734 insert—

“734A Reduction in amount charged: previous settlements charge

- (1) This section applies if—
- (a) benefits provided as mentioned in section 732(1)(c) are received in a tax year, and
 - (b) income is treated by section 643A, 643J or 643L of ITTOIA 2005 as arising to a person in that or a subsequent tax year by reference (direct or indirect) to the whole or part of any benefits so provided.
- (2) For any tax year after one in which such income is so treated, the amount of income treated as arising to the individual under section 732(2) in respect of benefits provided as mentioned in section 732(1)(c) as a result of the transfer or operations in question is calculated as follows.
- (3) The amount is calculated under section 733(1) as if the total untaxed benefits were reduced by the amount of that income.
- (4) In this section “the total untaxed benefits” has the same meaning as in section 733(1) (see Step 2).”

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19 After section 735B insert—

“735C Person liable under section 733C or 733E and remittance basis applies

- (1) This section applies in relation to income if—
- (a) the income is treated as arising to an individual for a tax year—
 - (i) as a result of the operation of section 733C(3) and (4) where section 733C(3) applies because of section 733C(2), or
 - (ii) as a result of the operation of section 733E, and
 - (b) section 809B, 809D or 809E (remittance basis) applies to the individual for that year.
- (2) The income is treated as relevant foreign income of the individual.
- (3) For the purposes of Chapter A1 of Part 14 (remittance basis) treat the onward payment, or (as the case may be) the part of it whose amount or value is equal to the amount of the income, as deriving from the income.
- (4) In the application of section 832 of ITTOIA 2005 in relation to the income, subsection (2) of that section has effect with the omission of its paragraph (b).”

Consequential amendments

- 20 (1) Section 97 of TCGA 1992 (settlements: supplementary provisions) is amended as follows.
- (2) In subsection (1)(a) (meaning of “capital payment”), for “not chargeable to income tax on the recipient or,” substitute “neither—
- (i) chargeable to income tax on the recipient, nor
 - (ii) chargeable to income tax on another person under any of sections 643A, 643J and 643L of ITTOIA 2005 and sections 733A, 733C and 733E of ITA 2007,
- or,”.
- (3) In subsection (3) (cases where benefit may be treated as chargeable gain and as income), for “section 733 of ITA 2007 treated as the recipient's” substitute “section 643A or 643J or 643L of ITTOIA 2005, or sections 731 to 733E of ITA 2007, treated as an individual's”.
- (4) In consequence of sub-paragraph (3), in Schedule 1 to ITA 2007 omit paragraph 302.
- (5) The references to section 733A of ITA 2007 that are inserted by sub-paragraphs (2) and (3) include that section as it has effect for the tax year 2017-18.

Commencement etc of amendments in ITTOIA 2005 and ITA 2007

- 21 (1) Subject as follows, the amendments made by paragraphs 3 to 19 have effect for the tax year 2018-19 and subsequent tax years.
- (2) None of the references to an earlier tax year in Step 1 of the new section 643B(1) of ITTOIA 2005, or in new section 643C(2) of ITTOIA 2005, includes any tax year earlier than the tax year 2018-19 except that, in the phrase “benefits provided by the

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trustees in the year or in an earlier tax year” in the definition of “TOAA” in new section 643C(2) of ITTOIA 2005, the reference to an earlier tax year does include tax years earlier than the tax year 2018-19.

- (3) New sections 643I to 643L and 643N of ITTOIA 2005 have effect only in relation to onward payments made on or after 6 April 2018.
- (4) New section 643M of ITTOIA 2005, and new sections 733B to 733E and 735C of ITA 2007, have effect only in relation to onward payments made on or after 6 April 2018, but have effect in relation to an onward payment made on or after that date even where the onward payment is referable to a benefit received before that date.
- (5) The amendment in section 733A(7) of ITA 2007 made by paragraph 15 also has effect for the tax year 2017-18.

22 The new section 643D(3) of ITTOIA 2005 is to be treated as inserted by the Treasury under the powers to make regulations conferred by section 354 of TIOPA 2010.

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