

1 Settlements: anti-avoidance

Schedule 1 contains provision about capital gains tax, and income tax, in connection with settlements.

SCHEDULES

SCHEDULE 1

Section 1

SETTLEMENTS: ANTI-AVOIDANCE

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 is subject to subsection (3) and section 87E.
- (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
 - (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,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 87I to 87K as they apply in relation to a settlement, a person is a close member of the settlor’s family if the person is –
 - (a) the settlor’s spouse or civil partner, or
 - (b) a child of the settlor, or of a person within paragraph (a), if the child 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: attribution of gains to onward gifts

- (1) Subsections (3) to (6) 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) either –
 - (i) the original beneficiary is not a close member of the settlor’s family at the time the original beneficiary receives the original payment (“the payment time”), or
 - (ii) although the original beneficiary is a close member of the settlor’s family at the payment time, the settlor is not resident in the United Kingdom in the payment year,
 - (c) at the payment time –
 - (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,
 - (d) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”) –
 - (i) at, or at any time after, the payment time, or
 - (ii) at any time before the payment time and, it is reasonable to assume, in anticipation of receipt of the original payment,
 - (e) 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 connection with, the making of the gift of the property to the subsequent recipient,
 - (f) 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 (10)), and
 - (g) 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 original beneficiary is not resident in the United Kingdom, or
 - (ii) for which section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the original beneficiary.
- (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, or at any time after, the payment time, or
 - (ii) at any time before the payment time 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)(e) is met in relation to each gift in the series,

the last gift in the series is treated for the purposes of subsection (1)(d) as if its maker were the original beneficiary (and not its actual maker).
- (3) Treat the original payment as divided into slices as follows –
 - (a) a slice (“T”) 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.
- (4) For the purposes of subsections (5) and (6), 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 subsection (1)(e), or
 - (b) if lower, the amount of the original payment.
- (5) If R is greater than nil, sections 87 and 87A have effect for the gift year and later tax years –

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- (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,
 - (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 original beneficiary.
- (6) 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 87J(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 original beneficiary 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 original beneficiary is resident in the United Kingdom.
- (7) For the purposes of subsections (3), (8) and (9), 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”.
- (8) For the purposes of subsection (3), if—
- (a) as a result of there being a matched amount, gains are treated by section 87 as accruing to the original beneficiary (ignoring subsections (5)(c) and (6)(c)),
 - (b) the original beneficiary 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 original beneficiary for the matching year,
- the whole of the matched amount is its “taxed part” (and it has no “untaxed part”).
- (9) For the purposes of subsection (3), if—
- (a) as a result of there being a matched amount, gains are treated by section 87 as accruing to the original beneficiary (ignoring subsections (5)(c) and (6)(c)),
 - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the original beneficiary 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 original beneficiary 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".
- (10) Where the onward payment is made as mentioned in subsection (1)(d)(ii), the onward payment is to be treated for the purposes of the provisions of this section following subsection (1)(d) as made and received immediately after, and in the tax year in which, the original payment is received by the original beneficiary.
- (11) Subsection (12) applies if –
 - (a) the subsequent recipient is resident in the United Kingdom for the gift year,
 - (b) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the gift year, and
 - (c) none, or part only, of the onward payment is remitted to the United Kingdom in the gift year.
- (12) Subsection (1)(a) has effect –
 - (a) as if the subsequent recipient were an individual who receives a capital payment from the trustees in the gift year, and
 - (b) as if, subject to subsection (13), the amount of that capital payment were equal to the amount or value of so much of the onward payment as –
 - (i) is within any of sub-paragraphs (i) to (iii) of subsection (1)(e),
 - (ii) is not treated as arising to the settlor as a result of the operation of section 87J, and
 - (iii) is not remitted to the United Kingdom in the gift year.
- (13) The amount given by subsection (12) (before adjustment under this subsection) is to be adjusted as follows: if that amount exceeds the amount mentioned in subsection (1)(a) in the case of the original beneficiary, deduct the excess.
- (14) Where the amount mentioned in subsection (1)(a) is treated as arising because of the operation of subsections (12) and (13) on a previous occasion, subsection (1) has effect –
 - (a) with the omission of its paragraphs (b) and (c),
 - (b) as if the reference in its paragraph (d) to the original payment were, instead, to what was the onward payment on that previous occasion,
 - (c) as if the references in its paragraph (d) to the payment time were, instead, to when that onward payment was made, and
 - (d) as if the references in its paragraph (e) to the original payment were, instead, to so much of that onward payment

as was on that previous occasion within any of subparagraphs (i) to (iii) of that paragraph.

- (15) 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.
- (16) Sections 809L to 809Z6 of ITA 2007 (remittance basis: rules about when gains and income are remitted) apply for the purposes of this section, and apply in relation to the references in subsections (11) and (12) to remittance of the onward payment as if the onward payment were income of the subsequent recipient.

87J Cases where settlor liable following onward gift

- (1) Subsection (2) applies where –
- (a) a person is treated by section 87I(5) 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 –
- (a) in the case of a settlement, chargeable gains are (ignoring this section) treated by section 87I(6) 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)(d)) by reference to which the chargeable gains are treated as accruing.
- (4) Section 87I(6)(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 87I(6)(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.

87K 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 subsection (3) and section 87L.
- (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 beneficiary is resident in the United Kingdom in the tax year in which it is received,
 - (c) if the beneficiary 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 beneficiary is resident in the United Kingdom, or
 - (ii) the section 2(2) amount for any tax year earlier than the tax year 2018-19.
- (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) at the time of receipt,
 - (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.

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

- (1) If –
- (a) as a result of section 87K, 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 is an individual who is temporarily non-resident,
 - (c) the whole or part of the particular tax year constitutes, or forms part of, the beneficiary's temporary period of non-residence,
 - (d) either –

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- (i) the beneficiary'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) the beneficiary'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 the beneficiary'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 the beneficiary 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 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.”
 - (2) In sections 2(4) and (5), 16ZC(4) and 62(2A)(a) of TCGA 1992, after “87” insert “, 87I, 87J”.
 - (3) In section 86A(1) of TCGA 1992 (attribution of gains to settlor in temporary non-residence cases)—
 - (a) in paragraph (b)—
 - (i) for “beneficiaries of the settlement” substitute “, in the case of the settlement, individuals”, and
 - (ii) after “87” insert “, 87I, 87J”, 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 “, 87I or 87J”,
 - (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)(d)),”.
 - (6) In section 89(3) of TCGA 1992 (application of sections 87 to 87C in relation to migrant settlements), for “87C” substitute “87L”.
 - (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 “, 87L, 87J”, 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 “, 87L, 87J”.
 - (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 “, 87L, 87J”, 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 consequence of sub-paragraph (4)(b), in Schedule 45 to FA 2013 omit paragraph 101.
 - (11) 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.
 - (12) The new sections 87F and 87G, and the amendments made by sub-paragraphs (4) and (10), have effect in relation to payments received in the tax year 2018-19 or a later tax year.
 - (13) The new sections 87I and 87J, 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.
 - (14) The new sections 87K and 87L have effect where the particular tax year is the tax year 2018-19 or a later tax year.
 - (15) 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 87L 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) –
- (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 643I(4) and (5) or section 643J(3) and (4) (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.”
- 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 636(2) (meaning in section 635 of “undistributed”), after “633” insert “and otherwise than under section 643A”.
- 9 After section 643 insert –

“Benefits provided out of 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 treated for income tax purposes as income of the individual for the year, subject to subsections (2) to (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 not as income of the individual for the year but as income of the settlor 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.
- (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.

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 or section 643I(4) and (5) or section 643J(3) and (4) 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,
- (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.

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 amount of any protected foreign-source income arising under the settlement in the year or in any earlier tax year that would be treated under section 624 or 629 as income of the settlor but for (as the case may be) section 628A or 630A,

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) all amounts which, by reference to benefits provided by the trustees to the individual, are treated by section 643A or section 643I(4) and (5) or section 643J(3) and (4) as income for any earlier tax year, and
 - (b) all amounts which, by reference to benefits provided by the trustees to other individuals, are treated by section 643A or section 643I(4) and (5) or section 643J(3) and (4) as income for the year or any earlier tax year.
- (3) As regards the definition of PFSI in subsection (2) –
- (a) in that definition “protected foreign-source income” has the meaning given by section 628A(2) to (4),
 - (b) 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, and
 - (c) that definition has effect as if section 648(3) to (5) do not apply for the purposes of sections 624 and 629.

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, 87I, 87J 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.
- (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 2017 (remittance basis) treat a benefit, or any available protected income, that relates to any part of the deemed income as deriving from that part of the deemed income.
- (5) In subsection (4) –

“available protected income” means the income that forms PFSI in the calculation of the settlement's available protected income for the year (see section 643C), but is not within TOAA in that calculation, and

“relates” has the meaning given by section 643G.

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

- (1) In subsection (2) –

- (a) references to a step are to a step under section 643B(1) as it applies in the case of the settlement, individual and tax year mentioned in section 643F, and
 - (b) “available protected income” means the income that forms PFSI in the calculation of that settlement’s available protected income for that year (see section 643C), but is not within TOAA in that calculation.
- (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 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 available protected income in the order in which it arose (starting with the earliest income to arise),
 - (d) place the income treated by section 643A as arising to the individual in respect of the benefits in the order in which it is treated as arising (starting with the earliest income treated as having arisen), and
 - (e) treat the income mentioned in paragraph (d) as related to –
 - (i) the benefits, and
 - (ii) the available protected income,by matching the income mentioned in paragraph (d) with the benefits and the available protected income (in the orders mentioned in paragraphs (a), (c) and (d)).

643H Meaning of close member of settlor’s family in sections 643B to 643K

- (1) For the purposes of sections 643B to 643K, a person is a close member of the family of the settlor of a settlement if the person is –
 - (a) the settlor’s spouse or civil partner, or
 - (b) a child of the settlor, or of a person within paragraph (a), if the child 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 Attribution of deemed income to recipient of onward gift

- (1) This section and section 643J apply if –
 - (a) in the case of a settlement, an amount is 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”),
 - (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) the amount is not treated by section 643A(3) or (4) as income for the matching year of the settlor of the settlement,
 - (d) 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,
 - (e) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”) –
 - (i) at the time, or at any time after, the benefit is provided to the original beneficiary, 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,
 - (f) 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,
 - (g) 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 charging 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 (13), at either or both of the time so given and the actual time the onward payment is made.
- (2) Subsection (4) applies if –
- (a) the subsequent recipient is UK resident for the tax year in which the onward payment is made (“the gift year”, but see subsection (13)),
 - (b) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and

- (c) none of sections 809B, 809D and 809E of ITA 2007 (remittance basis) applies to the subsequent recipient for the charging year.
- (3) Subsection (4) also applies if –
 - (a) the subsequent recipient is UK resident for the gift year,
 - (b) the subsequent recipient is UK resident for the matching year if that is later than the gift year,
 - (c) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year, and
 - (d) the whole, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (4) 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 subsection (1)(f), or
 - (b) where this subsection applies because of subsection (3) 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 (5).
- (5) The amount given by subsection (4) (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 subsection (1)(a), deduct the excess.
- (6) Subsection (8) applies if –
 - (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.
- (7) Subsection (8) also applies if –
 - (a) the subsequent recipient is UK resident for the gift year,
 - (b) the subsequent recipient is UK resident for the matching year if that is later than the gift year,
 - (c) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year, and
 - (d) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (8) Subsection (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) as arising for the charging year, and
 - (b) as if, subject to subsection (9), 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 subsection (1)(f) and is not treated as arising to the settlor as a result of the operation of section 643J, or
 - (ii) were, where this subsection applies because of subsection (7) 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.
 - (9) The amount given by subsection (8) (before adjustment under this subsection) is to be adjusted as follows: if that amount exceeds the amount mentioned in subsection (1)(a) in the case of the original beneficiary, deduct the excess.
 - (10) Where the amount mentioned in subsection (1)(a) is treated as arising because of the operation of subsections (8) and (9) on a previous occasion, subsection (1) has effect—
 - (a) with the omission of its paragraphs (b) to (d),
 - (b) as if the references in its paragraph (e) to the benefit mentioned in its paragraph (b) were, instead, references to what was the onward payment on that previous occasion,
 - (c) as if the reference in its paragraph (e) to when that benefit is provided were, instead, to when that onward payment was made, and
 - (d) as if the references in its paragraph (f) 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.
 - (11) 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 as a result of the operation of subsections (4) and (5), or
 - (b) treated as arising to the settlor as a result of the operation of section 643J.
 - (12) 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 individual for the matching year;
 - (b) the whole amount that would be matched with the benefit mentioned in subsection (1)(b).
 - (13) Where the onward payment is made as mentioned in subsection (1)(e)(ii), the onward payment is to be treated—
 - (a) for the purposes of the provisions of this section following subsection (1)(e), and
 - (b) for the purposes of section 643J,
 as made immediately after, and in the tax year in which, the benefit is provided to the original beneficiary.
 - (14) 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,

“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.

- (15) 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.
- (16) Sections 809L to 809Z6 of ITA 2007 (remittance basis: rules about when income is remitted) apply for the purposes of this section, and apply for those purposes in relation to references to remittance of the onward payment as if the onward payment were income of the subsequent recipient.

643J 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 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 having effect because of Condition A in that section being met.

- (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)(f), 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.
- (7) 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.
- (8) Sections 809L to 809Z6 (remittance basis: rules about when income is remitted) apply for the purposes of this section, and apply for those purposes in relation to references to remittance of the onward payment as if the onward payment were income of the subsequent recipient.

643K 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) 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,
 - (e) the original recipient makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”) –
 - (i) at the time, or at any time after, the original benefit is provided to the original recipient, 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,
 - (f) 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
 - (g) 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, or at any time after, the original benefit is provided, 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)(f) 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)(e) 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)(f) 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.
- (4) Where the onward payment is made as mentioned in subsection (1)(e)(ii), the onward payment is to be treated, for the purposes of subsections (1)(g) and (3), as made immediately after, and in the tax year in which, the original benefit is provided to the original recipient.
- (5) 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.

643L Person liable under section 643I or 643J 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 643I(4) and (5) where section 643I(4) applies because of section 643I(3), or
 - (ii) as a result of the operation of section 643J(3) and (4), 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)."

ITA 2007

- 10 Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) is amended as follows.
- 11 (1) Section 731 (charge to tax on income treated as arising under section 732) is amended as follows.
 - (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 as a result of the operation of section 733B(4) or 733C(3) (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”.
- 12 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, 643I and 643J of ITTOIA 2005,”, and
 - (b) omit “(apart from section 731)”.
- 13 After section 733A insert –

“733B Attribution of deemed income to recipient of onward gift

- (1) This section and section 733C 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 as a result of the operation of subsection (4) nor as a result of the operation of section 733C(3),
 - (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 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) either –
 - (i) the original beneficiary is not at the distribution time a close member of the family of the settlor of the settlement, or
 - (ii) although the original beneficiary is a close member of the settlor’s family at the distribution time, the settlor is not UK resident at any time in the arising year,
 - (e) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”) –
 - (i) at, or at any time after, the distribution 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 (c),
 - (f) the gift is of or includes –
 - (i) the whole or part of the benefit mentioned in paragraph (c),
 - (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 (c) 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
 - (g) either –
 - (i) the original beneficiary is non-UK resident for the arising year, or
 - (ii) section 809B, 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.
 - (2) Subsection (4) applies if –
 - (a) the subsequent recipient is UK resident for the gift year, and
 - (b) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (c) none of sections 809B, 809D and 809E applies to the subsequent recipient for the charging year.
 - (3) Subsection (4) also applies if –
 - (a) the subsequent recipient is UK resident for the gift year, and
 - (b) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (c) section 809B, 809D or 809E applies to the subsequent recipient for the charging year, and
 - (d) the whole, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
 - (4) 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 (5), 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 subsection (1)(f), or
 - (ii) were, where this subsection applies because of subsection (3) 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.

- (5) The amount given by subsection (4) (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 subsection (1)(a), deduct the excess.
- (6) Subsection (8) applies if –
 - (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.
- (7) Subsection (8) also applies if –
 - (a) the subsequent recipient is UK resident for the gift year, and
 - (b) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (c) section 809B, 809D or 809E applies to the subsequent recipient for the charging year, and
 - (d) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (8) Subsection (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 (9), 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 subsection (1)(f) and is not treated as arising to the settlor as a result of the operation of section 733C, or
 - (ii) were, where this subsection applies because of subsection (7) 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.
- (9) The amount given by subsection (8) (before adjustment under this subsection) is to be adjusted as follows: if that amount exceeds the amount mentioned in subsection (1)(a) in the case of the original beneficiary, deduct the excess.
- (10) Where –
 - (a) the amount mentioned in subsection (1)(a) is treated as arising otherwise than as a result of the operation of subsections (4), (5), (8) and (9),
 - (b) section 809B, 809D or 809E applies to the original beneficiary for the arising year, and
 - (c) part (but part only) of the 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 the amount.

- (11) Where the amount mentioned in subsection (1)(a) is treated as arising because of the operation of subsections (8) and (9) on a previous occasion, subsection (1) has effect –
 - (a) with the omission of its paragraphs (b) to (d),
 - (b) as if the references in its paragraph (e) to the benefit mentioned in its paragraph (c) were, instead, references to what was the onward payment on that previous occasion,
 - (c) as if the reference in its paragraph (e) to the distribution time were, instead, to the time when that onward payment was made, and
 - (d) as if the references in its paragraph (f) to the benefit mentioned in its paragraph (c) 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 (f).
- (12) 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 as a result of the operation of subsections (4) and (5), or
 - (b) treated as arising to the settlor as a result of the operation of section 733C.
- (13) 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,
 - “close member”, in relation to the family of the settlor of a settlement, is to be read in accordance with section 733A(7) and (8),
 - “gift” includes any benefit,
 - “the gift year” means the tax year in which the onward payment is made, but see subsection (14),
 - “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, and
 - “relevantly remitted” means remitted to the United Kingdom in a tax year for which the original beneficiary is UK resident.
- (14) Where the onward payment is made as mentioned in subsection (1)(e)(ii), the onward payment is to be treated –
 - (a) for the purposes of the provisions of this section following subsection (1)(e), and
 - (b) for the purposes of section 733C,as made immediately after, and in the tax year containing, the distribution time.

- (15) 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.
- (16) 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) apply for the purposes of this section, and apply for those purposes in relation to references to remittance of the onward payment as if the onward payment were income of the subsequent recipient.

733C Cases where settlor liable following onward gift

- (1) Subsection (3) 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 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)(f), or

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- (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.
 - (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 “close member”, in relation to the family of the settlor of a settlement, is to be read in accordance with section 733A(7) and (8).
 - (8) 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) apply for the purposes of this section, and apply for those purposes in relation to references to remittance of the onward payment as if the onward payment were income of the subsequent recipient.”
- 14 In section 734(1) (amount charged under section 731 is reduced by prior gains) –
- (a) omit paragraphs (b) and (c), but not the “and” at the end of paragraph (c), and
 - (b) for paragraph (d) substitute –
 - “(d) chargeable gains are treated by section 87, 87I, 87J 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.”
- 15 After section 735B insert –
- “735C Person liable under section 733B or 733C 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 733B(4) and (5) where section 733B(4) applies because of section 733B(3), or
 - (ii) as a result of the operation of section 733C(3), 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

- 16 (1) In section 97(3) of TCGA 1992 (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 643I or 643J of ITTOIA 2005, or sections 731 to 733C of ITA 2007, treated as an individual's".
- (2) In consequence of sub-paragraph (1), in Schedule 1 to ITA 2007 omit paragraph 302.

Commencement etc of amendments relating to ITTOIA 2005 and ITA 2007

- 17 (1) Subject as follows, the amendments made by paragraphs 3 to 16 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.
- 18 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.