Neutral Citation: **[2026] UKUT 00289 (TCC)**

Case Number: UT/2025/000120

UPPER TRIBUNAL
(Tax and Chancery Chamber)

The Royal Courts of Justice,
Rolls Building, London

INHERITANCE TAX –secondary liability of settlor for inheritance tax under section 201 Inheritance Tax Act 1984 where a chargeable transfer is made "during the life of the settlor" – whether this includes a corporate settlor – yes – appeal dismissed

Heard on: 6 May 2026
Judgment date: 31 July 2026

Before

JUDGE THOMAS SCOTT
JUDGE VIMAL TILAKAPALA

Between

LEXGREEN SERVICES LIMITED

Appellant

and

THE COMMISSIONERS FOR HIS MAJESTY'S REVENUE AND CUSTOMS

Respondents

Representation:

For the Appellant: Mikael Armstrong, director of the Appellant

For the Respondents: James Kirby, instructed by HMRC Legal Group

DECISION

INTRODUCTION

1. The Appellant (the "Appellant" or "Lexgreen") established a trust in 2005 (the "Trust"). The trustees were resident in Jersey. In 2020, HMRC issued to Lexgreen a notice of determination which provided that Lexgreen was liable to inheritance tax in relation a ten-year periodic charge to inheritance tax on the Trust. HMRC upheld that decision following a statutory review.

2. Lexgreen appealed against HMRC's decision to the First-tier Tribunal (Tax Chamber) (the "FTT"). In its decision issued on 21 August 2025 (the "Decision"), the FTT dismissed the appeal.

3. This is the decision on Lexgreen's appeal against the Decision. It raises a single issue, being a question of statutory construction, namely whether or not a corporate settlor can be liable to an inheritance tax charge under the relevant statutory provision.

THE RELEVANT LEGISLATION

4. Unless indicated otherwise, statutory references below are to the Inheritance Act 1984 ("IHTA"), as in force at the relevant period.

The principal charge

5. Inheritance tax ("IHT") is charged on "the **value transferred** by a **chargeable transfer**": section 1.

6. In relation to chargeable transfers, section 2 provides as follows:

> (1) A chargeable transfer is a transfer of value which is made by an individual but is not (by virtue of Part II of this Act or any other enactment) an exempt transfer.
>
> …
>
> (3) Except where the context otherwise requires, references in this Act to chargeable transfers, to their making or to the values transferred by them shall be construed as including references to occasions on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79), to their occurrence or to the amounts on which tax is then chargeable.

7. Transfers of value are defined by section 3:

> (1) Subject to the following provisions of this Part of this Act, a transfer of value is a disposition made by a person (the transferor) as a result of which the value of his estate immediately after the disposition is less than it would be but for the disposition; and the amount by which it is less is the value transferred by the transfer.
>
> …
>
> (4) Except as otherwise provided, references in this Act to a transfer of value made, or made by any person, include references to events on the happening of which tax is chargeable as if a transfer of value had been made, or, as the case may be, had been made by that person; and "transferor" shall be construed accordingly.

8. The term "settlement" is widely defined by section 43. Section 44(1) defines "settlor" as follows:

> (1) In this Act "settlor", in relation to a settlement, includes any person by whom the settlement was made directly or indirectly, and in particular (but

> without prejudice to the generality of the preceding words) includes any person who has provided funds directly or indirectly for the purpose of or in connection with the settlement or has made with any other person a reciprocal arrangement for that other person to make the settlement.

The ten-year anniversary or periodic charge

9. Chapter III of Part III of the IHTA concerns certain types of settlement. Chapter III of Part III includes the IHT charge which is relevant in this appeal, being the "ten-year anniversary" or periodic charge in section 64(1):

> (1) Where immediately before a ten-year anniversary all or any part of the property comprised in a settlement is relevant property, tax shall be charged…on the value of the property or part at that time.

Liability for a section 64 charge

10. Special rules exist in section 201 which deal with liability for IHT in relation to settled property. The provision which lies at the heart of this appeal is section 201(1)(d). Section 201 relevantly provides as follows:

> (1) **The persons liable for the tax on the value transferred by a chargeable transfer made under Part III of this Act are—**
>
> (a) the trustees of the settlement;
>
> (b) any person entitled (whether beneficially or not) to an interest in possession in the settled property;
>
> (c) any person for whose benefit any of the settled property or income from it is applied at or after the time of the transfer;
>
> **(d) where the transfer is made during the life of the settlor and the trustees are not for the time being resident in the United Kingdom, the settlor.**
>
> …
>
> (4) Where more than one person is a settlor in relation to a settlement and the circumstances so require, subsection (1)(d) above shall have effect in relation to it as if the settled property were comprised in separate settlements.

11. Section 201(1)(d) must be read together with section 204(6), which limits the circumstances in which a settlor may be liable under section 201:

> (6) **Where a person is liable for any tax—**
>
> **…**
>
> **(b) under section 201 above otherwise than as trustee of the settlement, he shall be liable only if the tax remains unpaid after it ought to have been paid** and, in a case where any part of the value transferred is attributable to the tax on it, shall be liable to no greater extent than he would have been had the value transferred been reduced by the tax remaining unpaid.

THE FTT DECISION AND THE ISSUE IN THIS APPEAL

12. There is no dispute in relation to the facts in this appeal, which are summarised at [9]-[16] of the Decision, and they are not material to the issue of statutory construction which we must determine.

13. That issue is whether the reference in section 201(1)(d) to a "transfer…made during the life of a settlor" extends to a transfer made by a settlor which is a company.

14. Before the FTT, the Appellant was represented by leading counsel. In a short decision, the FTT rejected the arguments made by counsel, and accepted HMRC's arguments. The FTT decided that the liability under section 201(1)(d) extends to a settlor which is a company, if that company is a "live" company at the time of the relevant contribution to the trust.[1]

15. The FTT granted Lexgreen permission to appeal on the sole ground that the FTT erred in law in its conclusion as to the applicability of section 201 to companies. In the appeal to this Tribunal, the Appellant was no longer represented by counsel, but by Mr Armstrong, who is a director of the Appellant. Mr Armstrong presented Lexgreen's case differently to the case as argued before the FTT and, in particular, he raised a substantive new argument.

16. While we have considered carefully the respective arguments of the parties, we have taken into account both the Appellant's status as a litigant in person and the need for the Tribunal to determine for itself a pure question of statutory construction.[2] We have, therefore, considered all issues which we consider to be relevant in arriving at the correct construction of section 201(1)(d).

17. We are grateful to both representatives for their written and oral submissions. Although not legally qualified, Mr Armstrong presented Lexgreen's case in a clear, measured and articulate way.

APPROACH TO STATUTORY CONSTRUCTION

18. In *R(O) (PACCAR Inc) v Competition Appeal Tribunal* [2023] UKSC 28 ("*PACCAR*"), Lord Sales helpfully sets out the relevant principles applicable to statutory construction, at [40]-[43]:

> **The relevant interpretative principles**
>
> 40. The basic task for the court in interpreting a statutory provision is clear. As Lord Nicholls put it in *Spath Holme*, at p 396, "Statutory interpretation is an exercise which requires the court to identify the meaning borne by the words in question in the particular context."
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> 41. As was pointed out by this court in *Rossendale Borough Council v Hurstwood Properties (A) Ltd* [2021] UKSC 16; [2022] AC 690, para 10 (Lord Briggs and Lord Leggatt), there are numerous authoritative statements in modern case law which emphasise the central importance in interpreting any legislation of identifying its purpose. The examples given there are *R (Quintavalle) v Secretary of State for Health* [2003] UKHL 13, [2003] 2 AC 687 and *Bloomsbury International Ltd v Department for the Environment, Food and Rural Affairs* [2011] UKSC 25, [2011] 1 WLR 1546. In the first, Lord Bingham of Cornhill said (para 8):
>
>> "Every statute other than a pure consolidating statute is, after all, enacted to make some change, or address some problem, or remove some blemish, or effect some improvement in the national life. The court's task, within the permissible bounds of interpretation, is to give effect to Parliament's purpose. So the controversial provisions should be read in the context of the statute as a whole, and the statute as a whole should be read in the historical context of the situation which led to its enactment."
>
> In the second, Lord Mance said (para 10):

[1] In dismissing the appeal, the FTT recorded at [79] that there was no suggestion that Lexgreen had not remained a live company from its incorporation until HMRC's determination of liability, and the FTT decided that any relevant transfer for IHT purposes was made during its "life": [86].

[2] See, to this effect, the comments of Sir Launcelot Henderson at [109] in *HMRC v BlueCrest Capital Management (UK) LLP* [2025] EWCA Civ 23.

> "In matters of statutory construction, the statutory purpose and the general scheme by which it is to be put into effect are of central importance … In this area as in the area of contractual construction, 'the notion of words having a natural meaning' is not always very helpful (*Charter Reinsurance Co Ltd v Fagan* [1997] AC 313, 391C, per Lord Hoffmann), and certainly not as a starting point, before identifying the legislative purpose and scheme."
>
> The purpose and scheme of an Act of Parliament provide the basic frame of orientation for the use of the language employed in it.
>
> 42. It is legitimate to refer to explanatory notes which accompanied a Bill in its passage through Parliament and which, under current practice, are reproduced for ease of reference when the Act is promulgated; but external aids to interpretation such as these play a secondary role, as it is the words of the provision itself read in the context of the section as a whole and in the wider context of a group of sections of which it forms part and of the statute as a whole which are the primary means by which Parliament's meaning is to be ascertained: *R (Project for the Registration of Children as British Citizens) v Secretary of State for the Home Department* [2022] UKSC 3; [2023] AC 255, paras 29-30 (Lord Hodge). Reference to the explanatory notes may inform the assessment of the overall purpose of the legislation and may also provide assistance to resolve any specific ambiguity in the words used in a provision in that legislation. Whether and to what extent they do so very much depends on the circumstances and the nature of the issue of interpretation which has arisen.
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> 43. The courts will not interpret a statute so as to produce an absurd result, unless clearly constrained to do so by the words Parliament has used: see *R v McCool* [2018] UKSC 23, [2018] 1 WLR 2431, paras 23-25 (Lord Kerr of Tonaghmore), citing a passage in *Bennion on Statutory Interpretation*, 6th ed (2013), p 1753. See now *Bennion, Bailey and Norbury on Statutory Interpretation*, 8th ed (2020), section 13.1(1): "The court seeks to avoid a construction that produces an absurd result, since this is unlikely to have been intended by the legislature". As the authors of *Bennion, Bailey and Norbury* say, the courts give a wide meaning to absurdity in this context, "using it to include virtually any result which is impossible, unworkable or impracticable, inconvenient, anomalous or illogical, futile or pointless, artificial, or productive of a disproportionate counter-mischief". The width of the concept is acceptable, since the presumption against absurdity does not apply mechanistically but rather, as they point out in section 13.1(2), "[t]he strength of the presumption … depends on the degree to which a particular construction produces an unreasonable result". I would add that the courts have to be careful to ensure that they do not rely on the presumption against absurdity in order to substitute their view of what is reasonable for the policy chosen by the legislature, which may be reasonable in its own estimation. The constitutional position that legislative choice is for Parliament cannot be undermined under the guise of the presumption against absurdity…

THE APPELLANT'S ARGUMENTS

19. Mr Armstrong raised an argument that was not discussed before the FTT, which is that because of section 2(1), only a transfer of value by an individual can ever give rise to a liability to IHT.

20. If it is correct, this would effectively be a knockout blow which would mean that the appeal would succeed. We therefore consider it first.

21. The alternative argument made by the Appellant, which was the subject of the Decision, is that the use of the word "life" in section 201(1)(d) precludes the application of that provision to a settlor which is a company.[3]

SECTION 2(1): DISCUSSION

22. By section 1, IHT is charged on "the value transferred by a chargeable transfer". By section 2(1), a chargeable transfer is a transfer of value which is **made by an individual**, other than an exempt transfer.

23. So, says Mr Armstrong, no IHT can be charged on a company, such as Lexgreen, unless an express provision imposes it.

24. Mr Armstrong argued that this was an entirely logical result, and was consistent with the purpose of IHT and with the IHTA read as a whole. Absent specific provisions, companies cannot make chargeable transfers and so are simply not liable to IHT. That is why the provisions dealing with close companies, in section 94 onwards, are necessary.

25. While this argument has an attractive simplicity to it, we do not accept it.

26. The somewhat baroque architecture of the IHTA involves two different sets of provisions. These are the **main charging provisions** and the **special charging provisions**. The former is a term used by the drafter in the heading to Part I of the IHTA.

27. Broadly, under the main charging provisions, inheritance tax is chargeable on a "chargeable transfer", which means a "transfer of value" made by an individual which is not an exempt transfer: sections 2(1) and section 3.

28. Where a liability to tax arises in respect of a chargeable transfer under the main charging provisions, section 199 (in respect of dispositions) and section 200 (in respect of transfers on death) set out who is liable for the tax.

29. Settled property is dealt with in Part III of the IHTA. Settled property in which there is a qualifying interest in possession is dealt with under the main charging provisions. However, settled property in which there is no qualifying interest in possession is dealt with under special charging provisions. These are contained in Chapter III of Part III.

30. Under the special provisions, a periodic charge is imposed on the ten-year anniversary of the settlement: section 64. There are also "exit charges" triggered when (very broadly) the periodic charge ceases to be applicable: section 65.

31. Where a liability to tax arises under the special charging provisions, sections 199 and 200 do not operate to specify who is liable for the tax. In relation to a transfer under Part III, it is section 201 which performs that function. Section 201(1) lists the persons so liable, one of which is the settlor "where the transfer is made during the life of the settlor and the trustees are not for the time being resident in the United Kingdom": section 201(1)(d). It is not in dispute in this appeal that a periodic charge arose in relation to the Trust, that Lexgreen was a settlor of the Trust, and that the trustees of the Trust were non-resident.

32. All of this begs an obvious question. How do the special provisions function to achieve their purpose in light of section 2(1)?

33. The answer lies in section 2(3).

34. As we have set out above, section 2 provides as follows:

[3] The FTT described its decision as being about "the meaning of life". Those familiar with Douglas Adams will know that, according to *The Hitchhiker's Guide to the Galaxy*, this is 42.

> (1) A chargeable transfer is a transfer of value which is made by an individual but is not (by virtue of Part II of this Act or any other enactment) an exempt transfer.
>
> …
>
> (3) Except where the context otherwise requires, references in this Act to chargeable transfers, to their making or to the values transferred by them shall be construed as including references to occasions on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79), to their occurrence or to the amounts on which tax is then chargeable.

35. The purpose of section 2(3) is to render the special charging provisions (including the ten-year periodic charge) effective. It does this by **treating** as chargeable transfers occasions of charge under the special provisions.[4]

36. The rather dense drafting of subsection (3) can be better understood by unpacking it into the three things it achieves:

(1) A reference to a **chargeable transfer** includes an occasion on which tax is chargeable under Chapter III of Part III (the special charging provisions).

(2) A reference to the **making** of a chargeable transfer includes the occurrence of such an occasion.

(3) A reference to the **value transferred** by a chargeable transfer includes the amount on which is tax is chargeable on the relevant occasion.

37. In addition to the three things achieved by section 2(3), a **transfer of value** is treated as arising under the special charging provisions by section 3(4), which states:

> …references in this Act to a transfer of value made, or made by any person, include references to events on the happening of which tax is chargeable as if a transfer of value had been made, or, as the case may be, had been made by that person; and "transferor" shall be construed accordingly.

38. This approach by the drafter has the result that an event which gives rise to a tax charge under the special charging provisions is not restricted by the terms of section 2(1) at all. It is the occurrence of the relevant event which is treated as the making of a chargeable transfer, even though no person may have "made" any transfer in a real-world sense. That is the effect of section 2(3) when it says that "references in this Act to chargeable transfers...shall be construed as including references to occasions on which tax is chargeable under Chapter III of Part III", the occurrence of a ten-year charge being an occasion on which tax is chargeable under Chapter III of Part III. So, the occurrence of a ten-year periodic charge is treated as the making of a chargeable transfer, and any reference to the "making" of a chargeable transfer is specified by subsection (3) to include the "occurrence" of the ten-year charge. Therefore, it is irrelevant whether it is a "transfer of value which is made" or whether it is "made by an individual" within subsection (1), because those concepts apply only to the main charging provisions, as we have described above.

39. Mr Armstrong suggested that section 2(3) was concerned only with administrative matters, and had no effect on the substantive liability requirements in section 2(1). We firmly reject that suggestion; the wording of subsection (3) makes clear that its scope is as we have described.

40. Mr Armstrong argued that his interpretation was supported by the provisions dealing with the periodic charge, contained in sections 64 to 66. He said that the charge to tax in section 64

[4] Our analysis of section 2(3) is consistent with that given in *McCutcheon on Inheritance Tax* (8th edition) at 10.41.

clearly relates only to persons who are individuals, but his reliance in this context on the terminology used in section 64(1BZA) is misplaced, as that subsection was only introduced in 2025 (after the period relevant to this appeal) as part of a package of measures which we discuss further below.

41. Mr Armstrong also argued that the method of calculation of the rate of the periodic charge, in section 66, refers to tax that would be charged on a chargeable transfer, which, by virtue of section 2(1), is limited to a transfer made by an individual. However, we agree with Mr Kirby that section 66 calculates the applicable rate by reference to a hypothetical chargeable transfer made by a hypothetical transferor. That is why section 66(1) refers to a rate "at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (3) below" and subsection (3) refers to a transfer which is "postulated" by subsection (1). Therefore, this sheds no light on Mr Armstrong's argument as to the effect of section 2(1).

42. In conclusion, we reject this argument for the reasons given.

THE "LIFE" OF THE SETTLOR: DISCUSSION

43. We turn now to the narrower question of whether section 201(1)(d) includes a settlor which is a company.

"Settlor"

44. The word "settlor" is defined by section 44(1) (set out above) by reference to "any person" who falls within the specified circumstances. That would include a non-natural person such as a company. By virtue of section 5 and paragraph 1 of Schedule 1 of the Interpretation Act 1978, "person" includes a body of persons corporate or unincorporate, "unless the contrary intention appears".

"Life" of a legal person

45. However, while it is in our opinion clear that in the IHTA the word "settlor" **may** include a company, the real issue in this appeal is whether the reference to the "life" of the settlor in this specific provision evidences a sufficient contrary intention to implicitly restrict the reference to settlors to individuals.

46. In terms of the ordinary and natural meaning of the words used, we consider that, in principle, a reference to the "life" of a legal person is capable of referring either to the life of a natural person or to the life of any person or thing, including a company. It depends on the context.

47. The *Oxford English Dictionary* identifies that some definitions of life refer to the condition or status of being alive whereas others refer to duration. In relation to usages regarding duration (bearing in mind that section 201(1)(d) refers to a transfer made "during" the life of the settlor), definitions relevant in this appeal include both "the animate existence of a living individual, animal etc." and "the term of duration of an inanimate thing". In relation to the latter usage, one of the example quotations cited is "the short life of the company, and the subsequent liquidation".[5]

48. Mr Kirby referred us to two examples of the broader usage judicially. In *In re A Company (No 00314 of 1989), Ex p Estate Acquisition and Development Ltd* [1991] BCLC 154, Mummery J refers to "the continuing life of the company" (at p161) and in *In re Peveril Gold Mines Ltd* [1898] 1 Ch 122, Lord Lindley MR refers (at p131) to a company being "formed on the condition that its life shall not be terminated". In the latter passage, that language is used

[5] Oxford English Dictionary, 2026 edition, at II.10.a.

interchangeably with a reference to a condition that the company's "existence" shall not be terminated.

49. These are far from isolated examples. The phrase "life of the company" has been used in a significant number of other decisions. Recent instances include *The Wine Enterprises Investments Limited (in liquidation) v Crowe UK LLP* [2026] EWHC 1662 (Ch) at [29] and *Gary Stevens v Stephen Kyte* [2026] EWHC 1231 (Ch) at [122].

50. In our opinion, the ordinary meaning of "life of the settlor" is in principle capable of applying to the interpretation of either party.

51. However, that does not provide an answer in this appeal, and may not even be the best starting point in the exercise of statutory construction: see the comments in *PACCAR* at [41], set out above. It is necessary to interpret the language used by reference to the **purpose** of the Parliamentary drafter and the **context** in which the language is used.

Oher usages

52. Before turning to consider the purpose and context, we should state at the outset that we have concluded that the answer to the issue in this appeal lies in considering the language, purpose and context of section 201(1)(d). We have not found that a comparison with other occurrences of the word "settlor" or "life" in other parts of the IHTA sheds any useful light on the issue before us. In reaching that conclusion, we have taken into account the presumption that Parliament generally intends words used in a statute to bear the same meaning throughout. As Leggatt LJ stated in *R (Good Law Project) v Electoral Commission* [2018] EWHC 2414 (Admin), at [33]:

> … there is no dispute about the principles of statutory interpretation. The basic principles are that the words of the statute should be interpreted in the sense which best reflects their ordinary and natural meaning and accords with the purposes of the legislation. It is generally reasonable to assume that language has been used consistently by the legislature so that the same phrase when used in different places in a statute will bear the same meaning on each occasion—all the more so where the phrase has been expressly defined.

53. While we agree that this is generally a reasonable assumption, we consider that in this case it is of limited assistance, because the wording we must construe is not "settlor" (defined, as we have explained, in section 44) or "life", but rather "during the life of the settlor". That phrase does not occur elsewhere in the IHTA.

54. There is another statutory usage of the phrase "during the life of the settlor", in the income tax provisions on settlements which are contained in Part 5 of the Income Tax (Trading and Other Income) Act 2005. In particular, income from a settlement in which the settlor has an interest is treated for income tax purposes as the income of the settlor if it arises "during the life of the settlor": section 624(1)(a) of that Act. It appears to have been assumed by the parties in *Clipperton v HMRC* [2024] EWCA Civ 180 ("*Clipperton*") (to which we were not referred) that this provision could apply in relation to a corporate settlor. However, the point did not fall to be decided, and is referred to only in a footnote to the decision[6], as follows:

> This assumes that despite the reference in s. 624(1)(a) to 'the life of the settlor' a corporate settlor is within s. 624; this has never been in dispute in these proceedings, and although the point was touched on in argument, we do not need, and I do not propose, to address it.

[6] *Clipperton* at [61], footnote 2.

55. We must, therefore, determine the issue in the absence of any authority[7].

Purpose and context of section 201(1)(d)

56. Before the FTT, in support of a purposive interpretation which restricted the wording to an individual, the Appellant argued that IHT and the IHTA were "fundamentally concerned with life and death": [35]. The FTT rejected that argument. We think that it was right to do so. To the extent that a statutory purpose identified at such a high level is informative, the tax is concerned not with life and death *per se*, but with transfers of value, and how they are taxed. Indeed, the periodic charge which is engaged in this appeal illustrates that point.

57. The purpose of the periodic charge in section 64 is, broadly, to restrict the loss of IHT by the use of discretionary trusts. Assets held in a discretionary trust are not included in the taxable estate of any of the beneficiaries, and as a result are not taxed as part of an individual's estate on death. Instead, the trust itself will be assessed to IHT every 10 years. This ensures that at least some charges to IHT arise in the trust over time, and on "exit" from the periodic charge regime.

58. The purpose of section 201 must be discerned by considering sections 201 and 204 together. Section 201(1) provides for the persons liable for the IHT on a charge under the periodic transfer rules. It lists four categories of person who are so liable. The first is the trustees of the settlement. The final category is a person who is the settlor of the relevant trust, "where the transfer is made during the life of the settlor" and the trustees are not UK resident. Subsection (4) of section 201 states that "where more than one person is a settlor in relation to a settlement and the circumstances so require, subsection (1)(d) above shall have effect in relation to it as if the settled property were comprised in separate settlements".

59. Without more, section 201 would leave HMRC free to choose which category of person specified by Section 201(1) to pursue for the relevant liability. However, section 201 must be construed in light of section 204, which is titled "limitation of liability".

60. Section 204 imposes a series of limitations on the liability for IHT potentially arising on various categories of person, under both the main charging provisions and the special charging provisions. By subsection (6)(b), where a person other than a trustee of the settlement is liable for any tax under section 201, they shall be liable only to the extent that the tax remains unpaid after it ought to have been paid.

61. The effect of section 204(6)(b) is that the liability of a settlor under section 201(1) is limited to a situation where the person primarily liable for the periodic charge, namely the trustee, has not paid the tax when it fell due. A secondary liability arises in such a circumstance, and only in such a circumstance, on the persons other than the trustee who are described in section 201(1).

62. So, the **context** of section 201(1)(d) is that it forms part of a set of provisions which deal with liability for and collection of IHT, including in respect of the periodic charge under section 64. The **purpose** of section 201(1)(d) is as a fallback enforcement mechanism, providing a means for HMRC to collect IHT where a liability to IHT has arisen but the tax has not been paid by the trustee. The restrictions imposed on subsection (1)(d) mean its ambit is narrowly focussed: a secondary liability arises only during the life of the settlor and, importantly, only when the trustees are not for the time being resident in the UK (when enforcement of the liability would clearly be problematic).

[7] In a very different context, the issue of whether a company could be a settlor under certain statutory provisions is the subject of *Re Dodwell & Co Ltd's Trust Deed* [1978] 3 All ER 738.

63. Construing the phrase "during the life of the settlor" with this context and purpose in mind strongly points towards a broader reading of the words used. That broader reading would include a corporate settlor. The purpose of the provision is not, for example, to impose a primary liability to IHT on any settlor of a settlement, but rather to avoid a loss of IHT, in specified and limited circumstances, where the liability has arisen but has not been paid by the trustee. As stated in *Dymond's Capital Taxes*[8]:

> It is not thought that s.201(1)(d), which makes the settlor liable for tax in some cases, has the effect of fastening the burden of tax on him. His liability is intended to protect the Revenue in a case where the trustees, and perhaps also the beneficiaries, are outside the jurisdiction of the British courts. Further, s.212(1) gives him power to raise the amount of the tax by sale or mortgage of, or a terminable charge on, the settled property.

64. In such circumstances, we consider it likely that Parliament would not have intended HMRC's fallback right of secondary recovery to be narrow. In particular, we see no reason why the Parliamentary drafter would have intended to limit that right of recovery to a settlor who is an individual, increasing the risk of non-collection of tax which has fallen due but gone unpaid—as it has in this appeal[9].

65. The drafter of section 201(1)(d) must be assumed to have had in mind that the definition of "settlor" in section 44(1) refers to "any person" and that a "person" would include a company unless a contrary intention appeared. Against that backdrop, our preferred construction is supported by the fact that in both section 201(4) ("where more than one **person** is a settlor") and section 204(6) ("where a **person** is liable for any tax"), the drafter has not chosen to limit the scope of section 201(1)(d) by, for example, referring to "a person who is an individual".

Subsidiary arguments

66. Our conclusion is not changed by two subsidiary arguments raised by the Appellant, which we can deal with briefly.

67. First, Mr Armstrong argued that the provisions of the IHTA dealing with close companies show that where it is intended that a company has any liability for IHT, explicit drafting is adopted.

68. The relevant provisions are contained in Part IV of the IHTA. They apply where a close company makes a transfer of value, and operate not by making the company liable for IHT but by apportioning the value transferred to the participators in the close company and (broadly and with a number of limitations) imposing a liability to IHT on amounts apportioned to participators who are individuals.

69. We do not consider that those provisions assist in this appeal. The close company provisions are required because (as we have explained) while under the main charging provisions a transfer of value can be made by any person (section 3(1)) only an individual can make a chargeable transfer: section 2(1). Specific provisions are, therefore, needed if a decision is taken to legislate for transfers of value by close companies. That does not inform the interpretation of a provision such as section 201(1)(d) which deals with a charge under the special charging provisions, where, as we have found, the requirements of section 2(1) are not in point.

70. Second, paragraph 28 of Schedule 13 to the Finance Act 2025 introduced the following amendment to section 272:

[8] *Dymond's Capital Taxes*, 27.455-459.

[9] The limited scope and operation of section 201(1)(d) is also relevant to Mr Armstrong's argument in relation to section 2(1) that, as he put it, IHT cannot be "a tax which applies equally to companies and individuals".

> (2) A reference in this Act to a settlor's being alive or dying is to be read, in relation to a settlor who is a body corporate, as a reference (respectively) to the body's being in existence or ceasing to exist.

71. That amendment was not in force for the period in this appeal, as it applies only to property comprised in a settlement before 6 April 2025: paragraph 48 of Schedule 13.

72. Mr Armstrong suggested that the amendment must have been necessary because without it the reference in section 201(1)(d) to “life” would not have extended to a settlor which was a body corporate. However, the Explanatory Note to paragraph 28 states as follows:

> [Paragraph 28] provides that a reference to a settlor’s being alive or dying is to be read in relation to a corporate settlor as a reference to the body being in existence or ceasing to exist. Insofar as this change affects the interpretation of subsection 201(1)(d) which relates to the settlor’s liability to IHT on settled property where the trustees are non-resident, this clarifies the existing law.[10]

73. We take that explanation at face value, and do not infer from the introduction of the amendment that without it a corporate settlor could not have had a “life”.

CONCLUSION AND DISPOSITION

74. In conclusion, we consider that section 201(1)(d) applies to a settlor such as Lexgreen which is a body corporate.

75. The appeal is dismissed.

JUDGE THOMAS SCOTT
JUDGE VIMAL TILAKAPALA

Release date: 31 July 2026

[10] Explanatory Notes to the Finance Bill introduced in the House of Commons on 7 November 2024 (HC Bill 125) at paragraph 34.