

Termination of life interest on death of person entitled. CGTA75 s15(4), (5), (5A), (6) and (12); CGT(A)A78 s7(1); FA97 s73(1) 577.—(1) (a) In this section, “life interest”, in relation to a settlement—

(i) includes a right under the settlement to the income of, or the use or occupation of, settled property for the life of a person (or for the lives of persons) other than the person entitled to the right,

(ii) does not include any right which is contingent on the exercise of the discretion of the trustee or the discretion of some other person, and

(iii) does not include an annuity, notwithstanding that the annuity is payable out of or charged on settled property or the income of settled property except where some or all of the settled property is appropriated by the trustees as a fund out of which the annuity is payable and there is no right of recourse to settled property not so appropriated, or to the income of settled property not so appropriated.

(b) Without prejudice to subsection (4)(b), where under paragraph (a) (iii) an annuity is to be treated as a life interest in relation to a settlement, the settled property or the part of the settled property appropriated by the trustees as a fund out of which the annuity is payable shall, while the annuity is payable and on the occasion of the death of the annuitant, be treated for the purposes of subsection (3) as being settled property under a separate settlement.

(2) Where by virtue of section 576 (1) the assets forming part of any settled property are deemed to be disposed of and reacquired by the trustee on the occasion when a person becomes absolutely entitled to the assets as against the trustee, then, if that occasion is the termination of a life interest by the death of the person entitled to that interest—

(a) no chargeable gain shall accrue on the disposal, and

(b) the reacquisition under that section shall be deemed to be for a consideration equal to the market value of the assets at the date of the death.

(3) On the termination of a life interest in possession in all or any part of settled property, the whole or a corresponding part of each of the assets forming part of the settled property and not ceasing at that time to be settled property shall be deemed for the purposes of the Capital Gains Tax Acts at that time to be disposed of by the trustee, and immediately reacquired by the trustee, for a consideration equal to the whole or a corresponding part of the market value of the asset.

(4) For the purposes of subsection (3)—

(a) a life interest which is a right to part of the income of settled property shall be treated as a life interest in a corresponding part of the settled property, and

(b) if there is a life interest in a part of the settled property and, where that interest is a life interest in income, there is no right of recourse to, or to the income of, the remainder of the settled

property, the part of the settled property in which the life interest subsists shall while it subsists be treated for the purposes of this subsection as being settled property under a separate settlement.

(5) (a) Subject to paragraph (b), where—

(i) as a consequence of a termination, on the death of the person entitled to it, of a life interest in settled property, subsection (3) applies, and

(ii) an asset which forms the whole or any part of that settled property—

(I) is comprised in an inheritance ) taken on the death, and

(II) is exempt from tax in relation to the inheritance under section 55 of that Act, or that section as applied by section 39 of the Finance Act, 1978 ,

that asset shall for the purposes of subsection (3), be excluded from the assets deemed to be disposed of and immediately reacquired.

(b) Where, in a year of assessment, in respect of an asset an exemption from tax in relation to an inheritance referred to in paragraph (a) ceases to apply, then, the chargeable gain which but for paragraph (a) would have accrued to the trustee on the termination of the life interest in accordance with subsection (3) shall be deemed to accrue to the trustee in that year of assessment and shall accordingly be included in the return required to be made by the trustee concerned under section 951 for that year of assessment.