

SCHEDULES

SCHEDULE 5

ATTRIBUTION OF GAINS TO SETTLORS WITH INTEREST IN NON-RESIDENT OR DUAL RESIDENT SETTLEMENT

Information

- 10 An inspector may by notice require any person who is or has been a trustee of, a beneficiary under, or a settlor in relation to, a settlement to give him within such time as he may direct (which must not be less than 28 days beginning with the day the notice is given) such particulars as he thinks necessary for the purposes of section 86 and this Schedule and specifies in the notice.
- 11 (1) This paragraph applies if—
- (a) a settlement has been created before 19th March 1991,
 - (b) on or after that date a person transfers property to the trustees otherwise than under a transaction entered into at arm's length and otherwise than in pursuance of a liability incurred by any person before that date,
 - (c) the trustees are not resident or ordinarily resident in the United Kingdom at the time the property is transferred, and
 - (d) the transferor knows, or has reason to believe, that the trustees are not so resident or ordinarily resident.
- (2) Before the expiry of the period of 12 months beginning with the relevant day, the transferor shall deliver to the Board a return which—
- (a) identifies the settlement, and
 - (b) specifies the property transferred, the day on which the transfer was made, and the consideration (if any) for the transfer.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the later of—
- (a) the day on which the transfer is made, and
 - (b) 25th July 1991 (the day on which the Finance Act 1991 was passed).
- 12 (1) This paragraph applies if a settlement is created on or after 19th March 1991, and at the time it is created—
- (a) the trustees are not resident or ordinarily resident in the United Kingdom, or
 - (b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who—
- (a) is a settlor in relation to the settlement at the time it is created, and
 - (b) at that time fulfils the condition mentioned in sub-paragraph (4) below,
- shall, before the expiry of the period of 3 months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (5) below.

- (3) Any person who—
- (a) is a settlor in relation to the settlement at the time it is created,
 - (b) at that time does not fulfil the condition mentioned in sub-paragraph (4) below, and
 - (c) fulfils that condition at a later time,
- shall, before the expiry of the period of 12 months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (5) below.
- (4) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
- (5) The particulars are—
- (a) the day on which the settlement was created;
 - (b) the name and address of the person delivering the return;
 - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (6) For the purposes of sub-paragraph (2) above the relevant day is the later of—
- (a) the day on which the settlement is created, and
 - (b) 25th July 1991 (the day on which the Finance Act 1991 was passed).
- (7) For the purposes of sub-paragraph (3) above the relevant day is the later of—
- (a) the day on which the person first fulfils the condition after the settlement is created, and
 - (b) 25th July 1991 (the day on which the Finance Act 1991 was passed).
- 13 (1) This paragraph applies if—
- (a) the trustees of a settlement become at any time (“the relevant time”) on or after 19th March 1991 neither resident nor ordinarily resident in the United Kingdom, or
 - (b) the trustees of a settlement, while continuing to be resident and ordinarily resident in the United Kingdom, become at any time (“the relevant time”) on or after 19th March 1991 trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who was a trustee of the settlement immediately before the relevant time shall, before the expiry of the period of 12 months beginning with the relevant day, deliver to the Board a return specifying—
- (a) the day on which the settlement was created,
 - (b) the name and address of each person who is a settlor in relation to the settlement immediately before the delivery of the return, and
 - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the later of—
- (a) the day when the relevant time falls, and
 - (b) 25th July 1991 (the day on which the Finance Act 1991 was passed).
- 14 (1) Nothing in paragraph 11, 12 or 13 above shall require information to be contained in the return concerned to the extent that—

- (a) before the expiry of the period concerned the information has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
 - (b) after the expiry of the period concerned the information falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.
- (2) Nothing in paragraph 11, 12 or 13 above shall require a return to be delivered if—
- (a) before the expiry of the period concerned all the information concerned has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
 - (b) after the expiry of the period concerned all the information concerned falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.