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## SCHEDULES

### SCHEDULE 7

#### REMITTANCE BASIS

#### PART 2

#### NON-RESIDENT COMPANIES AND TRUSTS ETC

##### *Attribution of gains to beneficiaries*

- 106 TCGA 1992 is amended as follows.
- 107 In section 85(11) (disposal of interests in non-resident settlements), for the words from “there would” to the end substitute “chargeable gains would be treated under section 89(2) or paragraph 8 of Schedule 4C as accruing in the following year of assessment to a beneficiary who received a capital payment from the trustees of the settlement in that year.”
- 108 For section 87 substitute—

##### **“87 Non-UK resident settlements: attribution of gains to beneficiaries**

- (1) This section applies to a settlement for a tax year (“the relevant tax year”) if the trustees are neither resident nor ordinarily resident in the United Kingdom in that year.
- (2) Chargeable gains are treated as accruing in the relevant tax year to a beneficiary of the settlement who has received a capital payment from the trustees in the relevant tax year or any earlier tax year if all or part of the capital payment is matched (under section 87A as it applies for the relevant tax year) with the section 2(2) amount for the relevant tax year or any earlier tax year.
- (3) The amount of chargeable gains treated as accruing is equal to—
  - (a) the amount of the capital payment, or
  - (b) if only part of the capital payment is matched, the amount of that part.
- (4) The section 2(2) amount for a settlement for a tax year for which this section applies to the settlement is—
  - (a) the amount upon which the trustees of the settlement would be chargeable to tax under section 2(2) for that year if they were resident and ordinarily resident in the United Kingdom in that year, or

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- (b) if section 86 applies to the settlement for that year, the amount mentioned in paragraph (a) minus the total amount of chargeable gains treated under that section as accruing in that year.
- (5) The section 2(2) amount for a settlement for a tax year for which this section does not apply to the settlement is nil.
- (6) For the purposes of this section a settlement arising under a will or intestacy is treated as made by the testator or intestate at the time of death.

### **87A Section 87: matching**

- (1) This section supplements section 87.
- (2) The following steps are to be taken for the purposes of matching capital payments with section 2(2) amounts.

#### *Step 1*

Find the section 2(2) amount for the relevant tax year.

#### *Step 2*

Find the total amount of capital payments received by the beneficiaries from the trustees in the relevant tax year.

#### *Step 3*

The section 2(2) amount for the relevant tax year is matched with—

- (a) if the total amount of capital payments received in the relevant tax year does not exceed the section 2(2) amount for the relevant tax year, each capital payment so received, and
- (b) otherwise, the relevant proportion of each of those capital payments.

“The relevant proportion” is the section 2(2) amount for the relevant tax year divided by the total amount of capital payments received in the relevant tax year.

#### *Step 4*

If paragraph (a) of Step 3 applies—

- (a) reduce the section 2(2) amount for the relevant tax year by the total amount of capital payments referred to there, and
- (b) reduce the amount of those capital payments to nil.

If paragraph (b) of that Step applies—

- (a) reduce the section 2(2) amount for the relevant tax year to nil, and
- (b) reduce the amount of each of the capital payments referred to there by the relevant proportion of that capital payment.

#### *Step 5*

Start again at Step 1 (unless subsection (3) applies).

If the section 2(2) amount for the relevant tax year (as reduced under Step 4) is not nil, read references to capital payments received in the relevant tax year as references to capital payments received in the latest tax year which—

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- (a) is before the last tax year for which Steps 1 to 4 have been undertaken, and
- (b) is a tax year in which capital payments (the amounts of which have not been reduced to nil) were received by beneficiaries.

If the section 2(2) amount for the relevant tax year (as so reduced) is nil, read references to the section 2(2) amount for the relevant tax year as the section 2(2) amount for the latest tax year—

- (a) which is before the last tax year for which Steps 1 to 4 have been undertaken, and
  - (b) for which the section 2(2) amount is not nil.
- (3) This subsection applies if—
- (a) all of the capital payments received by beneficiaries from the trustees in the relevant tax year or any earlier tax year have been reduced to nil, or
  - (b) the section 2(2) amounts for the relevant tax year and all earlier tax years have been reduced to nil.
- (4) The effect of any reduction under Step 4 of subsection (2) is to be taken into account in any subsequent application of this section.

#### **87B Section 87: remittance basis**

- (1) This section applies if—
- (a) chargeable gains are treated under section 87 as accruing to an individual in a tax year,
  - (b) section 809B, 809D or 809E (remittance basis) applies to the individual for that year, and
  - (c) the individual is not domiciled in the United Kingdom in that year.
- (2) The chargeable gains are foreign chargeable gains within the meaning of section 12 (non-UK domiciled beneficiaries to whom remittance basis applies).
- (3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) treat relevant property or benefits as deriving from the chargeable gains.
- (4) For the purposes of subsection (3) property or a benefit is “relevant” if the capital payment by reason of which the chargeable gains are treated as accruing consists of—
- (a) the payment or transfer of the property or its becoming property to which section 60 applies, or
  - (b) the conferring of the benefit.

#### **87C Sections 87 and 87A: disregard of certain capital payments**

- (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).

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- (2) A capital payment is within this subsection if (and to the extent that) it is received (or treated as received) in a tax year from the trustees of the settlement by a company that—
- (a) is not resident in the United Kingdom in that year, and
  - (b) would be a close company if it were resident in the United Kingdom, (and is not treated under any of subsections (3) to (5) of section 96 as received by another person).”
- 109 (1) Section 88 (gains of dual resident settlements) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) The section 2(2) amount for a tax year for which section 87 applies by virtue of this section is what it would be if the amount mentioned in section 87(4) (a) were the assumed chargeable amount.”
- (3) Omit subsection (7).
- 110 (1) Section 89 (migrant settlements) is amended as follows.
- (2) In subsection (1), for “section 87 if” substitute “ sections 87 and 87A if”.
- (3) For subsections (2) and (3) substitute—
- “(1A) Subsection (2) applies to a settlement if—
- (a) a non-resident period is succeeded by a resident period, and
  - (b) in relation to the last tax year in the non-resident period (“the last non-resident tax year”), section 87A(3) applied by virtue of paragraph (a) of that provision (exhaustion of capital payments).
- (2) Chargeable gains are treated as accruing in a tax year (in the resident period) to a beneficiary of the settlement who receives a capital payment from the trustees in that year if all or part of the capital payment is matched (under section 87A as it applies for that year) with the section 2(2) amount for the last non-resident tax year or any earlier tax year.
- (3) Section 87(3) and (4) and sections 87A to 87C apply for the purposes of subsection (2) as if the relevant tax year were the tax year mentioned in subsection (2).
- (4) Section 87B (remittance basis) applies in relation to chargeable gains treated under subsection (2) as accruing as it applies in relation to chargeable gains treated under section 87 as accruing.”
- 111 For section 90 substitute—

**“90 Sections 87 and 89(2): transfers between settlements**

- (1) This section applies if the trustees of a settlement (“the transferor settlement”) transfer all or part of the settled property to the trustees of another settlement (“the transferee settlement”).
- (2) In this section “the year of transfer” means the tax year in which the transfer occurs.

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- (3) Treat the section 2(2) amount for the transferee settlement for any tax year (not later than the year of transfer) as increased by—
  - (a) the section 2(2) amount for the transferor settlement for that year (as reduced under section 87A as it applies in relation to that settlement for the year of transfer and all earlier tax years), or
  - (b) if part only of the settled property is transferred, the relevant proportion of the amount mentioned in paragraph (a).
- (4) “The relevant proportion” is—
  - (a) the market value of the property transferred, divided by
  - (b) the market value of the property comprised in the transferor settlement immediately before the transfer.
- (5) Treat the section 2(2) amount for the transferor settlement for any tax year as reduced by the amount by which the section 2(2) amount for the transferee settlement for that year is increased under subsection (3).
- (6) If neither section 87 nor section 89(2) would otherwise apply to the transferee settlement for the year of transfer—
  - (a) section 89(2) to (4) apply to the settlement for that year (and subsequent tax years), and
  - (b) for this purpose, references there to the last non-resident tax year are to be read as the year of transfer.
- (7) The increase under subsection (3) has effect for the year of transfer and subsequent tax years.
- (8) The reduction under subsection (5) has effect for tax years after the year of transfer.
- (9) When calculating the market value of property for the purposes of this section or section 90A in a case where the property is subject to a debt, reduce the market value by the amount of the debt.
- (10) This section does not apply to—
  - (a) a transfer to which Schedule 4B applies, or
  - (b) any section 2(2) amount that is in a Schedule 4C pool (see paragraph 1 of Schedule 4C).

#### **90A Section 90: transfers made for consideration in money or money's worth**

- (1) Section 90 does not apply to a transfer of settled property made for consideration in money or money's worth if the amount (or value) of that consideration is equal to or exceeds the market value of the property transferred.
- (2) The following provisions apply if—
  - (a) section 90 applies to a transfer of settled property made for consideration in money or money's worth, and
  - (b) the amount (or value) of that consideration is less than the market value of the property transferred.

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- (3) If the transfer is of all of the settled property, for the purposes of section 90 treat the transfer as being of part only of the settled property.
- (4) Deduct the amount (or value) of the consideration from the amount of the market value referred to in section 90(4)(a).”
- 112 (1) Section 91 (increase in tax payable under section 87 or 89(2)) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies if—
- (a) chargeable gains are treated under section 87 or 89(2) as accruing to a beneficiary by virtue of the matching (under section 87A) of all or part of a capital payment with the section 2(2) amount for a tax year (“the relevant tax year”),
- (b) the beneficiary is charged to tax by virtue of that matching, and
- (c) the capital payment was made more than one year after the end of the relevant tax year.
- (1A) Where part of a capital payment is matched, references in subsections (2) and (3) to the capital payment are to the part matched.”
- (3) In subsection (5)(a), for the words from “year” to the end (excluding the “and”) substitute “ tax year immediately after the relevant tax year, ”.
- (4) Omit subsection (8).
- 113 Omit sections 92 to 95 (matching).
- 114 Omit—
- (a) in FA 1998, section 130(1) and (4), and paragraph 6(3) and (4) of Schedule 21,
- (b) in FA 2002, paragraph 6 of Schedule 11,
- (c) in FA 2003, section 163(3), and
- (d) in FA 2006, paragraphs 34(2)(d) and 36(2)(a) of Schedule 12.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)