

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART II is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 17 **U.K.**

#### <sup>M1</sup>DUAL RESIDENT INVESTING COMPANIES

##### Marginal Citations

**M1** Source—1987 (No.2) Sch.4

### PART II **U.K.**

#### EARLY PAYMENTS OF INTEREST ETC. AND CHARGES ON INCOME

##### *Interpretation*

- 4 In this Part of this Schedule—
- (a) a “1986 accounting period” means an accounting period which begins or ends (or begins and ends) in the financial year 1986;
  - (b) a “post-1986 accounting period” means an accounting period which begins on or after 1st April 1987; and
  - (c) “dual resident investing company” has the same meaning as in section 404.

##### *Early payment of interest etc.*

- 5 (1) If the conditions in sub-paragraph (2) or (3) below are fulfilled and if the Board so direct, this paragraph applies in relation to a 1986 accounting period of a dual resident investing company.
- (2) The conditions in this sub-paragraph are applicable only if the company is carrying on a trade in the 1986 accounting period, and those conditions are—
- (a) that in that accounting period the company has incurred a loss, computed as for the purposes of section 393(2), in carrying on that trade; and
  - (b) that in that period the company has made a payment falling within section 404(6)(a)(iii); and
  - (c) that the payment referred to in paragraph (b) above either did not fall due in that period or would not have fallen due in that period but for the making, on or after 5th December 1986, of arrangements varying the due date for payment.
- (3) The conditions in this sub-paragraph are applicable only if the company is an investment company in the 1986 accounting period, and those conditions are—

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- (a) that for that accounting period the company has (apart from this paragraph) such an excess as is referred to in section 403(4); and
  - (b) that one or more of the sums which for that accounting period may be deducted as expenses of management under section 75(1) either did not fall due in that period or would not have fallen due in that period but for the making, on or after 5th December 1986, of arrangements varying the due date for payment.
- (4) The Board shall not give a direction under this paragraph with respect to a 1986 accounting period of a dual resident investing company unless it appears to the Board that the sole or main benefit that might be expected to accrue from the early payment or, as the case may be, from the arrangements was that (apart from this paragraph) the company would, for that period, have an amount or, as the case may be, a larger amount available for surrender by way of group relief.
- (5) If this paragraph applies in relation to a 1986 accounting period of a dual resident investing company which is carrying on a trade then, for the purposes of this Chapter and, where appropriate, any apportionment under paragraph 2 above—
- (a) the loss (if any) of the company for that period shall be computed (as mentioned in section 403(1)) as if any payment falling within sub-paragraph (2)(b) above had not been made in that period; and
  - (b) the loss (if any) of the company for its first post-1986 accounting period shall be computed as if any such payment were made in that period.
- (6) If this paragraph applies in relation to a 1986 accounting period of a dual resident investing company which is an investment company, then, for the purposes referred to in sub-paragraph (5) above—
- (a) the amount which may be deducted as expenses of management for that period, as mentioned in section 403(4), shall be computed as if any sum falling within sub-paragraph (3)(b) above had not been disbursed; and
  - (b) the amount which may be so deducted as expenses of management for the first of the company's post-1986 accounting periods shall be computed as if any such sum were disbursed in that period.

*Early payment of charges on income*

- 6 (1) If, in the case of a dual resident investing company, either of the following conditions is fulfilled—
- (a) that any interest or other payment which is, or is treated as, a charge on income falls due in a post-1986 accounting period but is paid (or treated for the purposes of section 338 as paid) in a 1986 accounting period, or
  - (b) that, on or after 5th December 1986, arrangements have been made such that any such interest or other payment which, but for the arrangements, would have fallen due in a post-1986 accounting period, fell due in a 1986 accounting period,
- the interest or other payment shall, if the Board so direct, be treated for the purposes of this Chapter and, where appropriate, paragraph 3 above as paid in the post-1986 accounting period referred to in paragraph (a) or, as the case may be, paragraph (b) above.

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- (2) The Board shall not give a direction under this paragraph unless it appears to them that the sole or main benefit that might be expected to accrue from the early payment or, as the case may be, from the arrangements was that (apart from the direction) the interest or other payment would be attributed or apportioned to a 1986 accounting period rather than a post-1986 accounting period, so that, for the 1986 accounting period, the dual resident investing company would have an amount or, as the case may be, a larger amount available for surrender by way of group relief.

### *Appeals*

- 7 Notice of the giving of a direction under paragraph 5 or 6 above shall be given to the dual resident investing company concerned; and any company to which such a notice is given may, by giving notice of appeal to the Board within 60 days of the date of the notice given to the company, appeal to the Special Commissioners against the direction on either or both of the following grounds—
- (a) that the conditions applicable to the company under paragraph 5(2) or (3) above are not fulfilled or, as the case may be, that neither of the conditions in paragraph 6(1) above is fulfilled;
  - (b) that the sole or main benefit that might be expected to accrue from the early payment or, as the case may be, the arrangements was not that stated in paragraph 5(4) or, as the case may be, paragraph 6(2) above.

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