

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, Paragraph 5A is up to date with all changes known to be in force on or before 03 August 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 5

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

##### *Exceptions from section 86*

- [<sup>F1</sup>5A (1) Section 86 does not apply in relation to a year (“the particular year”) if Conditions A to D are met.
- (2) Condition A is that the particular year is—
- (a) the tax year 2017-18, or
  - (b) a later tax year.
- (3) Condition B is that when the settlement is created the settlor—
- (a) is not domiciled in the United Kingdom, and
  - (b) if the settlement is created on or after 6 April 2017, is not deemed domiciled in the United Kingdom.
- (4) Condition C is that there is no time in the particular year when the settlor is—
- (a) domiciled in the United Kingdom, or
  - (b) deemed domiciled in the United Kingdom by virtue of Condition A in section 835BA of ITA 2007.
- (5) Condition D is that no property or income is provided directly or indirectly for the purposes of the settlement by the settlor, or by the trustees of another settlement of which the settlor is the settlor or a beneficiary, at a time in the relevant period when the settlor is—
- (a) domiciled in the United Kingdom, or
  - (b) deemed domiciled in the United Kingdom.
- (6) In sub-paragraph (5) “relevant period” means the period—
- (a) beginning with the start of 6 April 2017 or, if later, the creation of the settlement, and
  - (b) ending with the end of the particular year.
- (7) For the purposes of Condition D, the addition of value to property comprised in the settlement is to be treated as the direct provision of property for the purposes of the settlement.
- (8) Paragraph 5B contains further provision for the purposes of Condition D.
- (9) In this paragraph “deemed domiciled” means regarded for the purposes of section 86(1)(c) as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect.]

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**Textual Amendments**

**F1** Sch. 5 paras. 5A, 5B inserted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), **Sch. 8 para. 18**

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