

Status: Point in time view as at 08/07/2008.

Changes to legislation: Taxation of Chargeable Gains Act 1992, SCHEDULE 5A is up to date with all changes known to be in force on or before 10 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

[^{F1}SCHEDULE 5A

Section 98A.

SETTLEMENTS WITH FOREIGN ELEMENT: INFORMATION

Textual Amendments

F1 Sch. 5A inserted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 97\(3\)](#)

- 1 In this Schedule “the commencement day” means the day on which the Finance Act 1994 was passed.
- 2 (1) This paragraph applies if—
- (a) a settlement was created before [^{F2}17th March 1998],
 - (b) on or after the commencement day 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 day,
 - (c) the trustees are [^{F3}neither resident nor 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 [^{F4}resident and ordinarily resident].
- (2) Before the expiry of the period of twelve 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 day on which the transfer is made.

Textual Amendments

- F2** Words in Sch. 5A para. 2(1)(a) substituted (with effect in accordance with s. 131(4) of, Sch. 22 para. 5(2) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 22 para. 5\(1\)](#)
- F3** Words in Sch. 5A para. 2(1)(c) substituted (with effect in accordance with Sch. 12 para. 30(5) of the amending Act) by [Finance Act 2006 \(c. 25\), Sch. 12 para. 30\(1\)\(2\)\(c\)](#)
- F4** Words in Sch. 5A para. 2(1)(d) substituted (with effect in accordance with Sch. 12 para. 30(5) of the amending Act) by [Finance Act 2006 \(c. 25\), Sch. 12 para. 30\(3\)](#)

- 3 (1) This paragraph applies if a settlement is created on or after the commencement day, and at the time it is created—
- (a) the trustees are [^{F5}neither resident nor ordinarily resident in the United Kingdom], or

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- (b) the trustees are [^{F6}resident and 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 (3) below,
- shall, before the expiry of the period of three months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4) below.
- (3) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
- (4) 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.
- (5) For the purposes of sub-paragraph (2) above the relevant day is the day on which the settlement is created.

Textual Amendments

- F5** Words in Sch. 5A para. 3(1)(a) substituted (with effect in accordance with Sch. 12 para. 30(6) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 30\(1\)\(2\)\(c\)](#)
- F6** Words in Sch. 5A para. 3(1)(b) substituted (with effect in accordance with Sch. 12 para. 34(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 34\(1\)\(2\)\(g\)](#)

- 4 (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 [^{F7}neither resident nor ordinarily resident in the United Kingdom], or
- (b) the trustees are [^{F8}resident and 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,
- (b) at that time does not fulfil the condition mentioned in sub-paragraph (3) below, and
- (c) first fulfils that condition at a time falling on or after the commencement day,
- shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4) below.
- (3) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
- (4) The particulars are—
- (a) the day on which the settlement was created;

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- (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.

(5) For the purposes of sub-paragraph (2) above the relevant day is the day on which the person first fulfils the condition as mentioned in paragraph (c) of that sub-paragraph.

Textual Amendments

- F7** Words in Sch. 5A para. 4(1)(a) substituted (with effect in accordance with Sch. 12 para. 30(6) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 30\(1\)\(2\)\(c\)](#)
- F8** Words in Sch. 5A para. 4(1)(b) substituted (with effect in accordance with Sch. 12 para. 34(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 34\(1\)\(2\)\(g\)](#)

- 5 (1) This paragraph applies if—
- (a) the trustees of a settlement become at any time (the relevant time) on or after the commencement day 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 the commencement day 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 twelve 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 day when the relevant time falls.
- 6 (1) Nothing in paragraph 2, 3, 4 or 5 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 2, 3, 4 or 5 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.]

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