

*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: Finance Act 2003, SCHEDULE 29 is up to date with all changes known to be in force on or before 28 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 29

Section 163(2)

#### TRANSFERS OF VALUE: ATTRIBUTION OF GAINS TO BENEFICIARIES

##### *Introduction*

- 1 Schedule 4C to the Taxation of Chargeable Gains Act 1992 (c. 12) (transfers of value: attribution of gains to beneficiaries) is amended as follows.

##### *Scope and scheme of Schedule*

- 2 For paragraphs 1 and 2 (introduction and general scheme of Schedule) substitute—

##### *“Introduction*

- 1 (1) This Schedule applies where the trustees of a settlement (“the transferor settlement”) make a transfer of value to which Schedule 4B applies (“the original transfer”).
- (2) Where this Schedule applies, the following gains—
- (a) any Schedule 4B trust gains accruing by virtue of the transfer (see paragraphs 3 to 7), and
  - (b) any outstanding section 87/89 gains of the transferor settlement at the end of the year of assessment in which the transfer is made (see paragraph 7A),
- are pooled for the purpose of attributing them, in accordance with this Schedule, to beneficiaries who receive capital payments. Paragraph 7B provides for further gains to be brought into the pool in the case of a further transfer of value.
- (3) The gains mentioned in sub-paragraph (2) are referred to in this Schedule as “Schedule 4C gains” and the pool is referred to as the transferor settlement’s “Schedule 4C pool”.
- (4) Paragraphs 8 to 9 provide for the attribution of gains in a settlement’s Schedule 4C pool.
- (5) References in this Schedule to a transfer to which Schedule 4B applies include any such transfer, whether or not any chargeable gain or allowable loss accrues under that Schedule by virtue of the transfer.”

##### *Other gains to be brought into Schedule 4C pool*

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### Textual Amendments

- F1** Sch. 29 para. 3 omitted (with effect in accordance with Sch. 7 para. 147 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 146** (with Sch. 7 para. 155)

### *Attribution of gains to beneficiaries*

- 4 (1) For paragraphs 8 and 9 (attribution of gains to beneficiaries) substitute—

#### *“Attribution of Schedule 4C gains to beneficiaries*

- 8 (1) The gains in a settlement’s Schedule 4C pool at the end of any year of assessment are treated as chargeable gains accruing in that year to beneficiaries who receive in that year, or have received in an earlier year, capital payments from the trustees of any settlement that is a relevant settlement in relation to the pool.

Paragraph 8A defines “relevant settlement” for this purpose.

- (2) The attribution of chargeable gains to beneficiaries under this paragraph shall be made in proportion to, but shall not exceed, the amounts of the capital payments made to them.

Paragraphs 8B and 8C provide for the matching of gains with available capital payments.

- (3) A chargeable gain shall not be treated as accruing to a beneficiary under this Schedule unless he is chargeable to tax for that year of assessment.
- (4) For the purposes of this Schedule a beneficiary is “chargeable to tax” for a year of assessment if, and only if—
- (a) he is resident in the United Kingdom for any part of that year or is ordinarily resident in the United Kingdom for that year, and
  - (b) he is domiciled in the United Kingdom for any part of that year.
- (5) Any gains in a settlement’s Schedule 4C pool that are not attributed to beneficiaries in a year of assessment are carried forward to the following year of assessment, when this paragraph applies again.

#### *Relevant settlements*

- 8A (1) This paragraph specifies what settlements are relevant settlements in relation to a Schedule 4C pool.
- (2) The transferor and transferee settlements in relation to the original transfer of value are relevant settlements.
- (3) If the trustees of any settlement that is a relevant settlement in relation to a Schedule 4C pool—
- (a) make a transfer of value to which Schedule 4B applies, or
  - (b) make a transfer of settled property to which section 90 applies,
- any settlement that is a transferee settlement in relation to that transfer is also a relevant settlement in relation to that pool.

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- (4) If the trustees of a settlement that is a relevant settlement in relation to a Schedule 4C pool make a transfer of value to which Schedule 4B applies, any other settlement that is a relevant settlement in relation to that pool is also a relevant settlement in relation to the Schedule 4C pool arising from the further transfer.

*Attribution of gains in Schedule 4C pool*

- 8B (1) The following rules apply as regards the attribution of the gains in a settlement's Schedule 4C pool to beneficiaries of relevant settlements.

This paragraph has effect subject to paragraph 8C (order of attribution as between gains in Schedule 4C pool and other trust gains).

- (2) Gains of earlier years are attributed to beneficiaries before gains of later years.
- (3) For the purposes of this Schedule the year of a gain is determined as follows—
- (a) a Schedule 4B trust gain is a gain of the year of assessment in which the transfer of value in question takes place;
  - (b) a section 87/89 gain is a gain of the year of assessment in which it first forms part of a settlement's trust gains in accordance with section 87(2).
- (4) Gains of the same year are matched with available capital payments made at any time by trustees of any relevant settlement.
- (5) If gains of one year are wholly matched, gains of the next year are then matched, and so on.
- (6) The gains are attributed to beneficiaries in proportion to, but not so as to exceed, the amount of available capital payments received by them.

*Attribution of gains: Schedule 4C pool gains and other gains*

- 8C (1) Where in a year of assessment—
- (a) gains in a settlement's Schedule 4C pool fall to be attributed to beneficiaries of relevant settlements, and
  - (b) one or more of those settlements also have gains that fall to be attributed to beneficiaries under section 87(4) or 89(2),
- the provisions of paragraph 8B have effect as follows.
- (2) The rules in that paragraph apply in relation to all the gains falling to be so attributed.
- (3) As between gains of the same year, Schedule 4C gains are attributed to beneficiaries before other gains.

*Attribution of gains: available capital payments*

- 9 (1) In any year of assessment capital payments made to a beneficiary by the trustees of a relevant settlement, in that year or any earlier year, are available for the purposes of paragraphs 8 to 8C subject to the following provisions.

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- (2) A capital payment is no longer available to the extent that chargeable gains have, by reason of it, been treated as accruing to the recipient in an earlier year of assessment—
  - (a) under this Schedule, or
  - (b) under section 87(4) or 89(2).
- (3) Capital payments received—
  - (a) before 21st March 2000, or
  - (b) before the year of assessment preceding the year of assessment in which the original transfer of value was made, shall be disregarded.”.

(2) After paragraph 12 insert—

**Attribution of gains to beneficiaries in section 10A cases**

- “12A(1) This paragraph applies where by virtue of section 10A an amount of gains would (apart from this Schedule) be treated under section 87 as accruing to a person (“the beneficiary”) in the year of return by virtue of a capital payment made to him in an intervening year.
- (2) Where this paragraph applies, a capital payment equal to so much of that capital payment as exceeds the amount otherwise charged shall be deemed for the purposes of this Schedule to be made to the beneficiary in the year of return.
- (3) The “amount otherwise charged” means the total of any chargeable gains attributed to the beneficiary under section 87(4) or 89(2) by virtue of the capital payment.
- (4) For the purposes of paragraph 13(5)(b) a deemed capital payment under this paragraph shall be treated as made when the actual capital payment mentioned in sub-paragraph (1) above was made.
- (5) Expressions used in this paragraph and section 10A have the same meanings in this paragraph as in that section”.

*Gains attributed to settlor*

F25 .....

**Textual Amendments**

**F2** Sch. 29 para. 5 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 55(f)(ii)**

*Minor and consequential amendments*

6 (1) In paragraph 10(1) for “of the transferor settlement, or of any transferee settlement,” substitute “ of any relevant settlement ”.

F3(2) .....

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<sup>F4</sup>(3) .....

(4) After paragraph 13 insert—

*“Effect of settlement ceasing to exist after transfer of value*

13A Where a settlement ceases to exist after the trustees have made a transfer of value to which Schedule 4B applies, this Schedule has effect as if a year of assessment had ended immediately before the settlement ceased to exist.”

**Textual Amendments**

**F3** Sch. 29 para. 6(2) omitted (with effect in accordance with Sch. 7 para. 147 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 146](#) (with [Sch. 7 para. 155](#))

**F4** Sch. 29 para. 6(3) omitted (with effect in accordance with Sch. 7 para. 147 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 146](#) (with [Sch. 7 para. 155](#))

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