
Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULES

SCHEDULE 8

Section 15.

AGGREGATION OF INFANTS' INVESTMENT, ETC. INCOME

General rules about aggregation

- 1 (1) Subject to the provisions of this Schedule, income to which section 15(1) of this Act applies shall be treated as follows—
- (a) so far as it is income for a year of assessment or part of a year of assessment during which both parents of the infant are alive, and are married to and living with each other, as income for that year of the father;
 - (b) so far as it is income for a year or part during which both parents are alive, but are either not married to each other or not living with each other, as income for that year of the father or, for any period during which the mother has actual custody of the infant, as income for that year of the mother; and
 - (c) so far as it is income for a year or part during which one only of the parents is alive, as income for the year of that parent.
- (2) So far as any income to which the said section 15(1) applies is income for a year of assessment, or part of a year of assessment, of an infant who is illegitimate and has not been adopted, sub-paragraph (1) above shall not apply to the income, but it shall be treated instead as income for that year of the mother, or, for any period during which the father has actual custody of the infant, as income for that year of the father.
- (3) For the purposes of this paragraph an infant's parents are to be treated as living with each other unless they are separated under an order of a court of competent jurisdiction, or by deed of separation, or are in fact separated in such circumstances that the separation is likely to be permanent.
- (4) Where a parent appeals against any assessment or decision on a claim on the grounds that an infant was not, or was, in his or her actual custody for any period, or was or was not for any period in the actual custody of the other parent, the other parent shall be entitled to appear and be heard on that question by the Commissioners hearing the appeal; and, as respects that question—
- (a) if the other parent does so appear, the determination of the Commissioners shall for the purposes of income tax be final and conclusive against him or her, save that he or she shall have the same right as the appellant to require the statement of a case for the opinion of the High Court, and
 - (b) the determination of the Commissioners shall also be final and conclusive against the other parent if he or she fails without reasonable cause to appear.
- 2 Income of an infant falling to be treated as income of a parent by virtue of the provisions of this Schedule shall be so treated for all income tax purposes, or for the purposes of income tax other than surtax, or for the purposes of surtax only, according to the purposes for which it would have constituted income of the infant but for those provisions.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Exclusion of aggregation where infant in legal custody of third party

- 3 Paragraph 1 above shall not apply to any income so far as it is income for a year of assessment or part of a year of assessment during which the infant was in law in the custody of a person or persons other than a parent, and was not in the actual custody of a parent.

Special rules for non-residents

- 4 (1) Where, in the case of any income falling within paragraph 1(1)(a) above, one of the infant's parents is, and one is not, resident for the year in the United Kingdom, the said paragraph 1(1)(a) shall have effect in relation thereto as if, instead of specifying the infant's father, it specified the parent resident for the year in the United Kingdom if the infant is so resident, and the other parent if the infant is not so resident.
- (2) Nothing in the preceding provisions of this Schedule shall have effect so as to treat income of an infant resident in the United Kingdom for any year of assessment as income of a parent not so resident for that year, or income of an infant not so resident for any year as income of a parent so resident for that year.

Provisions as to certain payments involving tax reliefs

- 5 (1) Where income of an infant for any period is treated by virtue of this Schedule as income of a parent, and the infant has made payments of either of the following descriptions—
- (a) annual payments in respect of which a deduction is permitted in computing for that period total income for the purposes of income tax or surtax, or
 - (b) payments in that period of interest in respect of which income tax at the standard rate is repayable,
- the said payments shall, to the extent of that income, be treated as having been made thereout by the parent instead of by the infant, and in the order in which they are described above.
- (2) Where income of an infant for any period is so treated, and the infant has during that period made payments qualifying for relief under section 219 of the Income Tax Act 1952 (premiums under certain life policies and annuity contracts), the deductions from tax to which he would apart from this sub-paragraph be entitled by reason of those payments shall, to the extent that the payments could have been made out of the income so treated (or, where sub-paragraph (1) above has effect, out of that income reduced by the payments falling within that sub-paragraph), be made instead from the tax with which the parent is chargeable.

Right of parent to recover tax on infant's income

- 6 (1) Where income of an infant is treated by virtue of this Schedule as income of a parent for any year of assessment, the parent shall be entitled to recover from the infant an amount equal to that by which the tax chargeable on and payable by him or her for the year exceeds that which would have been so chargeable and payable if the income had not been so treated:

Provided that, so far as the excess is attributable to trust income which has not been distributed, the right conferred by this paragraph shall be exercisable against that income instead of against the infant.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) A parent may require from the Board a certificate specifying in relation to any income the amount of tax which he or she is entitled to recover under this paragraph from trustees, and any such certificate shall be conclusive evidence of that amount.

Repayments by parents

- 7 Where income of an infant is treated as income of a parent by virtue of this Schedule, and, by reason thereof, the parent obtains in respect of any allowance or relief a repayment of tax in excess of that to which he would have been entitled if the income had not been so treated, the parent shall pay an amount equal to the excess to the infant, or, if the income arose under a trust, to the trustees.

Loss relief

- 8 (1) A claim for relief under section 341 of the Income Tax Act 1952 (set off of trade etc. losses against general income) may require that the relief be given without any reference to income treated by virtue of this Schedule as income of the person sustaining the loss or of that person's spouse.
- (2) Where income so treated is not excluded by virtue of sub-paragraph (1) above, it shall be treated for the purposes of section 15(1) of the Finance Act 1953 (relief to be given by treating loss as reducing claimant's income first, and then income of claimant's spouse) as distinct from that of the claimant, and as if referred to therein after that of the spouse.

Duty of trustees to give information

- 9 A trustee shall, on being so required in writing by a parent of any beneficiary under the trust, give to the parent details of the trust income arising to the beneficiary for any year of assessment during, or for any part of which, the beneficiary is an infant.

Adopted children

- 10 In this Schedule " parent" means, in the case of an infant who has been adopted, a parent by adoption, and references to the father and the mother of an infant shall be construed accordingly; and references in this Schedule to adoption include references to adoption under the law of any territory outside the United Kingdom.