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SCHEDULES :

SCHEDULE 5

SETTLED PROPERTY

Charge on capital distributions of settled property

- 6 (1) Where a distribution payment is made out of property comprised in a settlement and at the time the payment is made no interest in possession subsists in the property or in the part of it Out of which the payment is made, the payment is in this Schedule referred to as a capital distribution.
- (2) Where a person becomes entitled to an interest in possession in the whole or any part of the property comprised in a settlement at a time when no such interest subsists in the property or that part, a capital distribution shall be treated as being made out of the property or that part of the property; and the amount of the distribution shall be taken to be equal to the value at that time of the property or, if the interest is in part only of that property, of that part.
- (3) Where, at a time when no interest in possession subsists in property comprised in a settlement or in a part of that property, a transaction is made between the trustees of the settlement and a person who is, or is connected with.—
- (a) a person beneficially entitled to an interest in any of the settled property; or
- (b) a person for whose benefit any of the settled property may be applied ;
- and, as a result of the transaction, the value of the property or part is less than it would be but for the transaction, a capital distribution shall be treated as being made out of the property or part of an amount equal to that by which that value is less, unless the transaction is such that, were the trustees beneficially entitled to the settled property, it would not be a transfer of value.
- (4) Tax shall be charged on any capital distribution as on the value transferred by a chargeable transfer where—
- (a) the value transferred less the tax payable on it is equal to the amount of the capital distribution ; and
- (b) the rate applicable is that specified in paragraphs 7 to 9 below;
- and in those paragraphs " the assumed transferor " means the person who Would be the transferor in relation to the chargeable transfer assumed by this sub-paragraph and the appropriate Table for the purposes of those paragraphs (including the calculation of any tax that would have been chargeable as mentioned in paragraph 7(2)(a) below) is the Second Table set out in section 37(3) of this Act.
- (5) The reference in sub-paragraph 4(a) above to the tax payable on a capital distribution does not include any tax which is payable by a person to whom a distribution payment is made ; and in relation to a capital distribution treated as made under sub-paragraph (2) or (3) above or paragraph 12, 15(3) or 24(2) below, sub-paragraph (4) (a) above shall have effect as if the words " less the tax payable on it" were omitted.

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- (6) Notwithstanding sub-paragraph (1) above, a distribution payment which is made to the settlor or the settlor's spouse shall not be a capital distribution if the settlor or, as the case may be, the settlor's spouse is domiciled in the United Kingdom at the time the payment is made and resident (within the meaning of the Income Tax Acts) in the United Kingdom in the year of assessment in which it is made.
- (7) Sub-paragraph (2) above shall not be taken to apply in the case of a person who, on surviving another person for a specified period, becomes entitled to an interest in possession as from the other person's death.
- (8) Where a person entitled to an interest in possession in part of the property comprised in a settlement became so entitled as a member of a class, sub-paragraph (2) above shall not apply on his becoming entitled, as such a member, to an interest in possession in another part of that property, if he becomes so entitled on the death under full age of another member of that class.