

Status: Point in time view as at 03/01/1995.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Meaning of “originatin”g is up to date with all changes known to be in force on or before 15 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 5

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

Meaning of “originatin”g

- 8 (1) References in section 86 and this Schedule to property originating from a person are references to—
- (a) property provided by that person;
 - (b) property representing property falling within paragraph (a) above;
 - (c) so much of any property representing both property falling within paragraph (a) above and other property as, on a just apportionment, can be taken to represent property so falling.
- (2) References in this Schedule to income originating from a person are references to—
- (a) income from property originating from that person;
 - (b) income provided by that person.
- (3) Where a person who is a settlor in relation to a settlement makes reciprocal arrangements with another person for the provision of property or income, for the purposes of this paragraph—
- (a) property or income provided by the other person in pursuance of the arrangements shall be treated as provided by the settlor, but
 - (b) property or income provided by the settlor in pursuance of the arrangements shall be treated as provided by the other person (and not by the settlor).
- (4) For the purposes of this paragraph—
- (a) where property is provided by a qualifying company controlled by one person alone at the time it is provided, that person shall be taken to provide it;
 - (b) where property is provided by a qualifying company controlled by 2 or more persons (taking each one separately) at the time it is provided, those persons shall be taken to provide the property and each one shall be taken to provide an equal share of it;
 - (c) where property is provided by a qualifying company controlled by 2 or more persons (taking them together) at the time it is provided, the persons who are participators in the company at the time it is provided shall be taken to provide it and each one shall be taken to provide so much of it as is attributed to him on the basis of a just apportionment;
- but where a person would be taken to provide less than one-twentieth of any property by virtue of paragraph (c) above and apart from this provision, he shall not be taken to provide any of it by virtue of that paragraph.

Status: Point in time view as at 03/01/1995.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Meaning of “originating” is up to date with all changes known to be in force on or before 15 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)

- (5) For the purposes of sub-paragraph (4) above a qualifying company is a close company or a company which would be a close company if it were resident in the United Kingdom.
- (6) For the purposes of this paragraph references to property representing other property include references to property representing accumulated income from that other property.
- (7) For the purposes of this paragraph property or income is provided by a person if it is provided directly or indirectly by the person.
- (8) For the purposes of this paragraph the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (9) In this paragraph “participator” has the meaning given by section 417(1) of the Taxes Act.
- (10) The preceding provisions of this paragraph shall apply to determine whether shares originate from the settlor for the purposes of paragraph 1(3)(a) above as they apply to determine whether property of any kind originates from a person.

Status:

Point in time view as at 03/01/1995.

Changes to legislation:

Taxation of Chargeable Gains Act 1992, Cross Heading: Meaning of “originating” is up to date with all changes known to be in force on or before 15 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.