

SCHEDULES

SCHEDULE 1

CHARGEABLE GAINS ACCRUING TO NON-RESIDENTS ETC

PART 1

EXTENDING CASES IN WHICH NON-RESIDENTS ARE CHARGED TO TAX ETC

13 For Schedule 1 substitute—

“SCHEDULE 1

UK RESIDENT INDIVIDUALS NOT DOMICILED IN UK

Foreign gains treated as accruing when remitted to UK

- 1 (1) This paragraph applies in the case of an individual to whom the remittance basis applies for a tax year if—
 - (a) in that year the individual disposes of foreign assets,
 - (b) chargeable gains accrue to the individual on the disposal of those assets, and
 - (c) the gains are not taken outside the charge to capital gains tax as a result of section 1G (cases where tax year is a split year).
- (2) The gains are treated as accruing to the individual only so far as, and at the time when, they are remitted to the United Kingdom.
- (3) The amount treated as accruing is equal to the full amount remitted to the United Kingdom at that time.

Use of allowable losses against foreign gains remitted in later year

- 2 (1) This paragraph applies if—
 - (a) gains are treated as accruing to an individual in a tax year as a result of paragraph 1,
 - (b) the tax year is later than the one (“the actual year of accrual”) in which those gains actually accrued to the individual, and
 - (c) an election under section 16ZA (election for foreign losses to be allowable losses) has effect for both the tax year and the actual year of accrual.
- (2) No allowable losses may be deducted under section 1 from the gains.
- (3) This prohibition—

Status: This is the original version (as it was originally enacted).

- (a) applies regardless of whether or not the allowable losses accrue on disposals of foreign assets, but
- (b) does not prevent the prior application of paragraph 3(3) in relation to the gains (which contains a rule for reducing the amount of the gains by reference to losses).

Matching rules for relieving allowable losses

- 3 (1) This paragraph applies in the case of an individual for a tax year if—
- (a) the remittance basis applies to the individual for the tax year, and
 - (b) an election under section 16ZA has effect for the tax year.
- (2) Allowable losses accruing to the individual must be matched to chargeable gains accruing to the individual in accordance with paragraph 4.
- (3) If allowable losses are matched to chargeable gains accruing on disposals of foreign assets—
- (a) which actually accrue in the tax year, but
 - (b) which are, as a result of paragraph 1, treated as not accruing in the tax year,
- the amount of those gains is reduced by the matched amount (and the allowable losses are reduced accordingly).
- (4) So far as allowable losses are matched to other chargeable gains, they are deducted from chargeable gains accruing to the individual in the tax year.
- (5) This is subject to—
- (a) paragraph 2 (no use of allowable losses against foreign gains remitted in later year), and
 - (b) section 1E(4) (prohibition of deduction of losses from gains treated as accruing under section 87, 87K, 87L or 89(2)).

Rules for matching losses to chargeable gains

- 4 (1) This paragraph explains how, for the purposes of paragraph 3, allowable losses are matched to chargeable gains in the case of an individual to whom that paragraph applies for a tax year.
- (2) The losses are matched to the gains in the following order—
- first*, gains actually accruing to the individual in the tax year on the disposal of foreign assets so far as they are remitted to the United Kingdom in the tax year;
 - second*, gains actually accruing to the individual in the tax year on the disposal of foreign assets so far as they are not remitted to the United Kingdom in the tax year;
 - third*, any other gains accruing to the individual in the tax year.
- (3) If the tax year is a split year, the matching under the first and second steps is to be done by reference to the extent to which the gains are, or are not, remitted in the UK part of the year.

Status: This is the original version (as it was originally enacted).

- (4) If there are losses to be matched to gains under the second step but the losses are insufficient to eliminate the gains—
 - (a) the losses are to be matched against gains accruing on the most recent day first (and then the next most recent day and so on until none of the losses remain), and
 - (b) if losses cannot be matched fully against gains accruing on a particular day, the appropriate portion of the losses is matched against each of the gains.
- (5) “The appropriate portion” means the amount of each gain accruing on the day divided by the total amount of all of the gains accruing on the day.

Definitions

- 5 (1) For the purposes of this Schedule “foreign asset” means an asset situated outside the United Kingdom.
- (2) For the purposes of this Schedule any reference to “the remittance basis” applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.
- (3) For the purposes of this Schedule any question as to whether, and when, amounts are “remitted to the United Kingdom” is determined in accordance with the rules in Chapter A1 of Part 14 of ITA 2007.”