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SCHEDULES

SCHEDULE 8

DEEMED DOMICILE: INCOME TAX AND CAPITAL GAINS TAX

PART 1

APPLICATION OF DEEMED DOMICILE RULE

TCGA 1992

2 TCGA 1992 is amended as follows.

3 (1) Section 16ZA (losses: non-UK domiciled individuals) is amended as follows.

(2) For subsections (1) to (3) substitute—

“(1) An individual may make an election under this section in respect of—

- (a) the first tax year in which section 809B of ITA 2007 (claim for remittance basis) applies to the individual, or
- (b) the first tax year in which that section applies to the individual following a period in which the individual has been domiciled in the United Kingdom.

(2) Where an individual makes an election under this section in respect of a tax year, the election has effect in relation to the individual for—

- (a) that tax year, and
- (b) all subsequent tax years.

(2A) But if after making an election under this section an individual becomes domiciled in the United Kingdom at any time in a tax year, the election does not have effect in relation to the individual for—

- (a) that tax year, or
- (b) any subsequent tax year.

(2B) Where an election made by an individual under this section in respect of a tax year ceases to have effect by virtue of subsection (2A), the fact that it has ceased to have effect does not prevent the individual from making another election under this section in respect of a later tax year.

(3) If an individual does not make an election under this section in respect of a year referred to in subsection (1)(a) or (b), foreign losses accruing to the individual in—

- (a) that tax year, or
- (b) any subsequent tax year except one in which the individual is domiciled in the United Kingdom,

are not allowable losses.”

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- (3) After subsection (6) insert—
- “(7) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of this section.”
- (4) The amendments made by this paragraph have effect in relation to the tax year 2017-18 and subsequent tax years.
- (5) Where—
- (a) an individual makes an election under section 16ZA of TCGA 1992 as originally enacted for a tax year before the tax year 2017-18, but
 - (b) after making the election the individual becomes domiciled in the United Kingdom at any time in a tax year,
- sections 16ZB and 16ZC of that Act do not have effect in relation to the individual by virtue of that election for that tax year or any subsequent tax year.
- (6) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of sub-paragraph (5).
- 4 (1) In section 16ZB (election under section 16ZA: foreign chargeable gains remitted in the tax year after that in which they accrue), in subsection (1), for paragraphs (a) and (b) substitute—
- “(a) the individual has made an election under section 16ZA in respect of a tax year before the applicable year,
 - (aa) the election has effect in relation to the individual for the applicable year,
 - (b) foreign chargeable gains accrued to the individual in or after the tax year in respect of which the election was made but before the applicable year, and”.
- (2) The amendment made by this paragraph has effect in relation to the tax year 2017-18 and subsequent tax years.
- 5 (1) In section 16ZC (election under section 16ZA by individual to whom remittance basis applies), in subsection (1), for paragraphs (a) to (c) substitute—
- “(a) the individual has made an election under section 16ZA in respect of the tax year or any earlier tax year,
 - (b) the election has effect in relation to the individual for the tax year, and
 - (c) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the tax year.”
- (2) The amendment made by this paragraph has effect in relation to the tax year 2017-18 and subsequent tax years.
- 6 (1) In section 69 (trustees of settlements), after subsection (2E) insert—
- “(2F) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (2B)(c).”
- (2) The amendment made by this paragraph has effect in relation to a settlement—
- (a) in a case where the settlement arose on the settlor's death (whether by will, intestacy or otherwise), where the settlor died on or after 6 April 2017;

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- (b) in any other case, where the settlor made the settlement (or was treated for the purposes of TCGA 1992 as making the settlement) on or after 6 April 2017.
- 7 (1) In section 86 (attribution of gains to settlors with interest in non-resident or dual resident settlements), after subsection (3) insert—
- “(3A) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (1)(c).”
- (2) The amendment made by this paragraph has effect in relation to the tax year 2017-18 and subsequent tax years.
- 8 (1) In section 275 (location of assets), after subsection (3) insert—
- “(3A) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of subsection (1)(l)(iii).”
- (2) The amendment made by this paragraph has effect for the purposes of determining for the purposes of TCGA 1992 the situation of any asset, or whether the situation of any asset is in the United Kingdom, at any time on or after 6 April 2017 (irrespective of when the asset was acquired by the person holding it).
- 9 (1) In Schedule 5A (settlements with foreign element: information), in paragraph 3, after sub-paragraph (3) insert—
- “(3A) Section 835BA of ITA 2007 (deemed domicile) applies for the purposes of sub-paragraph (3).”
- (2) The amendment made by this paragraph has effect in relation to settlements created on or after 6 April 2017.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. A1 para. 8(6)(b) omitted by [2022 c. 3 Sch. 1 para. 32\(b\)](#)
- Sch. A1 para. 8(2) substituted by [2022 c. 3 Sch. 1 para. 32\(a\)](#)