HMRC - CG34865 - Settlor Trusts: Computations: Personal Losses: 1998-99 Onwards: Introduction

The guidance at CG34700 + explains that if a settlor has an interest in a UK resident settlement (a ‘settlor-interested trust’) at any time in a year of assessment, chargeable gains of an amount equal to the net chargeable gains accruing to the trustees in that year in respect of property originating from the settlor are attributed to the settlor. This applies only where the settlor in question is resident in the UK at some time in the year or is ordinarily resident\* in the UK in the year, and is subject to certain exceptions, see CG34721. The settlor adds the amount of gains attributed to him to his personal gains in order to work out his overall liability to CGT.

For the years of assessment 1998-99 to 2002-03 (inclusive) the trustees deduct allowable losses arising on disposals of the settled property in question from the relevant gains. Taper relief is then applied to arrive at the amount of chargeable gains to be attributed to the settlor. But the settlor cannot deduct any personal losses from the attributed gains nor are those gains eligible for taper relief in his hands see CG34875. From 2003-04, or by election for 2000-01 to 2002-03, see CG34873, this position is generally reversed. The trustees still deduct allowable losses arising on disposals of the settled property but taper relief is not applied in calculating the gains to be treated as accruing to the settlor. The settlor can offset personal allowable losses against the attributed gains and taper relief is given at the percentages that would have applied in the hands of the trustees. Guidance on these issues can be found as follows:

For 2003-04 onwards see CG34866.

For cases where there is an election covering any or all of 2000-01 to 2002-03 inclusive see CG34873.

For 1998-99 to 2002-03 inclusive see CG34875.

For 1997-98 and earlier years see CG34860.

Under TCGA/S86, see CG38430+, settlors of certain non-resident settlements have chargeable gains attributed to them. The treatment of personal losses in these cases is the same as that described in this and paragraphs CG34866-71 for the years up to 2008-09 when taper relief was repealed.

\*For 2013-14 and subsequent years ordinary residence does not need to be considered.

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