SCHEDULES

SCHEDULE 2

CAPITAL GAINS TAX REFORM

Abolition of taper relief

- TCGA 1992 is amended as follows.
- 24 (1) Section 2 (chargeable gains and allowable losses) is amended as follows.
 - (2) For subsections (4) to (6) substitute—
 - "(4) If chargeable gains are treated by virtue of section 87 or 89(2) as accruing to a person in a tax year ("the relevant deemed gains")—
 - (a) subsection (2) has effect as if the relevant deemed gains had not accrued, and
 - (b) the amount on which the person is charged to capital gains tax for that year is the sum of—
 - (i) the amount given by subsection (2) as it has effect by virtue of paragraph (a), and
 - (ii) the amount of the relevant deemed gains.
 - (5) In subsection (4) the reference to section 87 or 89(2) is to that section read, where appropriate, with section 10A."
 - (3) In subsection (7), omit—
 - (a) in paragraph (b) of the first sentence, sub-paragraph (ii) and the "and" before it,
 - (b) in paragraph (c) of the first sentence, "("the equal tapered amounts")", and
 - (c) in the words following paragraph (c) in the first sentence, and in the second sentence (in both places), "equal-tapered".
 - (4) Omit subsection (8).
- 25 Omit section 2A (taper relief).
- 26 (1) Section 3 (annual exempt amount) is amended as follows.
 - (2) In subsection (5), for the words from "which, after" to the end of paragraph (c) substitute "which".
 - (3) In subsection (5C)(c)—
 - (a) for "in a year in which any amount falls to be brought into account by virtue of section 2(5)(b)" substitute "if section 2(4) applies for that year,", and
 - (b) for "falling to be so brought into account" substitute " mentioned in section 2(4)(b)(ii)".
- 27 In section 3A(2) (reporting limits)—

- (a) omit paragraph (a), and
- (b) in paragraph (b), for "such a deduction does fall to be made is the amount before deduction of losses or any reduction for taper relief" substitute " a deduction falls to be made in respect of allowable losses is the amount before the deduction".
- Omit section 13(10A) (attribution of gains to members of non-resident companies).
- 29 (1) Section 62 (death) is amended as follows
 - (2) In subsection (2A), for "brought into account for that year by virtue of section 2(5) (b)" substitute "treated as accruing by virtue of section 87 or 89(2) (read, where appropriate, with section 10A)".
 - (3) Omit subsection (2B).
- In section 86(1)(e) (attribution of gains to settlors with interest in non-resident or dual resident settlements), for the words after "under section 2(2)" substitute " if the assumption as to residence specified in subsection (3) below were made; ".
- 31 (1) Section 86A (attribution of gains to settlor in section 10A cases) is amended as follows.
 - (2) In subsection (2)—
 - (a) for "the tapered section 86(1)(e) amount" substitute "the amount falling within section 86(1)(e)", and
 - (b) for "the tapered section 86(1)(e) amounts" substitute "the amounts falling within section 86(1)(e)".
 - (3) Omit subsection (2A).
 - (4) Omit subsection (2B).
 - (5) In subsection (7), for "the tapered section 10A amount" substitute "the amount (or aggregate amount) falling in accordance with that section to be so attributed".
 - (6) Omit subsection (7A).
- 32 Omit section 150D (enterprise investment scheme: application of taper relief).
- In subsection (8) of section 165 (relief for gifts of business assets), for paragraph (aa) substitute—
 - "(aa) "holding company", "trading company" and "trading group" have the meaning given by section 165A; and".
- 34 After that section insert—

"165A Meaning of "holding company", "trading company" and "trading group"

- (1) This section has effect for the interpretation of section 165 (and this section).
- (2) "Holding company" means a company that has one or more 51% subsidiaries.
- (3) "Trading company" means a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities.

- (4) For the purposes of subsection (3) above "trading activities" means activities carried on by the company—
 - (a) in the course of, or for the purposes of, a trade being carried on by it,
 - (b) for the purposes of a trade that it is preparing to carry on,
 - (c) with a view to its acquiring or starting to carry on a trade, or
 - (d) with a view to its acquiring a significant interest in the share capital of another company that—
 - (i) is a trading company or the holding company of a trading group, and
 - (ii) if the acquiring company is a member of a group of companies, is not a member of that group.
- (5) Activities do not qualify as trading activities under subsection (4)(c) or (d) above unless the acquisition is made, or the company starts to carry on the trade, as soon as is reasonably practicable in the circumstances.
- (6) The reference in subsection (4)(d) above to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—
 - (a) such as would make that company a 51% subsidiary of the acquiring company, or
 - (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the two companies members of the same group of companies.
- (7) For the purpose of determining whether a company which has a qualifying shareholding in a joint venture company is a trading company—
 - (a) any holding by it of shares in the joint venture company is to be disregarded, and
 - (b) it is to be treated as carrying on an appropriate proportion of the activities of the joint venture company or, where the joint venture company is the holding company of a trading group, of the activities of that group;

and in paragraph (b) above "appropriate proportion" means a proportion corresponding to the percentage of the ordinary share capital of the joint venture company held by the company.

- (8) "Trading group" means a group of companies—
 - (a) one or more of whose members carry on trading activities, and
 - (b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading activities.
- (9) For the purposes of subsection (8) above "trading activities" means activities carried on by a member of the group—
 - (a) in the course of, or for the purposes of, a trade being carried on by any member of the group,
 - (b) for the purposes of a trade that any member of the group is preparing to carry on,
 - (c) with a view to any member of the group acquiring or starting to carry on a trade, or

- (d) with a view to any member of the group acquiring a significant interest in the share capital of another company that—
 - (i) is a trading company or the holding company of a trading group, and
 - (ii) is not a member of the same group of companies as the acquiring company.
- (10) Activities do not qualify as trading activities under subsection (9)(c) or (d) above unless the acquisition is made, or the group member in question starts to carry on the trade, as soon as is reasonably practicable in the circumstances.
- (11) The reference in subsection (9)(d) above to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—
 - (a) such as would make that company a member of the same group of companies as the acquiring company, or
 - (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the joint venture company a member of the same group of companies as the acquiring company.
- (12) For the purpose of determining whether a group of companies is a trading group in a case where any one or more members of the group has a qualifying shareholding in a joint venture company which is not a member of the group—
 - (a) every holding of shares in the joint venture company by a member of the group having a qualifying shareholding in it is to be disregarded, and
 - (b) each member of the group having such a qualifying shareholding is to be treated as carrying on an appropriate proportion of the activities of the joint venture company or, where the joint venture company is a holding company of a trading group, of the activities of that group;
 - and in paragraph (b) above "appropriate proportion" means a proportion corresponding to the percentage of the ordinary share capital of the joint venture company held by the member of the group.
- (13) For the purposes of this section the activities of the members of a group of companies are to be treated as one business (with the result that activities are disregarded to the extent that they are intra-group activities).
- (14) In this section—
 - "51% subsidiary" has the meaning given by section 838 of the Taxes Act,
 - "group of companies" means a company which has one or more 51% subsidiaries together with those subsidiaries,
 - "joint venture company" means a company—
 - (a) which is a trading company or the holding company of a trading group, and
 - (b) 75% or more of the ordinary share capital of which (in aggregate) is held by not more than 5 persons (the shareholdings of members of a group of companies being

regarded for the purposes of this paragraph as held by a single company),

"ordinary share capital" has the meaning given by section 989 of ITA 2007.

"qualifying shareholding", in relation to a company and a joint venture company, means—

- (a) the holding by the company of 10% or more of the ordinary share capital of the joint venture company, or
- (b) (where the company is a member of a group of companies) the holding by the company and the other members of the group (between them) of 10% or more of that ordinary share capital, and

"trade" means (subject to section 241(3)) anything which—

- (a) is a trade, profession or vocation, within the meaning of the Income Tax Acts, and
- (b) is conducted on a commercial basis and with a view to the realisation of profits."
- Omit section 214C (re-organisations of mutual business: gains not eligible for taper relief) and the heading before it.
- In section 228(8) (relief for employee share ownership trusts), for "meanings given by paragraph 22 of Schedule A1" substitute "same meaning as in section 165 (see section 165A)".
- In section 241(3A) (furnished holiday lettings), omit "Schedule A1 (taper relief),".
- In section 253(14)(b) (relief for loans to traders), for "meaning given by paragraph 22 of Schedule A1" substitute "same meaning as in section 165 (see section 165A)"
- Omit section 261C(2)(a) (treating trading loss etc as CGT loss: meaning of "the maximum amount").
- In section 279(2)(a) (foreign assets: delayed remittances), omit "(before the application of any taper relief)".
- In section 279A(7)(b) (deferred unascertainable consideration: election for treatment of loss), for "any amounts that fall to be brought into account for that year under section 2(4)(b) by virtue of section 2(5)(b)," substitute "the total amount of chargeable gains treated as accruing in that year by virtue of section 87 or 89(2) (read, where appropriate, with section 10A), ".
- In section 279B(1) (provisions supplementary to section 279A), for paragraph (b) substitute—
 - "(b) the person would be so chargeable if—
 - (i) chargeable gains accrued to the person in the year, and
 - (ii) the amount calculated under section 2(2) for the year in relation to the person exceeded the exempt amount for the year (within the meaning of section 3)."
- 43 (1) Section 279C (effect of election under section 279A) is amended as follows.
 - (2) For subsections (3) and (4) substitute—

- "(3) The amount of the relevant loss that falls to be deducted (in accordance with section 2(2)(a)) from the chargeable gains of the first eligible year is limited to the first year limit.
- (4) The first year limit is the amount calculated under section 2(2) (read, where appropriate, with section 2(4)(a)) for the first eligible year.
- (4A) For the purpose of making that calculation—
 - (a) no account is to be taken of the relevant loss, but
 - (b) the effect of any previous election under section 279A is to be taken into account."
- (3) In subsection (6)(c), for "the provisions specified in subsection (8) below" substitute "amounts of chargeable gains treated as accruing in that later year by virtue of section 87 or 89(2) (read, where appropriate, with section 10A)".
- (4) Omit subsection (8).
- (5) Omit subsection (10).
- Omit section 284B(1) (provisions supplementary to section 284A).
- 45 Omit Schedule A1 (taper relief).
- Schedule 4C (transfers of value: attribution of gains to beneficiaries) is amended as follows.
- 47 (1) Paragraph 6 (gains attributed to settlor) is amended as follows.
 - (2) In sub-paragraph (1), for "the tapered amount of any chargeable gains" substitute "the amount of any chargeable gains".
 - (3) Omit sub-paragraph (1A).
- 48 Omit paragraph 11 (taper relief).
- 49 Omit Schedule 5BA (application of taper relief to enterprise investment scheme).
- Omit paragraph 15 of Schedule 7D (enterprise management incentives).
- ^{F1}51

Textual Amendments

- F1 Sch. 2 para. 51 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)
- In paragraph 86(2) of Schedule 7 to ITEPA 2003 (transitionals and savings), omit the second sentence.
- Omit section 185G(3)(c) of FA 2004 (disposal by person holding taxable interest directly).
- Omit section 161(5) of ITA 2007 (other tax reliefs relating to EIS).
- In consequence of paragraphs 23 to 54, omit—
 - (a) in FA 1998—
 - (i) section 121(1) and (2),
 - (ii) section 140(5),

- (iii) Schedule 20, and
- (iv) paragraphs 2, 4, 6(3) and (4), 7 and 9 of Schedule 21,
- (b) in FA 1999—
 - (i) section 72, and
 - (ii) Schedule 7,
- (c) sections 66 and 67 of FA 2000,
- (d) in FA 2001—
 - (i) section 78, and
 - (ii) Schedule 26,
- (e) in FA 2002—
 - (i) sections 46 and 47,
 - (ii) paragraph 5(13) of Schedule 9,
 - (iii) Schedule 10, and
 - (iv) paragraphs 2(2) and 4 to 6 of Schedule 11,
- (f) in FA 2003—
 - (i) section 160, and
 - (ii) paragraph 5 of Schedule 29,
- (g) in Schedule 21 to FA 2004—
 - (i) paragraphs 3(4) and 8, and
 - (ii) in paragraph 10, in sub-paragraph (4), ", 8(2)" and sub-paragraph (6),
- (h) paragraphs 13 and 27 of Schedule 12 to FA 2006, and
- (i) paragraphs 313 and 343 of Schedule 1 to ITA 2007.
- 56 (1) The amendments made by paragraph 31(2) and (3) have effect where the intervening year is the tax year 2008-09 or any subsequent tax year.
 - (2) The amendments made by paragraphs 41 and 43 have effect where the eligible year is the tax year 2008-09 or any subsequent tax year.
 - (3) The other amendments made by paragraphs 23 to 55 have effect in relation to chargeable gains accruing or treated as accruing in the tax year 2008-09 or any subsequent tax year.

Changes to legislation:

Finance Act 2008, Cross Heading: Abolition of taper relief is up to date with all changes known to be in force on or before 20 June 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.

View outstanding changes

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

Blanket amendment words substituted by S.I. 2011/1043 art. 34

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

- Sch. 41 para. 6(1A) inserted by 2015 c. 11 Sch. 20 para. 10(2)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by 2015 c. 11 Sch. 20 para. 11(2)