

FINANCE ACT 2013

EXPLANATORY NOTES

INTRODUCTION

Sections 94 – 174, Schedules 33, 34, 35: Annual Tax on Enveloped Dwellings

Summary

1. [Sections 94 to 174](#) and Schedules 33 to 35 introduce a new tax called the annual tax on enveloped dwellings. This is chargeable on companies, collective investment schemes and partnerships with company members who hold UK residential dwellings valued at greater than £2 million on specified valuation dates. The measure takes effect from 1 April 2013. The annual tax is in most cases payable on or before 31 October 2013 for 2013/14, and on or before 30 April each year subsequently. If the payer is not chargeable for the full year, a repayment claim can be made. The section provides a number of reliefs against the tax for, amongst other things, residential dwellings that are leased out in a property rental business; held for sale in a property development or trading business; exploited in a trade of permitting the public to visit, stay in or otherwise enjoy the property; or provided for employees to use in the owner's trade. There are also reliefs for charities and exemptions for public and national bodies and dwellings conditionally exempt from inheritance tax.

Details of the Sections

Section 94 – Charge to Tax

2. Subsection (1) provides for the new annual tax on enveloped dwellings to be charged.
3. Subsections (2) and (3) set out the two conditions that must apply on any day for the tax to be charged for a chargeable period: an interest (a “single-dwelling interest” (“SDI”) in a UK dwelling exists of taxable value greater than £2 million, and a company, partnership or collective investment scheme meets the ownership condition in relation to that interest.
4. Subsection (4) defines the ownership condition for a company as entitlement to the single-dwelling interest (except where it is entitled as a member of a partnership or the purpose of a collective investment scheme).
5. Subsection (5) defines the ownership condition for a partnership other than a collective investment scheme as entitlement to a single-dwelling interest of a member of a partnership that is a company, as a member of the partnership.
6. Subsection (6) defines the ownership condition for a collective investment scheme as holding for the purposes of the scheme.
7. Subsection (7) provides for the ownership condition to be regarded as met in relation to the whole chargeable interest where a company is jointly beneficially entitled to a chargeable interest (as a member of a partnership or otherwise).
8. Subsection (8) defines the chargeable periods.

9. Subsection (9) refers to Section 95 of the legislation which provides a definition of “beneficially entitled”.

Section 95 – Entitlement to interests

10. Subsections (1) and (3) specify that entitled means beneficially entitled, and includes both sole and joint entitlement, and entitlement to partnership property as a member of a partnership, unless the contrary is specified.
11. Subsection (2) excludes entitlement in the capacity of a trustee or personal representative, and entitlement as a beneficiary under a settlement.
12. Subsection (4) defines settlement as having the same meaning as for Stamp Duty Land Tax (SDLT) in Part 4 of FA 2003

Section 96 – Person Liable

13. Subsection (1) requires the chargeable person to pay the annual tax on enveloped dwellings.
14. Subsections (2) and (5) define the chargeable person: where a company is entitled to a single dwelling interest, as the company; where a partnership is entitled to a single dwelling interest, the chargeable person is the responsible partners.
15. Subsection (3) defines the chargeable person for section 94(6) for the different types of collective investment schemes set out in this subsection.
16. Subsection (4) specifies the liability of the responsible partners to pay tax is joint and several.
17. Subsection (5) defines the responsible partners for subsection 2(b) as all who are members of the partnership on the first day of the chargeable period when the partnership meets the ownership condition with respect to the single dwelling interest.
18. Subsection (6) explains that the annual tax is “charged on” the chargeable person and that the person is said to be “chargeable to” the tax.

Section 97 – Liability of persons jointly entitled

19. Subsection (1) sets out the application of subsection 2 where there are one or more joint owners with a company on the first day that it is chargeable in a chargeable period.
20. Subsection (2) states that the company and other person/persons are jointly and severally liable for the tax charged.
21. Subsections (3) and (4) say where a company is entitled to a single dwelling interest as a member of a partnership, and another person who is not a partner is jointly entitled to the single dwelling interest on the first day the responsible partners are chargeable, the person is jointly and severally liable for the tax.

Section 98 - Collective Investment Schemes: liability for and collection of tax

22. Subsection (1) applies subsection 2 where the single dwelling interest is held for the purposes of a collective investment scheme.
23. Subsection (2) states that the major participants in the scheme on the first day in a chargeable period that it is within the charge to the tax are jointly and severally liable for the tax charged in relation to the single-dwelling interest.
24. Subsection (3) limits the amount of liability in relation to any participant to the limit of the market value of their holding in the scheme.
25. Subsection (4) defines holdings as the participant’s interests or rights in the scheme.

26. Subsection (5) states that tax charged may be recovered from any depositary of a scheme, limited to the value of any property held by the scheme in the depositary.
27. Subsection (6) provides that the depositary may retain out of any money in the scheme property it holds sufficient funds to pay any tax due and that the depositary will also have a right of reimbursement against the participants in the scheme for any tax it has paid (whether by way of retention out of the scheme property or otherwise).
28. Subsection (7) defines “depositary” and “participant” as they are defined in the Financial Services and Markets Act 2000.

Section 99 – Amount of tax chargeable

29. Subsection (1) provides for the amount of tax to be charged for a single dwelling interest as specified under subsection (2) or (3).
30. Subsection (2) sets the tax to be charged as the annual chargeable amount if the chargeable person is within the charge on the first day of the chargeable period.
31. Subsection (3) provides that if the chargeable person is not within the charge on the first day of the chargeable period, then the charge is the relevant fraction of the annual chargeable amount.
32. Subsection (4) specifies the annual chargeable amount for a single-dwelling interest, based on band into which the taxable value of the interest falls on the relevant day.
33. Subsection (5) defines the relevant day for subsections (2) and (3) as the first day of the chargeable period or the first day on which the person is within the charge for the interest.
34. Subsection (6) defines the relevant fraction for calculating the annual chargeable amount as the number of days in the chargeable period from the relevant day, as a fraction of the chargeable period.
35. Subsection (7) directs to Sections 100 (Interim relief) and 105 (adjusted chargeable amount) of the legislation.

Section 100 – Interim Relief

36. Subsection (1) provides that interim relief may be claimed before the end of the chargeable period if that period contains one or more relievable days, days when (after being within the charge) the chargeable person is not within the charge, or when the taxable value of the single dwelling interest decreases (for instance on a part-disposal of the interest).
37. Subsection (2) sets out that relief must be claimed in a return or an amendment to a return.
38. Subsections (3) to (7) set out the tax payable when interim relief is claimed. This is made up of two parts. The first is the tax chargeable, after reliefs, for the period up to the day before submission of the return. The second is the tax, if any, that will be chargeable for the remainder of the period on the assumption that if tax is chargeable and not relieved on the day of submission of the return, this will continue to be the case for the remainder of the period.
39. Subsection (8) defines the day of the claim as the day of submission of the relevant return or amended return, and also the “first chargeable day” as the first day that the tax is chargeable in relation to the SDI.
40. Subsection (9) provides a signpost to sections 105 and 106, which cover provision about adjustment of the chargeable amount.

Section 101 – Indexation of annual chargeable amounts

41. Subsection (1) sets out that section 99(4) is to be amended for chargeable periods beginning on or after 1 April 2014, if the consumer price index (CPI) is higher for September in 2013, or any later year than it was for the previous September.
42. Subsection (2) provides for the annual chargeable amounts in section 99(4) that apply for the chargeable periods beginning in the previous 12 months to be substituted with the indexed amount.
43. Subsection (3) specifies the method of calculating the indexed amount.
44. Subsection (4) defines “consumer prices index” for the purposes of this section.
45. Subsection (5) requires the Treasury to make an order before 1 April 2014 and before 1 April annually thereafter, stating the annual chargeable amounts for chargeable periods beginning on or after that date.

Section 102– Taxable value

46. Subsection (1) defines the taxable value as equal to the market value on the last previous valuation date.
47. Subsection (2) sets out that the first valuation date for single-dwelling interests is 1 April 2012 and then there is a valuation date of 1 April every five years subsequently.
48. Subsection (3) defines valuation dates in respect of a single-dwelling interest to which a company is entitled (other than as a member of a partnership) also to include the date when a substantial chargeable interest in the dwelling is acquired or in part disposed of, if that is a qualifying event.
49. Subsection (4) defines valuation dates in respect of a single-dwelling interest to which a company is beneficially entitled as a member of a partnership also to include equivalent dates when the partnership acquires or part disposes of an interest.
50. Subsection (5) defines valuation dates in respect of a single- dwelling interest held for the purposes of a collective investment scheme also to include equivalent dates when an interest is acquired or part disposed of.
51. Subsection (6) confirms that references to disposal of part of a single-dwelling interest to include the grant of a chargeable interest.
52. Subsection (7) excludes the grant of an option from being a chargeable interest for the purposes of subsection (6).

Section 103 – Section 102: “substantial” acquisitions and disposals

53. Subsection (1) provides that an acquisition or a part disposal of a chargeable interest is substantial for the purpose of section 102 only if the chargeable consideration is £40,000 or more.
54. Subsections (2) and (3) provide that if the transaction is between connected parties or not at arms length, market value is to be used rather than chargeable consideration.
55. Subsections (4) and (5) include any linked transactions in the determination of whether the consideration is at least £40,000.
56. Subsections (6) and (7) include market value of linked transactions if they are not at arms length or are between connected parties.
57. Subsections (8) and (9) provide definitions of linked, purchaser, vendor and chargeable consideration.
58. Subsection (10) includes a grant of an interest as a disposal.

Section 104– No double charge

59. Section 104 provides for tax in respect of a single-dwelling interest to be charged only once for any chargeable day even if more than one person is the “chargeable person”.

Section 105– “Adjusted chargeable amount”

60. Subsection (1) determines the tax chargeable for a chargeable period in which relief has been claimed for part of the period; the dwelling has ceased to be chargeable in the period; or there has been a change in the annual chargeable amount following a valuation date. It sets out that the adjusted chargeable amount of tax for a chargeable period is the total of the “daily amounts” for that period for all days on which the tax is chargeable in respect of the single dwelling interest.
61. Subsection (2) provides that the daily amount for any day when the single-dwelling interest is within the charge (an “included day”) is the annual chargeable amount (determined using the taxable value of the single-dwelling interest applying on the day), divided by the number of days in the chargeable period.

Section 106 – Adjustment of amount chargeable

62. Subsection (1) provides that where the “adjusted chargeable amount” is greater than the initial charged amount, the amount of tax charged is taken to be increased at the end of the chargeable period.
63. Subsection (2) defines “the initial amount charged” as the tax charged under section 99.
64. Subsection (3) provides that subsection (4) applies when a claim for relief is made and the adjusted chargeable amount is less than the initial charged amount.
65. Subsection (4) provides that, where the “adjusted chargeable amount” is less than that self assessed, then the tax charged is to be reduced at the end of the chargeable period to the adjusted chargeable amount.
66. Subsection (5) provides for relief under subsection (3) to be claimed either in an annual tax on enveloped dwellings return or by amending an annual tax on enveloped dwellings return.
67. Subsection (6) specifies the deadline by which a claim for relief must be delivered as the end of the chargeable period following the one of the claim.
68. Subsection (7) provides that relief may be given by repayment or otherwise.
69. Subsection (8) signposts sections 160 and 163 for provisions relating to the payment of further amounts of tax.

Section 107 – Chargeable interests

70. Subsection (1) defines what a chargeable interest is for this Part.
71. Subsection (2) provides that for this Part, when two or more people are jointly entitled to a chargeable interest, it will not be regarded as consisting of separate interests corresponding to their shares (if any) arising from joint entitlement, but will be viewed as a whole.
72. Subsection (3) excludes exempt interests from being chargeable interests.
73. Subsection (4) lists the exempt interests for the purposes of this Part.
74. Subsection (5) defines a security interest for the purposes of subsection (4) (exempt interests for this Part).

- 75. Subsection (6) states that in respect of the application of this Part in Scotland, the reference to “rentcharge” in subsection (5) means, in Scotland, a “feu duty” or a payment in section 56(1) of the Abolition of the Feudal Tenure etc Scotland Act.
- 76. Subsection (7) provides for the Treasury to provide by regulations that any other descriptions of interest in or right over a dwelling may be an exempt interest.

Section 108 – Meaning of ‘single-dwelling interest’

- 77. Subsection (1) introduces the section as defining “single dwelling interest”.
- 78. Subsection (2) defines a single-dwelling interest as a chargeable interest that is exclusively in or over land which (on any day) consists of a single dwelling.
- 79. Subsection (3) provides that where a person is entitled to a chargeable interest in or over land that consists of two or more single dwellings, provisions referring to a “single-dwelling interest” operate as if the person had a separate chargeable interest over each dwelling and that the chargeable interest for each dwelling is thus a single-dwelling interest.
- 80. Subsection (4) provides that where a person is entitled to a chargeable interest in or over land that consists of non-residential land in addition to one or more single dwellings, provisions referring to a “single-dwelling interest” operate as if the person had a separate chargeable interest over each dwelling, with a further separate chargeable interest over the non-residential land, and the chargeable interest for each dwelling thus a single-dwelling interest.
- 81. Subsection (5) reference to a single-dwelling interest should be made to a single-dwelling interest “in” the dwelling concerned.
- 82. Subsection (6) defines each single-dwelling interest as distinct, even where dwellings stand successively on the same land.
- 83. Subsection (7) defines for the purposes of this Part “non-residential land” and also states that references to a dwelling include part of a dwelling.

Section 109 – Different interests held in the same dwelling

- 84. Subsection (1) applies subsection (2) where a company or a collective investment scheme holds two or more single-dwelling interests in the same dwelling for one or more days in a chargeable period.
- 85. Subsection (2) provides for this Part to have effect in respect of the chargeable period such that the taxable value of different interests held in the same dwelling is the sum of the taxable values of the separate interests, and the separate interests constituted one single-dwelling interest.
- 86. Subsection (3) requires that in calculating the taxable values of the separate interests their market value is to be determined on the assumption that the interests are placed on the open market together at the appropriate valuation date.

Section 110 – Interests held by connected persons

- 87. Subsection (1) provides that where on any day entitlements to separate single-dwelling interests in the same dwelling are held by connected persons (e.g. company C and company or person P), the annual tax on enveloped dwellings applies as if each is entitled to the other’s single-dwelling interest as well as their own.
- 88. Subsection (2) provides that where an interest in the dwelling is owned by a company (or a number of such interests are owned by companies) and the connected person is an individual the rules in the Part do not operate unless that interest has a value of greater than £500,000.

- 89. Subsection (3) provides similarly that where on any day, a single-dwelling interest is held for the purposes of a collective investment scheme and a connected person is entitled to a different single-dwelling interest in the same dwelling, the annual tax on enveloped dwellings applies to each as if the connected person were entitled to both interests and, for the collective investment scheme, both interests were held for the purposes of the scheme.
- 90. Subsection (3) provides an equivalent rule for interests in the same dwelling held for the purposes of two connected collective investment schemes.
- 91. Subsections (4) and (5) signposts section 97 and section 104 and also apply them to cases where the single dwelling interest is treated as held for different collective investment schemes.
- 92. Subsection (7) provides clarification of the application of this section in Scotland.

Section 111 – Different Interests held in the same dwelling – effect of reliefs etc

- 93. Subsection (1) also prevents the application of section 110 to public bodies and bodies established for national purposes.
- 94. Subsection (2) similarly prevents the application of section 110 to aggregate interests held by charitable companies, providers of social housing or where property is conditionally exempt from inheritance tax.
- 95. Subsections (3) and (4) apply to freehold and leasehold interests aggregated under section 110, or section 109 together with section 110. They provide that for the purpose of providing relief from the annual tax on enveloped dwellings, the aggregate interest is treated as being exploited in the way that the inferior interest actually is.
- 96. Subsection (5) restricts this if the inferior interest is of only part of the superior interest, so that the deeming of subsection (4) applies only to that part.
- 97. Subsection (6) defines the relevant relieving provisions as sections 132 to 150.
- 98. Subsections (7) to (9) provide definitions for subsections (3) to (5).

Section 112 – Meaning of “dwelling”

- 99. Subsection (1) states when a building or part of a building counts as a dwelling.
- 100. Subsection (2) provides for land such as a garden or grounds (including any buildings or structures on the land) that is or is intended to be occupied or enjoyed with the dwelling to be part of the dwelling.
- 101. Subsection (3) provides for land to be considered to be part of the dwelling where it subsists or is intended to subsist for the benefit of the dwelling.
- 102. Subsection (4) excludes a building or part of a building used for a purpose specified in section 116(2) or (3) of FA2003 from being considered a dwelling under subsection (1).
- 103. Subsection (5) makes clear that this use disqualifies the building, or part of the building, from being regarded as suitable for any other use.
- 104. Subsection (6) provides for the temporary unsuitability of a building for use as a dwelling to be disregarded when considering whether it is a dwelling for the purposes of this Part. This subsection does not affect any of the provisions in sections 126 to 131

Section 113 - Substantial performance of “off-plan” purchase

- 105. Subsection (1) applies subsection (2) to substantial performance of a contract to acquire a chargeable interest in land or a building to be constructed or adapted, beginning after substantial performance of that contract.

- 106. Subsection (2) defines the chargeable interest for the purposes of subsection (1)(b).
- 107. Subsection (3) disapplies subsection (2) if the subject of the contractual obligations cease to have effect before the construction or adaptation work is started.
- 108. Subsection (4) excludes a building that is used for a purpose specified in sections 116(2) or (3) of FA 2003 from being considered a dwelling under subsection (1).
- 109. Subsection (5) defines “contract” and the meaning of “substantially performed” for this section.

Section 114 – Power to modify meaning of “use as a dwelling”

- 110. Subsection (1) provides for the Treasury to amend this Part by order in order to specify cases where use of a building is to be use as a dwelling for sections 112(1) or 113(1).
- 111. Subsection (2) notes that the reference in section 116(8)(a) of FA 2003 to “the purposes of subsection (1)” includes a reference for the purposes of sections 112(1) and 113(1).

Section 115 – Parts of a greater whole

- 112. Subsection (1) provides that where a part of building that can be used a dwelling does not exclude it from being part of a larger single dwelling.
- 113. Subsection (2) provides that where a building or structure is in the garden or grounds of a dwelling and is enjoyed or occupied with the dwelling that, even where suitable for use as a single dwelling, it is still considered, in accordance with section 112(2) to be part of the larger single dwelling.

Section 116 – Dwelling in Grounds of another Dwelling

- 114. Subsection (1) and subsection (4) apply the annual tax on enveloped dwellings as if a “main dwelling” and an “associated dwelling” were one dwelling, if at the end of “the day in question” in a chargeable period certain conditions linking the dwellings are met.
- 115. Subsection (2) sets the conditions that need to be met: the properties must meet a common ownership condition, they must not have separate access from each other and the associated dwelling must stand in the gardens or grounds of the main dwelling. They must be separately occupied and enjoyed, as otherwise they will be part of the same dwelling (and section 115(2) would apply).
- 116. Subsection (3) defines common ownership for companies (subsection (3)(a)) as entitlement of the same or connected companies to the chargeable interests in each dwelling. Dwellings pass the common ownership test also if chargeable interests in each are held for the purposes of the same collective investment scheme (subsection (3)(b)).
- 117. Subsection (5) and (6) disapply subsection (4) if on the day in question either the main dwelling or the associated dwelling is relieved from the annual tax on enveloped dwellings or is a charitable company that is exempt from ATED because it is deemed not to meet the ownership condition.
- 118. Subsection (7) excludes public bodies or bodies established for national purposes from being connected companies.
- 119. Subsection (8) states that an interest held for the same collective investment scheme, includes an interest held by a person connected with the scheme.
- 120. Subsection (9) defines “separate access” for an associated dwelling as access direct from a road or on land over which the occupant has a right of way or other separate land interest.
- 121. Subsection (10) outlines the meaning of “garden or grounds”, “the person entitled to possession”, and “separately entitled” for the purpose of this section.

Section 117 – Dwellings in the same building

- 122. Subsections (1) and (3) enable two dwellings to be “linked dwellings” if they are in the same building, they meet the common ownership condition and there is private access between them.
- 123. Subsection (2) defines common ownership for companies (subsection (3)(a)) as entitlement of the same or connected companies to the chargeable interests in each dwelling. Dwellings pass the common ownership test also if chargeable interests in each are held for the purposes of the same collective investment scheme (subsection 2(b)).
- 124. Subsection (4) and (5) disapply subsection (3) if one of the dwellings is relieved from the annual tax, except by the relief for dwellings open to the public (section 137) or is a charitable company that is exempt from ATED because it is deemed not to meet the ownership condition.
- 125. Subsection (6) ensures that public bodies or bodies established for national purposes cannot be connected with a company.
- 126. Subsection (7) provides that further dwellings in the same building are to be amalgamated with other amalgamated dwellings under this section (so that all of the dwellings are considered suitable for use as a single dwelling) if the additional dwellings are linked with any one of them.

Section 118 – Section 117: supplementary

- 127. Subsection (1) specifies that, for section 117(2)(b) purposes, the reference to an interest held for the purposes of the same collective investment scheme includes an interest to which a person connected with the scheme is entitled.
- 128. Subsection (2) says that for the purposes of section 117 private access between two dwellings is a route between them to which no third party has a right to access.
- 129. Subsection (3) provides the definition of “third party” for subsection (2) as someone who is neither entitled to possession of the dwellings mentioned in subsection (1) nor is connected with any of them.
- 130. Subsection (4) defines the “use” condition for section 22(1)(d) as being met where each of the two dwellings is either (a) occupied by a relevant individual or (b) intended to be or usually so occupied or (c) not occupied.
- 131. Subsection (5) provides the definition of “relevant individual” for subsection (4), including an individual who is a connected person; occupies the property on non-commercial terms; or who is employed by a relevant person in connection with that person’s occupation of a dwelling in the building.
- 132. Subsection (6) specifies that a person entitled to the possession of a dwelling is one so entitled by an estate or interest in land.

Section 119 – Terraces etc

- 133. Section 119 provides for a terrace of houses or semi-detached houses that are (or include) dwellings to be considered buildings for the purposes of section 117 and 118.

Section 120 – Acquisitions and disposals of chargeable interests

- 134. Subsection (1) ensures that acquisitions however effected are treated as such.
- 135. Subsection (2) treats the surrender or release of an interest as an acquisition and disposal.
- 136. Subsection (3) treats the variation of an interest as an acquisition or disposal for the purpose of this legislation.

Section 121 – Date of acquisition or disposal

- 137. Subsection (1) says a person is treated as beginning to be entitled to an interest in land on the effective date of acquisition.
- 138. Subsection (2) provides that a person is treated as ceasing to be entitled to an interest in land on the effective date of the disposal.
- 139. Subsection (3) if the acquisition and disposal however are completed on the same day, then the acquisition is ignored if it precedes the disposal and the disposal is ignored if it precedes the acquisition.
- 140. Subsections (4) and (5) define the effective date of an acquisition and disposal as the completion date, but allow alternative dates to be provided by regulations.

Section 122 – Contract and conveyance: the purchaser

- 141. Subsection (1) applies this section where a person enters a contract to acquire a relevant chargeable interest and the acquisition is completed by a conveyance.
- 142. Subsection (2) provides that a person is not seen as having acquired a chargeable interest by reason of entering into the contract.
- 143. Subsection (3) where a contract is not completed but is substantially performed, this Part has effect as if the substantial performance was completion of the acquisition which the contract intended to achieve.
- 144. Subsection (4) provides that where subsection (3) applies and the contract is then completed through a conveyance, the completion (for the purposes of section 102) it is not deemed to have given effect to acquiring the chargeable interest.
- 145. Subsection (5) sets out the position where subsection (3) applies and the contract is subsequently rescinded or annulled before the contract is fully carried out, then this Part is effective as if P had disposed of the chargeable interest as per subsection (1)(a).
- 146. Subsection (6) defines “the relevant time” for the purposes of subsection (5).
- 147. Subsection (7) in a situation where subsection (3) applies and the contract is then varied or partially rescinded, resulting in a chargeable interest being acquired under contract which differs from that to which the contract originally related, this Part operates as if the contract variation had resulted in purchaser P’s disposal of the interest referred to in subsection (1)(a) and the substantial performance of the varied contract.
- 148. Subsection (8) applies subsection (7) if the parties proceed as if they had varied the contract without actually doing so.
- 149. Subsection (9) provides further definitions for this section.

Section 123 – Contract and conveyance: the vendor

- 150. Subsection (1) applies subsections (3) and (4) where a person enters a contract to dispose of a chargeable interest and the disposal is completed by a conveyance.
- 151. Subsection (2) provides that a person is not seen as disposing of a chargeable interest just because it has entered into the contract to dispose of a chargeable interest where the contract provides for disposal to be completed by conveyance.
- 152. Subsection (3) provides that a contract substantially performed but not completed will, for this Part be considered as though the substantial performance of the contract was completion of the disposal which the contract had intended.

- 153. Subsection (4) provides that where subsection (3) applies and the contract is later completed through a conveyance, for the purposes of section 8, it is not deemed that completion effected disposal of a chargeable interest.
- 154. Subsection (5) sets out the effect of this Part where subsection (3) applies along with other conditions that deem the vendor to have re-acquired the interest referred to in subsection (1)(a).
- 155. Subsection (6) defines “the relevant time” for the purposes of subsection (5).
- 156. Subsection (7) provides that where subsection (3) applies and the contract is subsequently varied or partially rescinded so as to alter the chargeable interest to be disposed of (so that it is not the same chargeable interest provided for in the original contract), the variation is treated as effecting the reacquisition by the vendor (V) of the interest referred to in subsection (1)(a) and the substantial performance of the varied contract.
- 157. Subsection (8) applies subsection (7) if the parties proceed as if they had varied the contract in the way subsection (7) sets out, without actually having varied the contract, as if they had.
- 158. Subsection (9) provides further definitions for this section.

Section 124 – New dwellings

- 159. Subsection (1) defines the valuation date for a new dwelling that is or has been constructed. It is the earlier of the completion day (the date construction is proposed to finish) or the date that the dwelling is first occupied.
- 160. Subsection (2) defines, for the purposes of subsection (1), what constitutes the construction of a new dwelling. It includes any alterations to an existing building but does not include a dwelling where section 125 (dwellings produced from other dwellings) or 128 (demolition and replacement: new dwellings) apply.
- 161. Subsection (3) defines for the purposes of subsection (1) completion day as the day on which the new dwelling is treated as having come into existence under the relevant legislation listed in this subsection.
- 162. Subsection (4) provides that references to “a building” also include a part of a building.

Section 125 – Dwellings produced from other dwellings

- 163. Subsection (1) applies this section where as a result of some structural alterations, an existing building that is a dwelling or dwellings, becomes a different dwelling or dwellings.
- 164. Subsection (2) defines the point when it is determined that a person has a single-dwelling interest in the old or new dwelling. This is when the conversion is completed, the old dwelling ceases to exist and the new dwelling has come into existence.
- 165. Subsection (3) defines the valuation date for the new dwelling as the day after the conversion is completed.
- 166. Subsection (4) defines when the conversion is completed as being the end of the day on which the new dwelling is, or all new dwellings are treated as having come into existence for the purposes of the legislation listed in this subsection.
- 167. Subsection (5) provides that references to “a building” also include a part of a building.

Section 126 – Demolition of a dwelling

- 168. Subsection (1) applies sections 127 to 129 where a dwelling is demolished on or after 1 April 2013.

- 169. Subsection (2) treats the building as not demolished for the purposes of determining whether a person has a single-dwelling interest in the property and its taxable value except where express provision to the contrary is made in sections 127 to 129.
- 170. Subsection (3) defines the date of the demolition for the purposes of subsection (1) as being after 1 April 2013 if a day after 1 April 2013 is the day demolition has begun and as a result the building is no longer suitable for use as a dwelling.
- 171. Subsection (4) provides that references to “a building” also include a part of a building.

Section 127 – Demolition without replacement

- 172. Subsection (1) applies subsection (2) if a person owning the old dwelling notifies an officer of Revenue and Customs that there is no intention to build any new dwelling on the site of the old dwelling.
- 173. Subsection (2) defines when the person is said to have a single-dwelling interest in the old dwelling from the day as defined by subsection (3).
- 174. Subsection (3) defines the date for subsection (2) when both the criteria are met of the demolition having begun and thereby rendering the building unsuitable to be used as a dwelling.
- 175. Subsection (4) requires a notification to be made in writing to an officer of Her Majesty’s Revenue and Customs under subsection (1).
- 176. Subsection (5) provides some further definitions for this section.

Section 128 – Demolition and replacement: new dwellings

- 177. Subsection (1) applies subsection (2) if new dwellings are built on the site of the old dwelling after its demolition.
- 178. Subsection (2) states that a person’s single-dwelling interest in new dwelling comes into existence at the point when the rebuilding is completed on the assumption that the old dwelling has ceased to exist.
- 179. Subsection (3) defines the valuation date of a single-dwelling interest in a new dwelling as the day after the rebuilding is completed.
- 180. Subsection (4) provides further definitions for the terms in subsection (1).
- 181. Subsection (5) confirms that reference to when rebuilding is complete is the earlier of completion day or the day the last of the new dwellings is first occupied.
- 182. Subsection (6) defines the reference to completion day in subsection (5) as the day on which the new dwelling or all new dwellings are treated as having come into existence for the purposes of the legislation listed in this subsection.
- 183. Subsection (7) provides that references to “a building” also include a part of a building.

Section 129 – Demolition and replacement: other cases

- 184. Subsection (1) applies section 129 where section 128 does not apply and where a building is constructed on the site of an old dwelling, after demolition.
- 185. Subsection (2) states that person’s single-dwelling interest in the old dwelling is determined by assuming the old dwelling no longer existed at the end of the day on which a change of use from residential use was approved, or, the dwelling was last occupied, whichever is later.
- 186. Subsection (3) provides further definitions for the terms in subsection (1).

Section 130 – Conversion of dwelling for non-residential use

- 187. Subsection (1) applies this section where a building, or any part of it, has previously been suitable as a dwelling and is then altered so as to make it unsuitable to use as a dwelling.
- 188. Subsection (2) states that it is a question of fact whether the alterations at subsection (1) (b) above render the building or part unsuitable for use as a dwelling.
- 189. Subsection (3) provides that once planning permission or development consent has been granted for the alterations, the building or the part of it is unsuitable for use as a dwelling.
- 190. Subsection (4) defines “planning permission” for the purposes of this section.
- 191. Subsection (5) provides the references for the relevant planning enactments for the purposes of the definition in subsection (4).
- 192. Subsection (6) defines “development consent” for the purposes of this section.

Section 131 – Damage to a dwelling

- 193. Subsection (1) applies subsections (2) and (3) if damage occurs to a dwelling, resulting in the dwelling becoming temporarily unsuitable for occupation as a dwelling.
- 194. Subsections (2) to (4) state that the unsuitability is taken into account in applying the definition of “dwelling” only if it was accidental or caused by events that the relevant person had no control over, and the unsuitability lasts at least 90 days.
- 195. Subsection (5) states that if the conditions are satisfied the whole period including the first 90 days is taken into account, and work done on restoration is not to be treated as construction or adaptation of a building for use as a dwelling, which would put it within the charge.
- 196. Subsection (6) disapplies this if the damage was caused in the course of work that itself would anyway have rendered the property uninhabitable for at least a month.
- 197. Subsection (7) includes partial demolition and damage to part of a building.
- 198. Subsection (8) allows damage before 1 April 2013 to be taken into account.

Section 132 – Effect of Reliefs under Sections 133-150

- 199. Subsections (1) and (2) provide that if a chargeable period for a single dwelling interest includes days which are relievably as a result of the provisions listed in subsection (3), then the adjusted chargeable amount (see section 105) is calculated on the basis that the chargeable person is outside the charge for the interest on that day.
- 200. Subsection (3) sets out the provisions which provide for particular reliefs, including relief for dwellings held for a property rental business; property trade or development trade; a trade of opening to the public; a financial trade that acquired the dwelling in the course of lending; a trade using the dwelling for certain employees or partners; a farming trade; and providers of social housing.
- 201. Subsection (4) signposts section 106 which sets out how tax payable is to be adjusted at the end of the year if reliefs have been claimed.

Section 133 – Property rental businesses

- 202. Subsection (1) states that a day is a relievably day for a single-dwelling interest where it is being exploited as a source of rents or other receipts in a qualifying property rental business, or steps are being taken to secure that it will be exploited without undue delay.

203. Subsection (2) provides that a day is not a relivable day if a non-qualifying person is permitted to occupy the dwelling.
204. Subsection (3) defines a “qualifying property business” as a property rental business that is conducted on a commercial basis and with a view to profit. .
205. Subsection (4) defines a “property rental business” as a property business as defined in CTA 2009, whether or not it is liable to corporation tax on profits of that business.
206. Subsection (5) specifies that delay caused by commercial considerations or which cannot be avoided can be ignored in determining whether the company is taking steps to exploit the dwelling without undue delay.
207. Subsection (6) defines “excluded rents”.

Section 134 - Rental property: preparation for sale, demolition etc

208. Subsection (1) provides that relief will be given in respect of a single-dwelling interest for which relief was previously given under section 133 (property rental businesses) but which is now unoccupied in four circumstances:
- where steps are being taken to sell that interest without delay;
 - where steps are being taken to demolish that dwelling without delay and, if it is intended that a new dwelling will be constructed on the site, it is also intended that the new dwelling will be “used in a relivable way”;
 - where steps are being taken to convert the dwelling into a different dwelling without delay and it is intended that the new dwelling will be “used in a relivable way”; or
 - where steps are being taken to convert the dwelling into a non-residential building without delay.

Relief will only be given under this section if, for each day after relief ceased to be available under section 133, relief was available under this section 134. In addition, the single-dwelling interest must have been held by the same person or by a “relevant partner” when relief was last given under section 133.

209. Subsection (2) defines “used in a relivable way” as where relief would be available in respect of the relevant dwelling under sections 133 (property rental business), 137 dwellings opened to the public, 148 farmhouses and 145 employee/partner occupation.
210. Subsection (3) defines “relevant partner” and “without undue delay”.

Section 135 – Non-qualifying occupation: look forward and look back

211. Subsection (1) provides that subsection (2) applies where, on a day in a chargeable period, a single-dwelling interest is being exploited in a property rental business or steps are being taken to exploit it, if a non-qualifying individual is permitted to occupy the dwelling.
212. Subsection (2) provides that, in those circumstances and where the continuity of ownership condition is met, no further day in that chargeable period or the subsequent three chargeable periods will be a relivable day unless and until there is a day of “qualifying use” as defined in subsection (8). This is the “look forward” restriction on future claims to relief.
213. Subsection (3) provides that the “continuity of ownership” condition will be met on any day where the owner is entitled to the single dwelling interest or, if the owner carried on or intended to carry on the property rental business in partnership, another member of the partnership is beneficially entitled to the interest.

214. Subsection (4) provides that subsection (5) applies where a non-qualifying individual is permitted to occupy a dwelling on a day in a chargeable period.
215. Subsection (5) provides that, in those circumstances, no day is relievably in the period running from the start of the preceding chargeable period to the day the non-qualifying individual was permitted to occupy the single-dwelling interest (where the single-dwelling interest was held, during that period, by a relevant person). This is the “look back” restriction on any previous claims to relief in the period of (up to) two prior years.
216. Subsection (6) defines “relevant person” as the person beneficially entitled to the single dwelling interest on the day of non-qualifying occupation or, where the owner carried on the property rental business in partnership, any other member of that partnership.
217. Subsection (7) provides that subsection (5) does not apply where there is an intervening day which was relievably by virtue of the single-dwelling interest being exploited as a source of rents in the course of a property rental business.
218. Subsection (8) defines the terms “day of qualifying use” as a day when it is relievably because it is being exploited as a source of rents or other receipts; and provides that occupation of part of a dwelling is regarded as occupation of it all.

Section 136 – Meaning of “non-qualifying individual”

219. Subsection (1) sets out who is a “non-qualifying individual” for the purposes of sections 133 and 135 as, including an individual who is entitled to the single dwelling interest, connected individuals etc (including, for a partnership, qualifying members of the partnership and individuals connected with a qualifying member of the partnership).
220. Subsection (2) provides that a qualifying member of a partnership for subsection (1) (c) is a member who has at least a 50% or greater share in the income profits of the partnership or in the partnership assets.
221. Subsection (3) specifies that a collective investment scheme is a relevant scheme for subsection (1)(i) if it meets the ownership condition in respect of the single dwelling interest.
222. Subsection (4) defines a “major participant” in a collective investment scheme as an person who:
- is entitled to at least 50% of the profits or income arising from the scheme or of any profits or income arising from the scheme that may be distributed to participants; or
 - would be entitled to 50% or more of the assets of the scheme on its winding up.
223. Subsection (5) clarifies what will be treated as profits or income arising from the scheme in question.
224. Subsection (6) modifies the way section 1122 of CTA 2010 works for subsection (1) by omitting rules about connected persons to partnerships.
225. Subsection (7) provides the meaning for “relative”, “settlor” and “settlement”.
226. Subsection (8) provides a requirement for the meaning for “trustee”.

Section 137 – Dwellings open to the public

227. Subsection (1) provides that a day in a chargeable period is a relievably day if either the first or second condition is met.
228. Subsection (2) provides that the first condition is met where the dwelling is being exploited as a source of income in the course of a qualifying trade in the normal course of which the public are offered the opportunity to make use of, stay in or otherwise enjoy the dwelling on at least 28 days in any year.

- 229. Subsection (3) provides that the second condition is met where steps are being taken to secure that the dwelling will be exploited in a qualifying trade of the nature set out in the first condition, so long as this is without delay, or any delay is from commercial considerations or cannot be avoided.
- 230. Subsection (4) defines a “qualifying trade” as one that is carried on commercially with a view to profit.
- 231. Subsection (5) provides that for the purposes of this section, a significant part of the interior of the dwelling has to be made available for persons permitted to use, stay in or enjoy the dwelling.
- 232. Subsection (6) sets out that size, nature and function of areas concerned are taken into account when determining whether they form a significant part of the interior of a dwelling.

Section 138 – Property developers

- 233. Subsection (1) says that a day in a chargeable period is a relivable day for a single-dwelling interest if the interest is held exclusively for the purpose of developing and reselling the land in the course of that trade.
- 234. Subsection (2) effectively disregards any intention to exploit the interest as a source of rents prior to sale in determining whether the land is held exclusively for development and resale.
- 235. Subsection (3) provides that a day is not a relivable day if a non-qualifying person is permitted to occupy the dwelling.
- 236. Subsection (4) defines a “property development trade” as a trade that includes buying and developing for resale residential or non-residential property, provided that is conducted on a commercial basis and with a view to profit.
- 237. Subsection (5) provides that references to “development” in this section shall include “redevelopment”.

Section 139 –Property developers: exchange of dwellings

- 238. Subsection (1) says that a day in a chargeable period is a relivable day if a single dwelling interest that was acquired in the course of a property development trade, and the acquisition (“the reverse acquisition”) was part of a qualifying exchange.
- 239. Subsection (2) provides that a day is not relivable if a non-qualifying individual is permitted to occupy it.
- 240. Subsections (3) and (4) set out when an acquisition is part of a qualifying exchange. This is when the developer acquired the single dwelling interest in consideration of a new dwelling it, or a partnership of which it is a member, transferred in exchange.
- 241. Subsection (5) provides the conditions that need to be met for a building or part of it to be considered a “new dwelling”.

Section 140 – Property developers: supplementary

- 242. Subsection (1) applies subsection (2) if a non-qualifying individual is permitted to occupy the dwelling to which the property developer is entitled in the course of its trade.
- 243. Subsections (2) and (3) provide that no further day until the end of the next three chargeable years is relivable, if the same company or a member of a partnership of which the company is a member, continues to hold the relevant interest.
- 244. Subsections (4) and (5) ensure that if a non-qualifying individual occupies the dwelling at any point in a chargeable period, earlier days within the that or the preceding period

cannot be relivable days, unless they were before the company (or another member of any partnership of which the company is a member) acquired entitlement to the single dwelling interest.

- 245. Subsection (6) provides that subsection (5) does not apply where there is an intervening day which was relivable by virtue of exploitation by renting to a third party in a property rental business.
- 246. Subsection (9) defines the terms “non-qualifying individual” for this section and sections 138 and 139(property developers), and provides that occupation of part of a dwelling is regarded as occupation of it all.

Section 141 – Property traders

- 247. Subsection (1) says that a day in a chargeable period is a relivable day if the person beneficially entitled to that interest is carrying on a property trading business and holds the property as stock and solely for resale in the course of the business.
- 248. Subsection (2) provides that, a single-dwelling interest is not considered to be held for the sole purpose of resale by a person carrying on a property trading business if a non-qualifying individual is permitted to occupy it.
- 249. Subsection (3) defines a “property trading business” as a business which includes activities in the nature of a trade of buying and selling dwellings and which is carried on a commercial basis with a view to profit.

Section 142 – Property traders: supplementary

- 250. Subsections (1) and (2) provides if a non-qualifying individual is permitted to occupy the dwelling no further day in that chargeable period or the subsequent three chargeable periods will be a relivable day where the property trader (or a relevant partner) remains beneficially entitled to the single-dwelling interest.
- 251. Subsection (3) defines “relevant partner” as any other person who, at the time of non-qualifying occupation was a partner in a partnership that carried on the property trading business.
- 252. Subsections (4) and (5) provide that if a non-qualifying individual occupies the dwelling, earlier days in the relevant chargeable period, or preceding chargeable period are not relivable unless they were before the chargeable person (or a partner of the chargeable person) became entitled to the single dwelling interest.
- 253. Subsection (6) provides that subsection (5) does not apply where there is an intervening day which was relivable because a qualifying individual was permitted to occupy the single-dwelling interest.
- 254. Subsection (7) defines the terms “non-qualifying individual” and provides that occupation of part of a dwelling is regarded as occupation of it all.

Section 143 – Financial Institutions acquiring dwellings in the course of lending

- 255. Subsection (1) says that a day is relivable if a financial institution is entitled to the single dwelling interest as a result of it carrying on lending activities and it has the intention of reselling the interest without delay (except delay justified by commercial considerations).
- 256. Subsection (2) restricts this so, that renting to a non-qualifying disqualifies the owner from the relief.
- 257. Subsection (3) defines a “financial institution” in terms of the meaning given by section 564B of ITA 2007.

Section 144 - Section 143: supplementary

- 258. Subsection (1) provides that subsection (2) applies where, on a day in a chargeable period, a single-dwelling interest is held by a financial institution and a non-qualifying individual is permitted to occupy the dwelling.
- 259. Subsection (2) says that where the continuity of ownership condition is met, no further day in that chargeable period or the subsequent three chargeable periods will be a relievable day.
- 260. Subsection (3) defines the “continuity of ownership” condition as being met on any day where the financial institution is beneficially entitled to the single dwelling interest; or, where the financial institution carried on the lending business in partnership, another member of the partnership is beneficially entitled to the interest.
- 261. Subsection (4) and (5) state that if on a day in a chargeable period, a non-qualifying individual is occupying a dwelling, then the financial institution (or any partner who was at the time entitled to the interest) shall not be eligible for relief under section 143 on earlier days in that or the preceding chargeable period.
- 262. Subsection (6) provides that subsection (5) does not apply where there is an intervening day which was relievable because the interest was being rented to a qualifying individual in the course of a property rental business.
- 263. Subsection (7) defines the term “non-qualifying individual” and provides that occupation of part of a dwelling is regarded as occupation of it all.

Section 145 – Occupation by certain employees or partners

- 264. Subsection (1) provides that a day in a chargeable period is a relievable day where a single dwelling interest is held to make the dwelling available for use as a living accommodation for one or more qualifying employees or qualifying partners for the purposes of a qualifying trade.
- 265. Subsection (2) sets out that a qualifying trade must be carried on on a commercial basis and with a view to a profit.
- 266. Subsection (3) provides that making a dwelling available to a qualifying employee or partner also includes making it available to persons who are to share that accommodation with such an employee or partner as their family.
- 267. Subsection (4) provides the reference for the definition of “a relevant group member” in subsection (1)(a) as mentioned in paragraph 1(2) of Schedule 7 FA 2003.

Section 146 – Meaning of “qualifying employee” and “qualifying partner” in Section 145

- 268. Subsection (1) sets out “qualifying partner” where the trade mentioned in section 145 is carried out in partnership. It includes any individual member of the partnership with less than 10% share of the income profits of the partnership, in any company that beneficially owns the interest or in the partnership assets.
- 269. Subsection (2) sets out that “qualifying employee” means an individual employed for the purposes of the qualifying trade who has less than a 10% share of the income profits of the trade, in any company that beneficially owns the interest or in the single dwelling interest, except one who provides “excluded domestic services”.
- 270. Subsection (3) defines excluded domestic services as employment duties that include the provision of services in connection with the occupation of the relevant dwelling (or a linked dwelling) by a non-qualifying individual.

- 271. Subsection (4) defines a “non-qualifying individual” as an individual connected to a beneficial owner of the interest.
- 272. Subsection (5) sets out when dwellings will be “linked” for the purposes of subsection (3). The first circumstance is where section 116(2) applies regarding a relevant dwelling and another dwelling. The second is one where a dwelling is linked to the relevant dwelling under section 117(1).
- 273. Subsection (6) sets out that employment includes the holding of an office.
- 274. Subsection (7) provides that, for the purposes of subsections (1)(c) and (2)(a)(iii), beneficial joint tenants (or, in Scotland, joint owners) entitled to a chargeable interest are treated as beneficial tenants in common (or, in Scotland, as owners in common) in equal shares.

Section 147 – Meaning of “10% or greater share in a company”

- 275. Subsection (1) sets out that this section applies for the purposes of section 146.
- 276. Subsection (2) sets out an individual (P) as entitled to a 10% or greater share in a company if he or she possesses (directly or indirectly) or is entitled to acquire any of the shares or rights set out in that subsection.
- 277. Subsection (3) requires any rights P or any other person has as a loan creditor to be disregarded for the assumption in subsection (2)(d).
- 278. Subsection (4) sets out that for subsection (2), a person is treated as entitled to acquire anything which they are, or will at a future date, be entitled to acquire.
- 279. Subsection (5) provides that, if a person possesses any rights or powers on behalf of another (A), or may be required to exercise any rights or powers at A’s direction or on A’s behalf, those rights and powers shall be attributed to A. for the purposes of determining whether they are entitled to a 10% or greater share.
- 280. Subsection (6) provides for further attributions of rights and powers to a person (from their associates and from companies which they control, or that they control together with their associates).
- 281. Subsection (7) sets out the rights and powers to be attributed under subsection (6).
- 282. Subsection (8) provides for a person nevertheless to be treated as having 10% or greater share in a company if they are able to exercise or acquire direct or indirect control over the company’s affairs even if the conditions in subsection (2) are not otherwise met.
- 283. Subsection (9) provides that the definitions for “associate”, “control”, “loan creditor” and “participator” are the same as in CTA 2010.

Section 148 – Farmhouses

- 284. Subsections (1) and (2) provide that a day in a chargeable period is a relievable day in relation to a single dwelling interest where the dwelling forms part of farming land, a person beneficially entitled to it (or a connected person) is carrying on a qualifying trade of farming and the farmhouse is occupied by a farm worker who occupies it for the purposes of the trade, a former long-serving farm worker or the surviving spouse or civil partner of a former qualifying farm worker.
- 285. Subsection (3) provides that farming is a qualifying trade only if it is carried on a commercial basis and with a view to profit.
- 286. Subsection (4) defines “farming” to include “market gardening” for the purposes of this Part and that otherwise these terms have the same meaning as in CTA 2010.

Section 149 – “Farm worker” and “former long-serving farm worker”

- 287. Subsection (1) requires a farm worker to have a substantial involvement in the day to day work of the trade or the direction and control of the conduct of the trade.
- 288. Subsection (2) requires a former long-serving farm worker to have been a farm worker in the qualifying trade for three consecutive qualifying years or three qualifying years out of any five year period.
- 289. Subsection (3) defines a qualifying period as one where the individual occupied the farmhouse for the purposes of the farming trade, the farmland was occupied for the purposes of the trade and the farmhouse was owned by the person claiming relief.
- 290. Subsection (4) regards occupation of part of a dwelling as occupation of it all.

Section 150 – Providers of social housing

- 291. Subsection (1) provides that a day is relievable if a profit-making registered provider of social housing is entitled to the single dwelling interest and the acquisition was funded with the assistance of public subsidy.
- 292. Subsections (2) and (3) relieve a non-profit registered provider of social housing or a registered social landlord if the housing provider is controlled by its tenants, the acquisition of the interest was funded with the assistance of a public subsidy, and the acquisition was from a qualifying body.
- 293. Subsection (4) provides the relevant definitions for this section.

Section 151 – Charitable companies

- 294. Subsection (1) provides that a charitable company is not treated as meeting the ownership condition when it holds the interest in the dwelling if it holds that interest for charitable purposes. However, where the conditions set out in subsection (3) are met then the day will be treated as an “excluded day” and tax will be charged.
- 295. Subsection (2) defines charitable purposes as use for the charitable purposes of the charitable company or another charity, or as an investment from which the profits are applied to the charitable purposes of the company.
- 296. Subsection (3) sets out the conditions that lead to a particular day in a chargeable period being an “excluded day”. The conditions are that: “the donor” has made or agreed to make a gift to the charitable company, arrangements have been entered into whereby the donor or a person linked to them is permitted (or will be permitted) to occupy the dwelling, and it is reasonable to assume that the arrangements and the gift would not have been entered into independently of each other.
- 297. Subsection (4) defines a “linked individual”. A linked individual means either the donor or a person who was, when the arrangements were entered into, an associate of the donor. An associate for the purposes of section 151 is defined in section 152.
- 298. Subsection (5) provides exclusions from the “excluded day” rules where one of the three conditions set out in the subsection is met. Those three conditions are: that the primary purpose of the charitable company includes opening the dwelling to the public, that the dwelling is being exploited commercially by being opened to the public, or, the dwelling will be opened to the public or sold without undue delay.
- 299. Subsection (6) defines “opening the dwelling to the public” and “without undue delay”.
- 300. Subsection (7) provides that for the purposes of subsection 6(a), the factors to be considered in establishing whether the condition is met are the size, nature and function of the areas concerned, to be taken into account in determining whether they form a significant part of the interior of the dwelling or of the garden or grounds.

301. Subsection (8) defines connected for this case as connected in a matter relating to the structure, administration or control of the charity, rather than the definition used in section 172.

Section 152- Section 151: supplementary

302. Subsection (1) defines what an associate of a donor is.
303. Subsections (2) and (3) provide definitions of some terms used in subsection (1).
304. Subsection (4) states that occupation of part of a dwelling counts as occupation of the dwelling.
305. Subsection (5) provides that the making of a gift and an agreement to make a gift are disregarded if they were made or agreed before Finance Act 2013 was passed.
306. Subsection (6) provides that arrangements entered into before Finance Act 2013 was passed are not taken into account unless a material alteration has occurred on or after the passing of the Act. A material alteration is one which affects anything in the arrangements relating to the occupation of the dwelling by the donor or their associates.
307. Subsection (7) - defines gift for the purposes of section 151 so that it includes disposals at less than market value.
308. Subsection (8) defines arrangements for the purposes of section 151 and this section.

Section 153 – Public bodies

309. Subsection (1) provides that a public body is not a company for the purposes of the annual tax on enveloped dwellings.
310. Subsection (2) defines a ‘public body’ by reference to section 66 of FA 2003 (transfers involving public bodies) so that it includes companies owned by other public bodies.
311. Subsection (3) provides for the Treasury to prescribe persons under section 66 FA 2003. That provision may be used to have different effects for annual tax on enveloped dwellings and for stamp duty land tax.
312. Subsection (4) defines a company for these purposes.

Section 154 – Bodies established for national purposes

313. Subsection (1) provides that a bodies listed in subsection (2) are not a companies for the purposes of the annual tax on enveloped dwellings.
314. Subsection (2) lists the 4 relevant bodies for the purposes of subsection (1).

Section 155 – Dwelling conditionally exempt from inheritance tax

315. Subsection (1) provides that subsection (2) applies if the single- dwelling interest (or a part of it) has been designated under the specific provisions referred to. Such designations are relatively rare.
316. Subsection (2) provides that where there a single-dwelling interest has been so designated, and remains so, that its taxable value is deemed to be zero.
317. Subsection (3) provides that subsection (4) applies if the single- dwelling interest (or a part of it) has been designated under different specific provisions than those in Subsection (1). Again, such designations are relatively rare.
318. Subsection (4) provides that where there a single-dwelling interest has been so designated, and remains so, that its taxable value is deemed to be zero.
319. Subsection (5) provides definitions relevant to this particular section.

Section 156 – Modification of reliefs

- 320. Subsection (1) provides a power for the Treasury to amend this part to provide further reliefs or exemptions from the tax. Paragraph (b) provides a power for regulations to amend or repeal any of the relief and exemption provisions in sections 132 to 155 and make any consequential amendments.
- 321. Subsection (2) sets out that further relief or exemption includes provision to additional persons and categories of person or to additional cases or circumstances.

Section 157 – Land sold to a financial institution and leased to a person

- 322. Subsection (1) provides that this section applies to alternative property finance arrangements under section 71A or section 72, Finance Act 2003 entered into between a financial institution and another person, where that institution purchases one or more dwellings under the “first transaction” (as defined under section 71A or section 72).
- 323. Subsection (2) provides that, where the person entering into the arrangements with the financial institution (the Lessee) is a company, this Part applies as if the interest held by the financial institution was actually held by the company and that the lease granted to the company under the “second transaction” had not been granted. In effect, the alternative property finance arrangements are ignored and the company is treated as owning the interest in the dwelling outright for the purposes of this Part.
- 324. Subsection (3) provides at what times the alternative finance arrangements will be considered to be in operation for the purposes of subsection (2).
- 325. Subsection (4) provides that, where a company is treated as holding an interest at a particular time under subsection (2), it shall be treated as holding it as a member of a partnership where it holds the leasehold interest (granted under the “second transaction”) as a member of the partnership.
- 326. Subsection (5) provides that, that, where the alternative finance arrangements operate for the benefit of a collective investment scheme, this Part applies as if the interest held by the financial institution was actually held by the lessee for the purposes of the collective investment scheme (and not by the financial institution) and that the lease granted under the “second transaction” had not been granted. In effect, the alternative property finance arrangements are ignored and the lessee is treated as owning the interest in the dwelling outright for the purposes of this Part.
- 327. Subsection (6) provides at what times the alternative finance arrangements will be considered to be in operation for the purposes of subsection (5).
- 328. Subsection (7) defines “financial institution”, “the first transaction”, “further transaction”, “the leasehold interest” and “the second transaction” for the purposes of this section.
- 329. Subsection (8) defines “major interest in land” by reference to section 117 of Finance Act 2003.
- 330. Subsection (9) provides that, where the lessee is an individual, references to the lessee in subsections (5) and (6), include the lessee’s personal representatives after his or her death.

Section 158 – Responsibility for collection and management

- 331. Section 158 provides for the HMRC Commissioners to be responsible for the administration and collection of the annual tax on enveloped dwellings.

Section 159 – Annual Tax on Enveloped Dwellings return

- 332. Subsection (1) requires a person to make a return with respect to an interest they hold in a dwelling for a chargeable period.
- 333. Subsection (2) requires the person to make a return within 30 days of coming into charge with respect to their interest in the single-dwelling.
- 334. Subsection (3) disapplies subsection (2) if that first day that the person becomes chargeable is a valuation date under section 124 or 125. In this case, the return is required by the end of the 90 day period.
- 335. Subsection (4) provides that subsection (6) applies if the person already held an interest in a single-dwelling interest and acquires a ‘new interest’ in the same dwelling in that same chargeable period.
- 336. Subsection (5) provides that, the person who holds the single-dwelling interest in subsection (4) must deliver a further return (over and above that already delivered) in respect of the single-dwelling interest following the acquisition of the new interest.
- 337. Subsection (6) provides that a further return required under subsection (4) must be made within 30 days of the effective date of the relevant acquisition of the new interest.
- 338. Subsection (7) requires the return (“annual tax on enveloped dwellings return”) to be delivered to an officer of HM Revenue and Customs.

Section 160 – Return of adjusted chargeable amount

- 339. Subsections (1) and (2) require a further return for a chargeable period within 30 days of the end of the chargeable period if one of two conditions is met.
- 340. Subsection (3) modifies this in the case that liability for the year is altered by an event after the end of the year. In which case a further return is required within 30 days of the event causing the change.
- 341. Subsection (4) sets the first condition that the adjusted chargeable amount is greater than the amount initially charged, when no interim relief has been claimed.
- 342. Subsection (5) sets the second condition, that a claim or claims to interim relief have been made and the adjusted chargeable amount is greater than the amount payable under section 100.
- 343. Subsection (6) terms the further return a “return of the adjusted chargeable amount”.

Section 161 – Return to include self-assessment

- 344. Subsections (1) and (2) requires an annual tax on enveloped dwellings return and a return of the adjusted chargeable amount to include a self assessment.
- 345. Subsections (3) to (5) specify the self assessments required in each return.

Section 162 – Returns, enquiries, assessments and other administrative matters

- 346. Subsections (1) and (2) refer to Schedule 1 which contains provisions for making returns, enquiries and related matters and provides that regulations may make any further amendments to the Schedule or to this Part as a consequence of amending the Schedule.

Section 163 – Payment of tax

- 347. Subsection (1) provides that the tax charged must be paid by the required filing date for the annual tax on enveloped dwellings return for the chargeable period.

- 348. Subsection (2) requires any tax payable as a consequence of the adjusted chargeable amount exceeding the amount payable under subsection 1 to be paid not later than the filing date for the adjusted chargeable amount return.
- 349. Subsection (3) requires tax payable as a result of an amendment to a return to be paid immediately or if the amendment is before the filing date, by the filing date.
- 350. Subsection (4) defines return for the purposes of subsection (3).
- 351. Subsection (5) says that tax on a determination or assessment must be paid within 30 days.

Section 164 – Information and enforcement

- 352. Section 164 introduces Schedule 2 which contains provisions for information and inspection powers (Part 1) and penalties (Part 2).

Section 165 – Collection and recovery of tax etc

- 353. Section 165 provides that the provisions of Schedule 12 to FA 2003 apply for collection of annual tax on enveloped dwellings.

Section 166 – Companies

- 354. Subsection (1) defines a company as any body corporate. A body corporate for the purposes of annual tax on enveloped dwelling is not taken to include a corporation sole nor a partnership.
- 355. Subsection (2) requires an appropriately authorised person, including a proper officer of the company, to act on behalf of the company in complying with the provisions under this Part.
- 356. Subsection (3) covers how service of a document can be made.
- 357. Subsection (4) provides that any tax due under this Part can be recovered from a proper officer of the company.
- 358. Subsection (5) provides for a proper officer to be reimbursed by the company for any amount that has been paid by the officer under subsection (4).
- 359. Subsection (6) lists who would be considered “the proper officer” of a company for the purposes of subsection (2).
- 360. Subsections (7), (8) and (9) provide rules for situations where a liquidator or administrator has been appointed for the company. The rules provide for the liquidator or administrator to act as “the proper officer” of the company, including what is to be done where more than one person has been so appointed.

Section 167 – Partnerships

- 361. Subsection (1) defines “Partnerships” for the purposes of this Part.
- 362. Subsection (2) provides for the application of provisions under this Part to partnerships and treats the partners as jointly beneficially entitled to the single-dwelling interest instead of the partnership itself.
- 363. Subsection (3) provides for a partnership to continue (and to be treated as the same partnership) for the purposes of this Part as long as at least one member of the partnership is the same as before and after any changes in membership.
- 364. Subsection (4) provides for a collective investment scheme not to be regarded as a partnership and that a member of a partnership whose assets are held for the purposes

of a collective investment scheme is to be treated as a participant in the scheme rather than a partner, for annual tax on enveloped dwellings purposes.

- 365. Subsection (5) provides for a representative partner or partners to act on behalf of the partnership in complying with this Part.
- 366. Subsection (6) provides for the nomination of a representative partner for the purposes of subsection (5).
- 367. Subsection (7) requires that notice of a nomination of a representative partner for the purposes of this section (or the revocation of such a nomination) must be made to an officer of HM Revenue and Customs to be effective.

Section 168 – Miscellaneous amendments and transitory provisions

- 368. Section 168 introduces Schedule 35 which contains provisions for certain amendments to other legislation (Part 1) and special rules for the first chargeable period (Part 2).

Section 169 – Orders and regulations

- 369. Subsections (1), (2) and (5) provide for any orders or regulations under this Part (which may make different provision for different cases and include consequential or transitional provisions or savings) to be made by statutory instrument under the negative resolution procedure.
- 370. Subsection (3) prevents this procedure applying to an order under section 101(5) (indexation of amount chargeable) or regulations to which subsection (4) applies.
- 371. Subsection (4) provides that an affirmative procedure is necessary for any statutory instrument containing provisions under section 156(1) to modify reliefs or exemptions other than to extend them, or provisions under section 162(2) which amend Schedule 1.

Section 170 – Meaning of “chargeable day” and “within the charge”

- 372. Section 170 defines “chargeable day” and “within the charge with respect to a single-dwelling interest” for the purposes of the annual tax on enveloped dwellings.

Section 171 – References to the state of affairs “on” a day

- 373. Section 171 defines “on” for the purposes of the annual tax on enveloped dwellings so that it means that the facts at the end of a day are assumed to have existed throughout that day.

Section 172 – Connected persons

- 374. Subsection (1) provides for the application of section 1122 of the Corporation Tax Act 2010 to determine who are connected persons for this Part.
- 375. Subsection (2) provides which persons are connected with a collective investment scheme for this Part.
- 376. Subsection (3) provides that a reference to a collective investment scheme in subsection (2) does not include a unit trust scheme.
- 377. Subsection (4) defines, for the purposes of subsection (2), what profits or income arising from a scheme means.
- 378. Subsection (5) sets out that for subsection (2), a person is treated as having anything which they are, or will at a future date, be entitled to acquire.
- 379. Subsection (6) provides that a person is to be attributed the rights and powers held by any associate (or two or more associates) of that person.

380. Subsection (7) defines “associate” by reference to Part 10 of CTA 2010, but provides that section 448 of that act is to be read so that a person is not an associate of another purely because they are in partnership.

Section 173 – Connected persons: cell companies

381. Subsection (1) provides that a ‘cell’ in a ‘cell company’ is treated as though it is a separate company when establishing who is connected to that company.
382. Subsection (2) provides that a company is a ‘cell company’ where either of the two conditions in subsections (3) or (4) is met.
383. Subsection (3) provides the rules for the first condition. These are where the company may (because of the laws it is incorporated under).

Section 174 – General interpretation of Part 3

384. Section 174 provides general interpretations for this Part as defined in various sections under this Part as well as defined elsewhere in other legislation.

Details of the Schedules

Schedule 33: Annual Tax on Enveloped Dwellings: Returns, Enquiries, Assessments and Appeals

385. This Schedule deals with returns, enquiries, compliance powers, appeals and other matters. It also empowers the Treasury to amend certain parts of the Schedule by regulation.

Part 1: Returns

386. This Part of the Schedule deals with returns. It provides for the contents of the return, defines delivery and covers amendment of a return.
387. Paragraph 1 deals with the contents of returns and allows for the Commissioners of HMRC to make provisions by regulation for the contents, form and method of delivery or to make different provision for different purposes. It provides the requirement of the return to include a declaration by the person that the return is complete and correct.
388. Paragraph 2 provides for the references in this Part to the delivery of an annual tax on enveloped dwellings return to be according to the requirements in section 159 and 161 or paragraph 1, or to the delivery of a return of adjusted chargeable amount to be according to the requirements in section 160 and 161 or paragraph 1.
389. Paragraph 3 provides for the amendment of a return and allows for the Commissioners of HMRC to require the form that amendment should to take. It also specifies the deadline by which the amendment to the return needs to be made.
390. Paragraph 4 provides for correction of returns by HMRC by notice to the chargeable person. HMRC can, by notice amend a return to correct obvious errors and omissions. The correction must be within nine months from the date the return is delivered. The chargeable person can amend the return so as to reject the correction, within three months of the date of issue of the notice of correction.

Part 2: Duty to Keep and Preserve Records

391. This Part of the Schedule deals with preservation of records.
392. Paragraph 5 sets out the duty of a person who is required to deliver a return to keep and preserve records, for the longer of:
- six years from the end of the chargeable period,

- the end of any enquiry, or
- the end of the enquiry window (this may be after six years if the return is submitted very late).

Records to be kept must include:

- all relevant documents relating to any relevant transaction, for example the contract of purchase, including financial records related to the transaction, and
- records relating to the valuation of the dwelling.

393. Paragraph 6 allows for the preservation of information instead of original records. It permits records to be kept in an alternative form (such as microfiche or an electronic facsimile) as long as the information they contain is preserved.
394. Paragraph 7 provides a penalty for failure to keep and preserve records of a maximum of £3,000, with the exception that no penalty is incurred if the facts which would have been demonstrated by the records is provided to HMRC by other documentary evidence.

Part 3: Enquiry into Return

395. This Part of the Schedule deals with enquiries into returns. It provides for the notice and scope of enquiry, the amendment of self-assessment during enquiry, referral of questions to tribunal during enquiry and completion of enquiry.
396. Paragraph 8 provides for an officer of HMRC to make enquiries into returns within 12 months of the relevant date defined as; the later of the filing date or the date of delivery, or, in the case of an amendment, the date of the amendment.
397. Paragraph 9 deals with the scope of enquiry. The enquiry can be into the amount of tax chargeable or the question of whether tax is chargeable on the relevant person with respect to an interest. Where an enquiry is made into an amended return after the enquiry period for the return has passed, the enquiries are limited to matters which are amended or affected by the amendment.
398. Paragraph 10 provides for the amendment of the return by an officer of HMRC during course of enquiry to prevent loss of tax where the amount stated in the self assessment contained in the return is insufficient. Where an enquiry is made into an amended return, it limits this to matters which are amended or affected by the amended return.
399. Paragraph 11 deals with the referral of questions to the tribunal during enquiry. It requires notice of the referral to be given jointly by the relevant person and HMRC.
400. Paragraph 12 provides for the withdrawal of notice of referral made under paragraph 11 by HMRC or the person who made the return.
401. Paragraph 13 deals with the effect of referral under paragraph 11 on an enquiry. It provides that a closure notice or an application for a closure notice cannot be made while proceedings under paragraph 11 are in progress.
402. Paragraph 14 provides that the determination of any question by the Tribunals under paragraph 11 is binding on the parties. It requires the officer of HMRC to take the determination into account when making any amendments to the return and limits the question determined from being reopened.
403. Paragraph 15 sets out which are the relevant Lands and other Tribunals for the referral of questions under paragraph 11.
404. Paragraph 16 deals with the completion of enquiry and requires HMRC to issue a closure notice stating whether an amendment is required or not and making the amendment if necessary.

405. Paragraph 17 provides for the person who made the return to seek from a tribunal a direction that HMRC should issue a closure notice.

Part 4: HMRC determination where no return delivered

406. This Part of the Schedule deals with determinations by HMRC where no return is delivered.
407. Paragraph 18 allows HMRC to make a determination of tax chargeable if an annual tax on enveloped dwellings return or a return of adjusted chargeable amount return is not delivered by the relevant filing date. It limits the time period in which the determination has to be made to 4 years after the end of the chargeable period when the return should have been made.
408. Paragraph 19 provides that the determination has the same effect as self-assessment by the person for enforcement purposes.
409. Paragraph 20 provides that if, after a determination under paragraph 18, the person makes a self-assessment, that self assessment supersedes the determination unless the self-assessment is delivered after the time limits set out. It also provides that where proceedings have begun for recovery of the tax charged by the determination and that determination is superseded by self-assessment before proceedings are concluded, these proceedings may continue but instead for the amount due on the self-assessment.

Part 5: HMRC Assessments

410. This Part of the Schedule provides for HMRC assessments in certain defined cases.
411. Paragraph 21 deals with HMRC's powers to make discovery assessments where an amount that should have been assessed under this Part has not been assessed, is less than it should be or relief has been given that is or has become excessive.
412. Paragraph 22 provides for an assessment to recover an excessive repayment of tax including any interest that may have been paid.
413. Paragraph 23 provides in paragraphs 24 to 27 for the references to 'the taxpayer' in relation to an assessment under paragraph 21 to be the chargeable person and in relation to an assessment under paragraph 22 to be the person referred to in paragraph 22(1).
414. Paragraph 24 sets out the circumstances where a discovery assessment can be made if the taxpayer has made a return. There are two circumstances; where the return is insufficient because the chargeable person's behaviour (or a person acting on their behalf) was careless or deliberate, or, that HMRC could not reasonably be expected to be aware that the return insufficient when it was delivered. Furthermore no assessment can be made if the return was made in accordance with generally prevailing practice at the time it was delivered.
415. Paragraph 25 provides the time limit for assessments. The general time limit is 4 years after the end of the relevant chargeable period. This time limit is extended to 6 years where the person making the return has behaved carelessly and to 20 years where the loss of tax was brought about deliberately, or they failed to comply with their obligation to make returns or to make a relevant disclosure of any tax avoidance scheme. In cases of joint ownership where one of the taxpayers is an individual who has died and the assessment is to be made on that individual, the assessments must be made on personal representatives within 4 years of the date of death and can only cover chargeable periods within the 6 years prior to death.
416. Paragraph 26 provides the definition of a loss of tax brought about carelessly or deliberately for the purposes of paragraphs 24 and 25.
417. Paragraph 27 provides procedure for making an assessment on a chargeable person and the contents of the notice of assessment.

Part 6: Relief in case of overpaid tax or excessive assessment

418. This Part of the Schedule deals with cases where a chargeable person is assessed twice in error. This is unlikely to occur since in almost all cases tax will only be collected as a result of the submission of a return. It also provides for cases where a chargeable person believes there has been an overpayment of tax.
419. Paragraph 28 provides that a person who believes they have suffered a double charge may claim relief. Claims must be made under the same provisions as Schedule 11A FA 2003 (Stamp Duty Land Tax: Claims not included in returns).
420. Paragraph 29 provides that a person may make a claim for repayment of an amount of Annual Tax on Enveloped Dwellings (ATED) that they believe they have overpaid or ATED that has been brought into charge that they believe is not payable. This is subject to the restrictions set out in paragraph 31.
421. Paragraph 31 provides that the Commissioners for HM Revenue & Customs are not liable to give effect to a claim for relief in respect of an overpayment or over-assessment of ATED where a claim falls within a case described in this paragraph (paragraph 31).
422. Paragraph 30 also sets out cases in which the Commissioners are not liable to give relief:
- Case A is where the claimant made a mistake in a claim or in failing to make a claim;
 - Case B is where it is possible for the claimant to take other steps under the ATED legislation to remedy the overpayment or over-assessment;
 - Case C is where the claimant could have taken other steps under the ATED legislation when they first knew, or ought reasonably to have known, of the overpayment or over-assessment, but that time has passed;
 - Case D is where the grounds of the claim have already been put to the tribunal or HMRC (and treated as determined by a tribunal) by the claimant in the course of an appeal;
 - Case E is where the claimant knew or ought reasonably to have known the grounds of the claim at a time when those grounds could have been put forward during an appeal to a court or tribunal (or before the date on which the Claimant withdrew an appeal to a court or tribunal);
 - Case F is where the amount was paid or is liable to be paid following proceedings to enforce payment or by an agreement between the chargeable person and HMRC in connection to those proceedings; and
 - Case G is where the amount was calculated by mistake and was in accordance with the practice generally prevailing at that time. Case G does not apply where tax is charged contrary to EU law.
423. Paragraph 31 provides that a claim cannot be made more than 4 years after the end of the chargeable period to which it relates and that a claim must be made under the same provisions as Schedule 11A FA 2003 (Stamp Duty Land Tax: Claims not included in returns).
424. Paragraph 32 ensures where a land transaction was entered into by a partnership, a claim under paragraph 30 must be made by all the partners who would have been liable to ATED at the start of relevant chargeable period or their representatives.
425. Paragraph 33 provides where the grounds on which a claim is made under paragraph 30 also provide grounds for making a discovery assessment, the normal restrictions on making such assessments do not apply to an assessment on the claimant. This is extended to assessments on partners who were members of the partnership at the effective date of a transaction and any who subsequently join the partnership.

426. Paragraph 34 extends claims to amounts paid under a contract settlement with HMRC and includes specific rules in relation to these claims.

Part 7: Reviews and Appeals

427. This part of the Schedule deals with appeals. The rights of appeal, the settlement of appeals by agreement and postponement applications are similar to those for Stamp Duty Land Tax.
428. Paragraph 35 provides a right of appeal against:
- amendments of self-assessment to prevent loss of tax (paragraph 10);
 - a conclusion stated or amendment made by a closure notice (paragraph 16);
 - an HMRC determination under paragraph 18;
 - a discovery assessment (paragraph 21); and
 - an assessment to recover overpaid tax (paragraph 22).
429. Paragraph 36 deals with the notice of appeal and the time limit of 30 days from the specified date, which is the date of the notice of amendment, closure, determination or assessment. The notice must state the grounds of the appeal. The paragraph also sets out the restricted grounds for an appeal against a determination.
430. Paragraph 37 provides the rules for appeals made outside the time limits set in paragraph 36. HMRC may agree to the late appeal or the tribunal may give its permission for the late appeal.
431. Paragraph 38 sets out that following notice of an appeal to HMRC, a number of steps may be taken for a review of the matter in question to be required by, or offered to, the appellant, or for the matter to be referred to the tribunal. There are specific rules for appeals to be notified to the tribunal after a review has commenced.
432. Paragraph 39 sets out the rules where the appellant has notified HMRC that they require a review of the matter in question.
433. Paragraph 40 sets out the rules for when HMRC offer an appellant a review of the matter in question. Including what happens if the appellant does not accept HMRC's offer and restrictions upon HMRC's ability to offer a review.
434. Paragraph 41 sets out the nature of the review under paragraphs 40 and 41 including the conclusions that can be reached and time limits for HMRC to provide its conclusions to the appellant, and what conclusion is deemed to be reached in the absence of HMRC making its conclusion.
435. Paragraph 42 sets out that the conclusion of the review has the effect of a settlement agreement (see paragraph 47) unless the appellant notifies the appeal to the tribunal.
436. Paragraph 43 sets out the rules for how an appellant notifies the tribunal of their appeal after they have requested a review including the time limits and restrictions for such notification.
437. Paragraph 44 sets out the rules for how an appellant notifies the tribunal of their appeal after they have been offered a review by HMRC including the time limits and restrictions for such notification.
438. Paragraph 45 provides interpretations of expressions used for the purposes of paragraphs 39 to 45.
439. Paragraph 46 sets out the rules for how appeals can be settled by agreement between an appellant and HMRC including the time limit for the taxpayer to withdraw from such an agreement.

- 440. Paragraph 47 provides that an appellant must still pay the tax assessed even where they have made an appeal. However, this requirement is subject to paragraphs 49 and 50.
- 441. Paragraph 48 sets out the rules for an appellant to make an application for the payment of tax to be postponed where they believe that the amendment or assessment overcharges the appellant to tax or the amount assessed is excessive. The paragraph also provides the time limits for making the application and also what action they can take if HMRC do not agree with to their application.
- 442. Paragraph 49 sets out the rules that apply where HMRC and the appellant are in agreement as to the amount of tax to be postponed.
- 443. Paragraph 50 sets out the actions that a tribunal can take in relation to an appeal notified to it, namely, to require the assessment; to be reduced, to stand, or to be increased.
- 444. Paragraph 51 provides that the decision of the tribunal is final and conclusive subject to any further appeal permitted by the rules in the Tribunals, Courts and Enforcement Act 2007 or in this Part.
- 445. Paragraph 52 provides rules for where there has been a determination of an appeal and tax is payable or has been overpaid as a result.
- 446. Paragraph 53 provides that where the taxpayer or HMRC appeal against the decision of the tribunal that the tax determined by the tribunal or court that has made the determination is to be payable or repayable notwithstanding that the further appeal is pending.
- 447. Paragraph 54 sets out what is meant by references to “the tribunal” including to which tribunals different matters must be referred.

Part 8: Supplementary

- 448. Paragraph 55 provides for where two companies (potentially one as a member of a partnership) are jointly entitled to a single-dwelling interest for them to be jointly and severally liable and that they are obliged to deliver a single return.
- 449. Paragraph 56 provides the requirement for all the responsible partners of a partnership to be responsible for anything required by section 159, or section 160 or this Schedule.
- 450. Paragraph 57 provides for meaning of “filing date” for an annual tax on enveloped dwellings return or a return of adjusted chargeable amount.

Schedule 34: Annual Tax on Enveloped Dwellings: Information and Enforcement

- 451. This Schedule deals with information and enforcement powers, particularly the application of penalties to the annual tax on enveloped dwellings.

Part 1: Information and Inspection Powers

- 452. Paragraph 1 provides that Schedule 36 to FA 2008 (information and inspection powers) is amended so that its provisions apply to the annual tax on enveloped dwellings.
- 453. Paragraph 2 the amendments to Schedule 36 to FA 2008 will provide for HMRC officers (together with a person they may require to assist them) to inspect properties for valuation purposes.
- 454. Paragraph 3 inserts new rules in Schedule 36 to FA 2008 relating to notices HMRC may make requiring a chargeable person, or another person, to deliver information or documents. HMRC cannot make such a notice, or where necessary apply to the tribunal for approval of such a notice, unless; there is an open enquiry, HMRC has reason to believe there is an underpayment of ATED or an amount of ATED has been un-assessed, or, the notice is given to check other taxation matters.

- 455. Paragraph 4 inserts the necessary special rules in relation to notices for partnerships within the charge to ATED.
- 456. Paragraph 5 provides that the meaning of 'tax' in Schedule 36 includes annual tax on enveloped dwellings.

Part 2: Penalties

- 457. Paragraph 6 makes the necessary amendments to Schedule 24 to FA 2007 so that the rules for penalties for errors in returns apply to annual tax on enveloped dwellings returns.
- 458. Paragraph 7 makes the necessary amendments to Schedule 55 to FA 2009 so that the rules for penalties for a failure to make returns apply to annual tax on enveloped dwellings returns. The provisions are provided to come into force on the day that Royal Assent is given to this Act.
- 459. Paragraphs 8, 9 10, 11 and 12 make the necessary amendments to Schedule 56 to FA 2009 so that the rules for penalties for a failure to make payments on time apply to annual tax on enveloped dwellings returns. The provisions are provided to come into force on the day that Royal Assent is given to this Act.

Schedule 35: Annual Tax on Enveloped Dwellings: Miscellaneous Amendments and Transitory Provision

- 460. This Schedule deals with some miscellaneous amendments and provides transitory provision or the first the annual tax on enveloped dwellings.

Details of the Schedule

Part 1: Miscellaneous amendments

- 461. Paragraph 1 provides for annual tax on enveloped dwellings to be included in the taxes in the Provisional Collection of Taxes Act 1968.
- 462. Paragraph 2 provides for annual tax on enveloped dwellings to be included within the provisions relating to the disclosure of tax avoidance schemes (section 318 of FA 2004).
- 463. Paragraph 3 provides for annual tax on enveloped dwellings to be included as one of the taxes to which the definitions of 'charity', 'charitable company' and 'charitable trust' in Schedule 6 to FA 2010 apply.

Part 2: Transitory provision

- 464. Paragraph 4 provides for special rules for the first chargeable year (1 April 2013 to 31 March 2014) of annual tax on enveloped dwellings. In particular it provides for returns to be delivered by 1 October 2013 and for payment to be on 31 October 2013 for those dwellings held on 1 April 2013, or which would otherwise file returns prior to 1 October 2013.

Background

- 465. At Budget 2012 it was announced that an 'annual charge' on residential property owned in structures where stamp duty land tax ('SDLT') may not be paid on a future sale was to be introduced. The 'annual charge' was to be consulted on over the summer with a response to that consultation and draft legislation available in the Autumn.
- 466. That consultation has been completed and the response document and the draft legislation for the 'annual charge' published in December 2012 and January 2013. The 'annual charge' is to be known as the annual tax on enveloped dwellings ('ATED').

467. The ATED will be payable by certain non-natural persons that own interests in dwellings valued at more than £2 million. This tax will come into effect on 1 April 2013. It is an annual tax, and returns and payments will be required annually. Returns and payment will usually be due on 30 April, but for the first year returns will be due on 1 October 2013 and payment by 31 October 2013. The amount of tax payable will depend upon which of the fixed bands the dwelling is within.
468. The measure is part of a package of measures designed to ensure that individuals and companies pay a fair share of tax on residential property transactions and to reduce avoidance. Its aim was to dis-incentivise the ownership of high value residential property in structures that would permit the indirect ownership or enjoyment of the property to be transferred in a way that would not be chargeable to SDLT.
469. As part of the package, Finance Act 2012 package, Finance Act 2012 introduced a 15 per cent rate of stamp duty land tax on the acquisition by certain non-natural persons of properties costing more than £2 million. That Act provided only two exclusions from the higher rate charge; for companies acting solely in their capacity as trustees, and for property developers with a 2 year trading history.
470. The scope of the 15 per cent rate was included as part of the consultation on the annual tax on enveloped dwellings. In response to the consultation a number of reliefs are to be introduced in ATED and also further reliefs into the SDLT legislation. Where possible the two reliefs should operate in tandem; so if the 15% of SDLT is paid on an acquisition then the property will be within ATED. In particular there are to be reliefs for; property rental businesses, property developers, property traders, trades that exploit a dwelling to generate income by providing access to a significant part of the interior, dwellings used to house employees or partners with a limited interest in the company or partnership, farmhouses, charities, social landlords, diplomatic property and sovereign and public bodies.
471. Relief will only apply if the property continues to satisfy the relevant qualifying conditions throughout the period of ownership. It is possible that a property could move into and out of the charge though out its ownership.
472. The intention of the measures is to stop or reduce the number of properties that will enter such complex ownership structures other than where the property is used in a genuine business (or owned by a specific category of person). For those who choose to continue to hold their property in such a manner, and are not relieved, there is to be a cost. Taken together with the introduction of the SDLT changes in Finance Act 2012 (and the changes in Finance Act 2013) the ATED will result in a reduction in the number of high value properties owned in such structures.
473. The annual tax on enveloped dwellings is a new tax and therefore it requires a set of rules regarding returns, enquiries, compliance powers in much the same way as other regimes administered by HMRC. The scheme adopted is based on the stamp duty land tax self-assessment regime, and that legislation is found primarily in Schedule 10 Finance Act 2003. This allows annual tax on enveloped dwellings to use established procedures which will be familiar to many tax and legal practitioners and HMRC. The legislation will be fully balanced by rights of appeal to the independent tax tribunals and when appropriate to the relevant lands tribunal.
474. Special rules regarding the filing of returns for the annual tax on enveloped dwellings are necessary in the first year as the legislation regarding the tax will only become law on Royal Assent being given to the Finance Act 2013. Obligations under that law can only be enforced at that point. So whilst the tax will be due for the chargeable period 1 April 2013 to 31 March 2014 the filing obligation for this year will be 1 October 2013 with payment by 31 October 2013. It also includes rules for the delivery of the return where the days the person is within the charge, with respect to the interest, do not include 1 April 2013.