

FINANCE ACT 2015

EXPLANATORY NOTES

INTRODUCTION

Section 37 and Schedule 7: Disposals of Uk Residential Property Interests by Non-Residents Etc

Summary

1. This section introduces Schedule 7 which extends capital gains tax (CGT) from 6 April 2015 to chargeable gains accruing to non-UK resident persons on the disposal of an interest in UK residential property (NRCGT). As well as individuals, trustees and other persons who are normally chargeable to CGT when UK resident, NRCGT will also apply to certain non-resident companies.

Details of the Section

2. This section introduces Schedule 7, which makes amendments in respect of capital gains tax.

Details of the Schedule

Schedule 7Part 1

3. Paragraph 1 introduces changes to the Taxation of Chargeable Gains Act 1992 (TCGA).
4. Paragraph 2 amends section 1 of TCGA 1992 to charge non-UK resident companies to capital gains tax (CGT), and not corporation tax, to the extent that their gains are NRCGT gains. This is subject to the specific exemptions that can be claimed under new section 14F of TCGA 1992 and any other exemptions to CGT that may apply.
5. Paragraph 3 inserts new subsections 2(2A), 2(2B) and 2(7B) into section 2 of TCGA 1992. These allow a person who becomes UK resident to use unused allowable NRCGT losses against general chargeable gains.
6. Paragraph 4 amends the definition of “ring-fenced ATED-related allowable losses” at subparagraph 2B(10) of TCGA 1992 so that allowable losses used against NRCGT gains cannot also be used against chargeable Annual Tax on Enveloped Dwellings (ATED)-related gains.
7. Paragraph 5 amends section 3 of TCGA 1992 and adds new subsections 3(5BA) and 3(5D). These make the annual exempt amount available against a person’s net chargeable NRCGT gains for a tax year; and ensure that where a person migrates between the UK and abroad or vice versa and has also general chargeable gains in the UK part of the year, only one annual exempt amount is available.
8. Paragraph 6 amends section 4 of TCGA 1992 and adds new subsections (3B) and (3C). These provide that the rate of capital gains tax for chargeable NRCGT gains accruing to a company is 20%.

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9. Paragraph 7 substitutes section 4B of TCGA 1992. This ensures that allowable losses can be used in the most beneficial way.
10. Paragraph 8 amends section 8 of TCGA 1992, which provides certain rules for taxing gains, and relieving losses, of companies chargeable to corporation tax; and inserts new subsection 8(4B). These permit unused allowable NRCGT losses to be used against gains chargeable to corporation tax.
11. Paragraph 9 amends section 10A of TCGA 1992, which treats gains and losses accruing to a temporary non-resident as accruing in the year of return, so that a second charge to CGT does not arise on return in relation to chargeable NRCGT gains and losses.
12. Paragraph 10 amends section 13 of TCGA 1992, which treats gains accruing to non-UK resident companies as if a proportionate amount had accrued to UK resident participators in the company, so that a second charge to CGT does not arise in relation to chargeable NRCGT gains.
13. Paragraph 11 inserts new sections 14B to 14H into TCGA 1992.
14. New section 14B defines “non-resident CGT disposal” for the purposes of TCGA 1992. It is a disposal of a UK residential property where either the person disposing of the property is not resident in the UK or the person is an individual and the gain accrues in the overseas part of a split year.
15. New section 14C provides that “disposal of a UK residential property interest” is defined at new Schedule B1.
16. New section 14D sets out the person who is chargeable to NRCGT and that capital gains tax is charged on the total chargeable NRCGT gains for a tax year after deducting allowable losses.
17. New section 14E holds that an NRCGT loss is not allowable as a deduction from chargeable gains that accrued in a previous tax year.
18. New section 14F provides that a person is not chargeable to CGT in respect of a chargeable NRCGT gain if that person is an eligible person and makes a claim under this section.
19. An eligible person includes: a diversely-held company; a widely-marketed unit trust scheme or open-ended investment company; a unit trust scheme or open-ended investment with a qualifying investor; or a company carrying on life assurance business where the UK land being disposed of was held for the purposes of providing benefits to its policy holders.
20. New section 14G deals with a special type of company (“divided company”) sometimes called a protected cell company. This is a company where some or all of its assets are available to meet particular liabilities and some or all of the members have rights to particular assets. It ensures that the test as to whether a company is diversely-held is applied to each individual cell or division of the company, rather than just at the level of the whole company.
21. New section 14H is an anti-avoidance provision. It ensures that a tax charge under 14D cannot be avoided by artificial arrangements.
22. Paragraph 12 amends section 16(3) of TCGA 1992 to ensure that NRCGT losses are allowable losses for the purposes of TCGA 1992.
23. Paragraph 13 inserts new section 25ZA into TCGA 1992. This provides that if a person is treated (under section 25 of TCGA 1992) as having made a disposal of an asset by virtue of ceasing to trade through a UK branch or agency and that person would be chargeable to NRCGT on a later disposal of that asset, then the gain or loss on the

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deemed disposal at the time of the withdrawal accrues at the time of the later disposal. The person may elect for this section to not have effect.

24. Paragraph 14 inserts new section 48A into TCGA 1992. This provides for where a person makes a chargeable NRCGT disposal and receives payment in the form of a right for future consideration that is unascertainable. It makes the subsequent disposal of that right by a non-UK resident chargeable to NRCGT and provides for how the amount of NRCGT gain or loss is to be computed.
25. Paragraph 15 inserts new subsection 57A(3) into TCGA 1992. This provides that where no ATED-related gain or loss accrues on a disposal after applying Schedule 4ZZA that does not prevent that Schedule being applied when applying Part 4 of new Schedule 4ZZB.
26. Paragraph 16 inserts new section 57B into TCGA 1992, which introduces new Schedule 4ZZB. This schedule makes provision about the computation of NRCGT gains and losses.
27. Paragraph 17 amends subsection 62(2A) of TCGA 1992 and adds new subsection (2AA). These allow unused allowable NRCGT losses to be carried back for the 3 tax years prior to the year in which a person dies.
28. Paragraph 18 inserts new section 80A into TCGA 1992. This provides that if trustees of a settlement are treated (under section 80 of TCGA 1992) as having made a disposal of an asset by virtue of becoming resident outside of the UK, they may elect for the gain or loss on the deemed disposal at the time of the withdrawal to accrue at the time of the later disposal of the asset.
29. Paragraph 19 inserts new subsection 86(4ZA) into TCGA 1992. Section 86 attributes gains accruing to a non-resident trust to the settlor of the trust. This subsection prevents a double charge by disapplying that rule to the extent that a chargeable NRCGT gain accrues to the trustees.
30. Paragraph 20 inserts new subsection 87(5A) into TCGA 1992. Section 87 attributes gains accruing to non-resident trusts to the beneficiaries of the trust. This subsection prevents a double charge by disapplying that rule to the extent that a chargeable NRCGT gain accrues to the trustees.
31. Paragraph 21 makes amends section 139 of TCGA 1992 and inserts a new subsection (1AB) so that an asset may be disposed of for no gain and no loss on a scheme of reconstruction involving the transfer of a business where the asset would be chargeable to NRCGT on a subsequent disposal.
32. Paragraph 22 inserts a new section 159A of TCGA 1992. This provides that roll-over relief does not apply in respect of a NRCGT gain unless the new assets would be chargeable to NRCGT.
33. Paragraph 23 amends section 165 of TCGA 1992 and inserts new subsections 165(7A) to (7C). These provide that in the case where business assets are disposed of as a gift from a non-UK resident to a UK resident, the held-over gain is the held-over NRCGT gain.
34. Paragraph 24 amends section 166 of TCGA 1992, which denies gift of business asset hold-over relief when the gift is to a non-UK resident, in consequence of new section 167A.
35. Paragraph 25 amends section 167 of TCGA, which denies gift of business asset hold-over relief when the gift is to foreign-controlled company, in consequence of new section 167A.
36. Paragraph 26 inserts new section 167A into TCGA 1992. This provides that in the case where business assets are disposed of as a gift from a UK resident to a non-UK resident,

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hold-over relief is not denied where the asset is chargeable to NRCGT in the hands of the transferee. A new mechanism ensures that the full amount of the held-over gain accrues as a chargeable NRCGT gain for the transferee on their subsequent disposal.

37. Paragraph 27 amends section 168 of TCGA 1992, which deems that a held-over gain under section 165 or 260 accrues when the transferee ceases to be UK resident, in consequence of new sections 167A and 261ZA.
38. Paragraph 28 inserts new section 168A into TCGA 1992. This provides that where a gain on a deemed disposal would otherwise be deemed to accrue under section 168 at the time the transferee ceases to be UK resident, that it accrues at time the asset is subsequently disposed of if the gain at that time would be a chargeable NRCGT gain.
39. Paragraph 29 inserts new section 187B into TCGA 1992. This applies where there would be a deemed disposal of a UK residential interest for the purposes of section 185 when a company ceases to be UK resident.
40. If a NRCGT gain or allowable NRCGT loss would accrue to the company were the company a non-resident company at the time of the deemed disposal, then the gain or loss is treated as not accruing at the time of that deemed disposal. Instead it is treated as accruing on a subsequent disposal of the asset. Any gain or loss so deferred is aggregated with the NRCGT gain or loss (if any) accruing on the disposal. A company may elect not to apply this rule, so that the gain or loss does accrue at the time it ceases to be UK resident.
41. Paragraph 30 inserts new sections 188A to 188K into TCGA 1992. These sections allow non-resident companies which are part of a group to elect to pool losses and gains arising from the disposal of UK residential property.
42. New section 188A sets out the rules where an election can be made by groups of companies (“the NRCGT group”) to pool NRCGT gains and losses. The election must be made by all members of the group who are eligible to make the election, and specify the date the election starts. The election must be made within 30 days of the date it is due to take effect. Once made the election is irrevocable. A group of companies for this purpose is as defined in section 170 of TCGA 1992.
43. A company is a qualifying company, and so eligible to join in the election, if it holds a UK residential property interest and meets the qualifying conditions set out in subsection (3).
44. New sections 188B and 188C define what is meant by an “NRCGT group” and how transfers of UK residential property interests between members of that group should be treated. Intra-group transfers do not have any immediate consequence for NRCGT purposes. At any later disposal of the transferred property, the transferee company is treated as having acquired the property when the transferor company acquired it, and is also treated as having done everything that the previous owner did in relation to the property insofar as these are relevant to the computation of NRCGT gains and losses.
45. New section 188D sets out how the tax chargeable should be calculated where a pooling election has effect for the whole or part of a tax year. This provides that the amount is to be determined as if: the gains and losses accruing in the year to any member of the group were chargeable NRCGT gains or allowable NRCGT losses accruing to a single company (“the notional company”); and any unused allowable losses which accrued to a company at a time when it was a member of the NRCGT group in any previous tax year (not earlier than 1965-66) on any disposal of a UK residential property interest accrued to that notional company.
46. New Section 188E sets out further provisions about group losses.
47. New sections 188F and 188G set out when a company becomes eligible to join an active pooling group and what happens when a company ceases to be a member. When a

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member of the NRCGT group leaves the group holding a UK residential property there is a depooling charge which is computed on the basis that the company is deemed to have disposed of the asset and reacquired it at market value. No such charge arises in the circumstances set out in subsections (3) to (5), for example where there is a merger of two groups, or where the principal company of the group ceases to be a closely held company.

48. New Section 188H sets out who the responsible members of an NRCGT group are for the purposes of the TCGA 1992 and the Taxes Management Act 1970.
49. New Section 188I explains that the members of an NRCGT group are each jointly and severally liable for the tax liabilities of the NRCGT group.
50. New section 188J provides that a nominated company (“the representative company”) of an NRCGT group may discharge the obligations of the other “relevant members” to make returns, payments on account of tax liabilities or any other obligations arising to the NRCGT members.
51. New section 188K inserts interpretative provisions for new sections 188A to 188J.
52. Paragraph 31 amends section 260 of TCGA 1992 and inserts new subsections 260(6ZA) to 260(6ZC). These provide that in the case where assets are disposed of as a gift from a non-UK resident to a UK resident, and that gift is exempt or potential exempt from inheritance tax, the held-over gain is the held-over NRCGT gain.
53. Paragraph 32 amends section 261 of TCGA 1992, which denies hold-over relief under section 260 when the gift is to a non-UK resident, in consequence of new section 261ZA.
54. Paragraph 33 inserts new section 261ZA into TCGA 1992. This provides that in the case where assets are disposed of as a gift from a UK resident to a non-UK resident in the circumstances envisaged by section 260, hold-over relief is not denied where the asset is chargeable to NRCGT in the hands of the transferee. A new mechanism ensures that the full amount of the held-over gain accrues as a chargeable NRCGT gain for the transferee on their subsequent disposal.
55. Paragraph 34 inserts interpretative provisions into section 288 of TCGA 1992.
56. Paragraph 35 makes minor consequential amendments to Schedule 1 to TCGA 1992.
57. Paragraph 36 inserts new Schedule B1 into TCGA 1992. This Schedule defines what counts as a disposal of a UK residential property interest.
58. Paragraph 1 of new Schedule B1 defines a “disposal of a UK residential property interest” as, broadly, the disposal of an interest in UK land that has consisted of or included a dwelling at any time during the relevant ownership period, being the period from acquisition or 6 April 2015 (whichever is later) to the day before the date of disposal.
59. Paragraph 2 of new Schedule B1 defines “interest in UK land”.
60. Paragraph 3 of new Schedule B1 provides that the grant of an option binding the grantor to sell an interest in UK land is to be treated as the disposal of an interest in UK land.
61. Paragraph 4 of new Schedule B1 defines “dwelling” and provides that a building counts as a dwelling at any time when it is used or suitable for use as a dwelling, or is in the process of being constructed or adapted for such use. Subparagraphs (3) to (11) prescribe occasions when a building is not regarded as a dwelling.
62. Paragraph 5 of new Schedule B1 provides HM Treasury with the power to amend by regulations cases where a building is or is not be regarded as being used as a dwelling.

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63. Paragraph 6 of new Schedule B1 provides that temporary unsuitability for use as a dwelling as a result of damage is taken into account in applying the definition of “dwelling” only if certain conditions are met.
64. Paragraph 7 of new Schedule B1 provides that a building “ceases to exist” when demolished completely to ground level, or to ground level except for a façade retained as a condition of planning consent.
65. Paragraph 8 of new Schedule B1 provides that works to demolish or convert a building to a use other than use as a dwelling, and any period immediately prior to then when the building was not used as a dwelling, are periods when the building is to be regarded as unsuitable for use as a dwelling provided that the works are completed by the time the property is conveyed and are performed in accordance with any necessary planning permission or development consent.
66. Paragraph 9 of new Schedule B1 provides that paragraph 8 can apply when retrospective planning permission has been sought and obtained.
67. Paragraph 10 of new Schedule B1 contains general definitions for the purposes of the Schedule.
68. Paragraph 37 inserts new Schedule C1 to TCGA 1992.
69. New Schedule C1, Part 1 makes provision about the meaning of “closely-held company”. A company that is not closely-held is a diversely-held company for the purposes of making a claim to exemption from NRCGT under new section 14F of TCGA 1992.
70. Paragraph 1 of new Schedule C1 explains the purpose of Part 1, which is to determine whether or not a company which disposes of a UK residential property interest is a closely-held company in respect of the disposal.
71. Paragraph 2 of new Schedule C1 defines a closely-held company as one that is either under the control of five or fewer persons that have an interest in the company (“participators”), or where those five or fewer persons would be entitled to the greater part of the assets of the company were it to be wound up.
72. Paragraph 3 of new Schedule C1 ensures that when assessing the interests a person has in the assets of a company being wound up, regard is to be had to both direct and indirect interests.
73. Paragraph 4 of new Schedule C1 applies when assessing who a participator in a company is for the purposes of the assets part of the test in paragraph 2. It provides that the person is to be treated as a participator if that person is a participator in any other company that would be entitled to receive assets in the company being wound up.
74. Paragraph 5 of new Schedule C1 provides for certain companies not to be treated as closely-held companies, notwithstanding the fact that the tests in paragraph 2 may be satisfied. The first group are companies that can only be regarded as closely-held by including in the group of controlling participators a company which is itself either a diversely held company or a qualifying institutional investor as defined in subparagraph (4).
75. The second group are those where it is only possible to regard a company as closely-held by including a company as a participator that is a loan creditor of the company, and which is itself a diversely held company or a qualifying institutional investor. HM Treasury may vary the types and descriptions of entities that are treated as qualifying institutional investors by Statutory Instrument.
76. Paragraph 6 of new Schedule C1 ensures that a company which would otherwise be treated as a closely held company is not so regarded if it is controlled by a qualifying institutional investor, or by collective investment scheme constituted as a limited

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partnership. However, a company will still be a closely held company where it is controlled by the general partner of a limited partnership if 5 or fewer participators in the company would be entitled to the majority of the company's assets were it to be wound up.

77. Paragraphs 7 and 8 of new Schedule C1 define the meaning of “control” and provide rules for attributing the rights of close associates when considering whether one or more persons has control of a company.
78. Paragraph 9 of new Schedule C1 defines the meaning of various relevant terms in Part 1.
79. Part 2 of new Schedule C1 makes provision about the “widely-marketed scheme condition”. Widely marketed schemes established as either a unit trust, or an open-ended investment company may claim exemption from NRCGT under new section 14F.
80. Paragraph 10 of new Schedule C1 explains that the purpose of Part 2 is to determine whether or not a unit trust scheme or a company which is an open ended investment company is a widely-marketed scheme.
81. Paragraph 11 of new Schedule C1 sets out three conditions that all have to be satisfied for a scheme to be widely-marketed. These include a requirement to produce documents which confirm the categories of investor and confirmation that the scheme is widely held; that there is no deterrent effect in the category of investor in the scheme or any other terms governing participation; and that the units in the scheme are marketed widely.
82. Paragraph 12 of new Schedule C1 defines the meaning of various relevant terms in Part 2.
83. Paragraph 38 makes various amendment to Schedule 4ZZA to TCGA 1992, which determines whether an Annual Tax on Enveloped Dwellings (ATED)-related gain or loss accrues to a person. It renumbers the existing paragraph 1 as 1(1) and adds a new subparagraph 1(2) to encompass NRCGT gains and losses.
84. It inserts new subparagraph 5(3A). This provides that an election under paragraph 2(1) (b) of new Schedule 4ZZB to compute gains or losses on the basis of the position over their whole period of ownership applies for the purpose of Schedule 4ZZA as well as for Schedule 4ZZB.
85. It inserts new paragraph 6A, which applies where the gain on a disposal is potentially liable to both CGT as an ATED-related disposal and to CGT under new section 7AB. It provides for the ATED-related gain to be the sum of two components derived from periods before and after 5 April 2015.
86. It also inserts new paragraphs 8 and 9, which explain how wasting assets and capital allowances should be taken into account when calculating gains and losses on relevant high value disposals.
87. Paragraph 39 inserts new Schedule 4ZZB to TCGA 1992.
88. New Schedule 4ZZB, Part 1 consists of paragraph 1, which introduces the Schedule and makes provision about the computation of the amount of gain or loss that accrues to a person in relation to a chargeable non-resident disposal of a UK residential property interest.
89. New Schedule 4ZZB, Part 2 consists of paragraphs 2 and 3, which permit a person who has held an asset prior to 6 April 2015 to elect not use the default rebasing method for computing the amount of gains or losses from which the amount of NRCGT gains or losses are computed.
90. Paragraph 2 of new Schedule 4ZZB provides that a person may elect to determine the amount of post 5 April 2015 gain or loss by using the straight-line time apportionment

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method provided by paragraph 8 unless the disposal is one to which ATED-related CGT applies; or to elect to use the gain or loss over their whole period of ownership, when such an election would apply also for the purpose of ATED-related CGT.

91. Paragraph 3 of new Schedule 4ZZB provides how an election made under paragraph 2 is to be made and that it is irrevocable.
92. New Schedule 4ZZB, Part 3 consists of paragraphs 4 to 10, which contain the main rules for computing NRCGT gains and losses and the amount of a gain or loss that is not a NRCGT gain or loss.
93. Paragraph 4 of new Schedule 4ZZB provides that Part 3 applies when the disposal is of a chargeable non-resident disposal of a UK property interest that is not also chargeable to ATED-related CGT.
94. Paragraph 5 of new Schedule 4ZZB introduces paragraphs 6 to 8, the main computation rules.
95. Paragraphs 6 and 7 of new Schedule 4ZZB provide the default computation to apply where the asset was held at 5 April 2015. The NRCGT gain or loss is that proportion of the post 5 April 2015 gain (as determined by the gain or loss from the asset's market value as at 5 April 2015) that represents the amount of days in the post 5 April 2015 period in which the asset is used as a dwelling; and any mixed use on the same day is similarly apportioned. Paragraph 7 determines the gain or loss that is not a NRCGT gain or loss.
96. Paragraph 8 of new Schedule 4ZZB modifies the computations at paragraphs 6 and 7 where the asset was held at 5 April 2015 and an election is made, under subparagraph 2 of this Schedule, to determine the amount of post 5 April 2015 gain or loss by using the straight-line time apportionment method. The NRCGT gain or loss is that proportion of the post 5 April 2015 gain that reflects the amount of days in the post 5 April 2015 period in which the asset is used as a dwelling; and any mixed use on the same day is similarly apportioned.
97. Paragraph 9 of new Schedule 4ZZB provides the computation to apply where the asset was acquired after 5 April 2015; or was held on 5 April 2015 and an election is made, under subparagraph 2 of this Schedule, to compute gains or losses on the basis of the position over the whole period of ownership. Here the NRCGT gain or loss is that proportion of the gain or loss over the period of ownership (since 31 March 1982) that reflects the amount of days in which the asset is used as a dwelling; and any mixed use on the same day is similarly apportioned. Subparagraph 9(5) provides for the amount of pre-6 April 2015 gain or loss that is not a NRCGT gain or loss.
98. Paragraph 10 of new Schedule 4ZZB applies Part 3 to disposals of contracts to purchase a dwelling off-plan.
99. New Schedule 4ZZB, Part 4 consists of paragraphs 11 to 21, which contain separate computation rules where the disposal also either is, or involves, a disposal that is chargeable to ATED-related CGT.
100. Paragraph 11 of new Schedule 4ZZB provides an overview to Part 4.
101. Paragraph 12 of new Schedule 4ZZB provides that the amount of NRCGT gain or loss is the sum of the amounts determined under paragraphs 13 to 15; and defines "section 14D chargeable day" for the purposes of the special fraction at subparagraphs 13(4), 14(4) and 15(3).
102. Paragraph 13 of new Schedule 4ZZB applies where an asset is held at 5 April 2015; no election has been made under paragraph 2 (or its equivalent ATED-related CGT provision) to compute gains or losses on the basis of the position over the whole period of ownership; and no additional rebasing in 2016 is required.

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103. The NRCGT gain or loss is that proportion of the post 5 April 2015 gain (as determined by the gain or loss from the asset's market value as at 5 April 2015) that represents the amount of days in the post 5 April 2015 period in which the asset was used as a dwelling and was not chargeable to ATED-related CGT.
104. Paragraph 14 of new Schedule 4ZZB applies where an asset is acquired after 5 April 2015 or an election is made under subparagraph 2 (or its equivalent ATED-related CGT provision) to compute gains or losses on the basis of the position over the whole period of ownership; and no additional rebasing in 2016 is required (when paragraph 15 applies instead).
105. The NRCGT gain or loss is that proportion of the gain that represents the amount of days during the period of ownership in which the asset was used as a dwelling and was not chargeable to ATED-related CGT.
106. Paragraph 15 of new Schedule 4ZZB applies where an asset is rebased to its open market value at 5 April 2016 for the purposes of Schedule 4ZZA and no election has been made. It provides for rebasing of the asset to its open market value at 5 April 2016 for the purposes of ATED-related CGT.
107. The NRCGT gain or loss is that proportion of the gain from 6 April 2015 to 5 April 2016 that represents the amount of days during that period of ownership in which the asset was used as a dwelling and was not chargeable to ATED-related CGT; plus that proportion of the gain from 6 April 2016 that represents the amount of days during the period of ownership from then in which the asset was used as a dwelling and was not chargeable to ATED-related CGT.
108. Paragraph 16 of new Schedule 4ZZB provides that the amount of gain or loss that is neither ATED-related nor a NRCGT gain or loss is the sum of the amounts determined in accordance with paragraphs 17 to 19; and defines "balancing day" for the purposes of the balancing fractions at subparagraphs 17(6), 18(4) and 19(4).
109. Paragraph 17 of new Schedule 4ZZB contains provisions for computing gains and losses that are neither ATED-related nor NRCGT gains or losses when paragraph 13 applies.
110. Paragraph 18 of new Schedule 4ZZB contains provisions for computing gains and losses that are neither ATED-related nor NRCGT gains or losses when paragraph 14 applies.
111. Paragraph 19 of new Schedule 4ZZB contains provisions for computing gains and losses that are neither ATED-related nor NRCGT gains or losses when paragraph 15 applies.
112. Paragraph 20 of new Schedule 4ZZB provides that where part only of the land disposed of is a relevant high value disposal such that the gains that accrue on its disposal is wholly or in part chargeable to ATED-related CGT, the remaining part of the land is treated for Part 4 in the same way as if it formed part of the relevant high value disposal.
113. Paragraph 21 of new Schedule 4ZZB applies Part 4 to disposals of contracts to purchase a dwelling off-plan.
114. New Schedule 4ZZB, Part 5 consists of paragraphs 22 and 23.
115. Paragraph 22 of new Schedule 4ZZB provides that Part 5 applies where a company disposes of a residential property interest.
116. Paragraph 23 of new Schedule 4ZZB provides for indexation to apply when calculating the amount of a relevant gain or loss.

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117. New Schedule 4ZZB, Part 6 consists of paragraphs 24 and 25. These paragraphs explain how wasting assets and capital allowances should be taken into account when calculating gains and losses on relevant high value disposals.
118. New Schedule 4ZZB, Part 7 consists of paragraph 26 and contains interpretative definitions for the purposes of the Schedule.
119. Paragraph 40 inserts a new subparagraph 4(3) into Schedule 4C to TCGA 92. This addresses disposals made by trustees which are chargeable non-resident disposals and sets out how the chargeable amount should be calculated.

Schedule 7Part 2

120. Paragraph 41 introduces amendments to the Taxes Management Act 1970 (TMA 1970).
121. Paragraph 42 inserts new section 7A into TMA 1970. This sets out that where a person reports a NRCGT gain on a NRCGT return made to HMRC, that gain is ignored for the purposes of determining whether that person must notify HMRC that they have chargeable gains for the tax year concerned.
122. Paragraph 43 inserts new sections 12ZA to 12ZN into TMA 1970.
123. New section 12ZA of TMA 1970 defines various terms used in new sections 12ZB to 12ZN.
124. New section 12ZB requires a person who makes a non-resident disposal to notify the disposal to HMRC in a NRCGT return. The return must be made within 30 days of, normally, the time when the property is conveyed.
125. New section 12ZC requires a single return to be made where two or more NRCGT disposals are made on the same day.
126. New Section 12ZD applies in relation to options that bind the grantor to sell a property and place the same reporting and payment on account obligations on the grantor when the option is exercised as apply when the grant was made.
127. New Section 12ZE requires that the NRCGT return must include “an advance self-assessment” of the amount that is notionally chargeable for the tax year, or additional amount if a previous NRCGT return for the year has been made, subject to certain exceptions set out in new section 12ZG.
128. New section 12ZF explains how to compute the “amount notionally chargeable” and what assumptions are to be taken into consideration.
129. New section 12ZG provides that an advance self-assessment is not required where the person is required to make a self-assessment return for the tax year in which the disposal is made or the previous year; or has made an ATED return for the preceding period.
130. New Section 12ZH treats an NRCGT return as being a self-assessment return for the tax year for persons other than trustees of a settlement. The self-assessment return is treated as being made to HMRC from 31 January following the end of the tax year in which the disposal was made unless the person gives before then a notice that it should be regarded as being made from when the notice is made.
131. New section 12ZI treats an NRCGT return as being a self-assessment return for the tax year for trustees of a settlement. The self-assessment return is treated as being made to HMRC from 31 January following the end of the tax year in which the disposal was made unless the trustees gives before then a notice that it should be regarded as being made from when the notice is made.
132. New section 12ZJ provides, for the purpose of sections 12ZA to 12ZI, that the question as to whether a person is a non-resident at the time of a disposal shall be determined by

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what at the time of completion it was reasonable for the position to be; and the position and replacement duties if it later becomes certain that the answer is different.

133. New Section 12ZK provides that NRCGT returns may be amended within 12 months of the 31 January following the tax year in which the disposal was made.
134. New section 12ZL provides that an officer of HMRC may correct an NRCGT return in certain cases. No correction may be made more than 9 months after the day on which the return was delivered or an amendment under section 12ZK was made.
135. New section 12ZM provides that an officer of HMRC may enquire into an NRCGT return if notice to do so is given and the enquiry is carried out within certain time limits.
136. New section 12ZN concerns amendments made to the return by a taxpayer during the period of enquiry and its impact on that enquiry.
137. Paragraph 44 makes consequential amendments to section 28A of TMA70, which contains provision about the effect of an enquiry closure notice.
138. Paragraph 45 inserts new section 28G into TMA1970. Where a NRCGT return has not been filed this section permits HMRC to determine the tax that is believed should be paid.
139. Paragraph 46 inserts new subsection 29(7)(a)(ia) into TMA1970. This enables HMRC to make an assessment for tax not self-assessed on an NRCGT return.
140. Paragraph 47 inserts new section 29A into TMA 1970. This section enables HMRC to make a discovery assessment for tax not self-assessed on an NRCGT return as long as certain conditions are met.
141. Paragraph 48 inserts new subsection 34(1A) into TMA1970. This imposes, in respect of new section 29A, the ordinary 4 year time limit for making assessments.
142. Paragraph 49 amends section 42 of TMA 1970, the procedure for making claims, to include claims made in an NRCGT return.
143. Paragraph 50 omits subsection 59A(7) of TMA 1970 in consequence of new section 59AB.
144. Paragraph 51 inserts new sections 59AA and 59AB into TMA 1970. These deal with payments on account of tax.
145. New Section 59AA determines the payment on account of capital gains tax to be made for a tax year when an NRCGT return contains an advance self-assessment for the year. It is the difference between the amount notionally chargeable in relation to the return and the payments (if any) made towards that amount.
146. New Section 59AB provides that the same rules that apply to the recovery of outstanding tax, apply in respect of an amount due to be paid on account.
147. Paragraph 52 makes a consequential amendment to section 59B of TMA 1970 and inserts new subsection 59B(2A) to ensure that the net amount remaining payable (or repayable) at the end of the tax year, after other liabilities have been taken into consideration, is correct.
148. Paragraph 53 makes a consequential amendment to section 107A of TMA 1970.
149. Paragraph 54 makes a consequential amendment to section 118 of TMA 1970.
150. Paragraph 55 makes consequential amendments to Schedule 3ZA to TMA1970.
151. Paragraph 56 makes consequential amendments to Schedule 24 to the Finance Act 2007, and inserts new paragraph 21BA.

*These notes refer to the Finance Act 2015 (c.11)
which received Royal Assent on 26 March 2015*

152. Paragraph 57 inserts new paragraph 21ZA into Schedule 36 to the Finance Act 2008. This restricts HMRC from making a notice requiring a person to deliver information or documents unless certain conditions are met.
153. Paragraph 58 makes consequential amendments to section 2 of the Corporation Tax Act 2009.
154. Paragraph 59 makes consequential amendments to Schedule 55 to the Finance Act 2009.
155. Paragraph 60 inserts new subsection 92(7) into the Taxation (International and Other Provisions) Act 2010. This provides that the reference to “tax return for a chargeable period” in subsection (1) does not include an NRCGT return.

Schedule 7Part 3

156. Paragraph 61 provides that the amendments made by Schedule 7 have effect from 6 April 2015 for disposals made on or after that date.

Background Note

157. A person is not generally chargeable to CGT unless they are resident in the UK; and companies have been chargeable to corporation tax, and not CGT, in respect of chargeable gains accruing to them. Some exceptions exist (for example where a non-resident trades through a UK branch or agency; or where they are necessary to prevent tax avoidance).
158. This measure brings the UK into alignment with most other countries who charge non-residents in relation to immovable property located in their country.
159. It provides a number of exemptions for communal residential accommodation such as purpose built student accommodation, hospices etc. and also exempts non-resident companies that are diversely owned.