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

FINANCE ACT 2015

EXPLANATORY NOTES

INTRODUCTION

Section 38 and Schedule 8: Relevant High Value Disposals: Gains and Losses

Summary

1. This section and Schedule reduces the threshold amount for consideration received on a disposal of residential property, above which an Annual Tax on Enveloped Dwellings (ATED)-related gain may accrue and capital gains tax (CGT) may be payable. The changes apply to disposals on or after 6 April 2015.

Details of the Section

2. Section 38 introduces Schedule 8.

Details of the Schedule

3. Paragraph 2 amends section 2C of the Taxation of Chargeable Gains Act 1992 (TCGA 1992). Subsection (6) of section 2C is amended so that the 'relevant ownership period' depends on whether the property being sold was held on 5 April 2013, 2015 or 2016, and whether was payable before the relevant date. This ensures that any ATED-related gain on which CGT may be payable reflects only changes in the property's value over the period since ATED was first payable. Subsection (7) of section 2C is amended so that subsection (4) continues to apply correctly after the changes to the threshold amount given in paragraphs 3 and 4 take effect.

4. Paragraph 3 amends section 2D TCGA 1992 to reduce the threshold amount from £2 million to £1 million. The change applies to disposals on or after 6 April 2015.

5. Paragraph 4 amends section 2D TCGA 1992 to reduce the threshold amount from £1 million to £500,000. This change applies to disposals on or after 6 April 2016.

6. Paragraph 5 amends section 2E TCGA 1992 so that it continues to apply correctly whichever date is used in Schedule 4ZZA for 'rebasing' the gains or losses which accrue on the disposal.

7. Paragraphs 6 – 13 amend Schedule 4ZZA TCGA which makes provisions for computing ATED-related gains and losses.

8. Paragraph 8 replaces paragraph 2 in Schedule 4ZZA TCGA 1992 with a new paragraph. The new paragraph contains rules for deciding whether a relevant high value disposal within section 2C falls under 'Case 1', 'Case 2' or 'Case 3'. This is necessary in order to determine 'the relevant year' by reference to which the ATED-related gain is to be computed. The conditions for Case 3 are to be considered first, and if they are not met then Case 2 is considered. If a disposal falls neither within Case 3 nor Case 2 then it will be within Case 1. New paragraph 2, subparagraph (5) contains definitions of terms used in earlier subparagraphs and subparagraph (6) gives 'the relevant year' associated with each of the Cases determined under subparagraphs (2) – (4).

9. Paragraphs 9 and 10 amend paragraphs 3 and 4 of Schedule 4ZZA TCGA. Paragraphs 3 and 4 ensure that changes in the value of a property which take place before the property first becomes chargeable to ATED do not contribute to ATED-related gains when the property is sold (a process known as ‘rebasing’). The changes brought about by this section mean that ATED in respect of a property which is already owned may become payable either in April 2013, April 2015 or April 2016. The amendments to paragraphs 3 and 4 of Schedule 4ZZA ensure that those paragraphs work properly in all cases.

10. Paragraph 11 amends paragraph 5 of Schedule 4ZZA TCGA so that it is capable of applying equitably in any of the three Cases described at new paragraph 2.

11. Paragraph 13 amends paragraph 6 of Schedule 4ZZA TCGA. Paragraph 6 provides rules for computing ATED-related gains and losses where there is no 'rebasing'. The amendment ensures that this paragraph applies where a disposal does not fall within any of the three Cases described at new paragraph 2.

Background Note

12. These changes, announced at Budget 2014, ensure that the charge to capital gains tax on disposals of residential property continues to be aligned with that property's previous liability to ATED. The value above which a property is potentially liable to ATED decreases from £2 million to £1 million on 1 April 2015 and to £500,000 on 1 April 2016, and the 'threshold amount' for CGT purposes is changing similarly so that the two charges remain aligned. The methods by which ATED-related gains and losses are computed and CGT charged or relieved are not changing except to recognise that owners of certain properties will become liable to ATED and to CGT for the first time as a result of these measures. Gains and losses attributable to periods before they became liable to ATED will continue to be excluded from the charge to CGT on ATED-related gains.

13. These changes further the government's policy objective of ensuring the fairness of tax on residential property. A package of measures including the charge to CGT on high value disposals was announced at Budget 2012 and the charge was introduced by Finance Act 2013, after consultation.