

## SCHEDULE 7

(as introduced by section 41(1))

### PARTNERSHIPS

#### PART 1

#### INTRODUCTORY

##### *Overview*

- 1 This Schedule makes provision about the application of this Act and TCMA in relation to partnerships.
- 2 This Schedule is arranged as follows—
  - (a) Part 2 makes general provision about the treatment of partnerships;
  - (b) Part 3 makes provision about ordinary transactions involving a partnership;
  - (c) Part 4 makes provision about transactions involving transfers to a partnership from a partner or certain other persons;
  - (d) Part 5 makes provision about transactions involving transfers from a partnership to a partner or certain other persons;
  - (e) Part 6 makes provision about transactions between partnerships and about transactions involving a partnership consisting wholly of bodies corporate;
  - (f) Part 7 makes provision about transfers to or from a partnership where the chargeable consideration includes rent;
  - (g) Part 8 makes provision about transfers of interest in, and transactions involving, property investment partnerships;
  - (h) Part 9 makes provision about the application to certain transactions involving partnerships of provisions of this Act relating to exemptions and reliefs, of certain provisions of TCMA and about the notification of such transactions;
  - (i) Part 10 defines expressions used in this Schedule.

#### PART 2

#### GENERAL PROVISIONS

##### *Partnerships*

- 3 In this Act, a “partnership” means—
  - (a) a partnership within the [Partnership Act 1890 \(c. 39\)](#);
  - (b) a limited partnership registered under the [Limited Partnerships Act 1907 \(c. 24\)](#);
  - (c) a limited liability partnership formed under the [Limited Liability Partnerships Act 2000 \(c. 12\)](#);
  - (d) a firm or entity of similar character to any of those mentioned above formed under the law of a country or territory outside the United Kingdom.

*Chargeable interests treated as held by partners etc.*

- 4 (1) For the purposes of this Act—
- (a) a chargeable interest held by or on behalf of a partnership is treated as held by or on behalf of the partners, and
  - (b) a land transaction entered into for the purposes of a partnership is treated as entered into by or on behalf of the partners, and not by or on behalf of the partnership as such.
- (2) Sub-paragraph (1) applies despite a partnership being regarded as a legal person, or as a body corporate, under the law of the country or territory under which it is formed.

*Acquisition of interest in partnership not chargeable except as specially provided*

- 5 The acquisition of an interest in a partnership is not a chargeable transaction despite the partnership property including land, except as provided by—
- (a) paragraph 18 (transfer of interest pursuant to earlier arrangements);
  - (b) paragraph 34 (transfer of interest in property-investment partnership).

*Continuity of partnerships*

- 6 For the purposes of this Act, a partnership is treated as the same partnership despite a change in membership if any person who was a member before the change remains a member after the change.

*Partnership not to be regarded as a unit trust scheme etc.*

- 7 For the purposes of this Act, a partnership is not to be regarded as a unit trust scheme or an open-ended investment company.

### PART 3

#### ORDINARY PARTNERSHIP TRANSACTIONS

*Introduction*

- 8 This Part of this Schedule applies to land transactions entered into as buyers by or on behalf of the members of a partnership, other than transactions within Parts 4 to 8 of this Schedule.

*Responsibility of partners*

- 9 (1) Anything required or authorised to be done under this Act or TCMA by or in relation to the buyer in the transaction must be done by or in relation to all the responsible partners.
- (2) The responsible partners in relation to a transaction are—
- (a) the persons who are partners at the effective date of the transaction, and
  - (b) any person who becomes a member of the partnership after the effective date of the transaction.
- (3) This paragraph has effect subject to paragraph 10 (representative partners).

### *Representative partners*

- 10 (1) Anything required or authorised to be done under this Act or TCMA in connection with the transaction by or in relation to the responsible partners may instead be done by or in relation to any representative partner or partners.
- (2) This includes making the declaration required by section 53 (declaration that return is complete and correct).
- (3) A “representative partner” means a partner nominated by a majority of the partners to act as the representative of the partnership for the purposes of this Act.
- (4) Any such nomination, or the revocation or such a nomination, has effect only after notice of the nomination, or revocation, has been given to WRA.

### *Joint and several liability of responsible partners*

- 11 (1) Where the responsible partners are liable to pay—
- (a) tax or late payment interest on that tax,
  - (b) an amount under section 55 of TCMA (recovery of excessive repayment) or late payment interest on that amount, or
  - (c) a penalty under Part 5 of TCMA or late payment interest on that penalty,
- the liability is a joint and several liability of those partners.
- (2) No amount may be recovered under sub-paragraph (1)(a) or (b) from a person who did not become a responsible partner until after the effective date of the transaction in respect of which the tax is payable.
- (3) No amount may be recovered under sub-paragraph (1)(c) from a person who did not become a partner until after the relevant time.
- (4) The relevant time is—
- (a) in relation to so much of a penalty as is payable in respect of any day, or to late payment interest on so much of a penalty as is so payable, the beginning of that day;
  - (b) in relation to any other penalty, or to late payment interest on the penalty, the time when the act or omission occurred that caused the penalty to become payable.
- (5) In this paragraph, “late payment interest” means late payment interest under Part 6 of TCMA.

## **PART 4**

### **TRANSACTIONS INVOLVING TRANSFERS TO A PARTNERSHIP**

#### *Introduction*

- 12 In this Part of this Schedule—
- (a) paragraphs 13 to 17 make provisions about the treatment of certain land transactions involving the transfer of a chargeable interest to a partnership, and

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- (b) paragraphs 18 and 19 provide for certain events following such transactions to be treated as land transactions.

*Transfer of chargeable interest to a partnership: general*

- 13 (1) This paragraph applies where—
- (a) a partner transfers a chargeable interest to the partnership,
  - (b) a person transfers a chargeable interest to a partnership in return for an interest in the partnership, or
  - (c) a person connected with—
    - (i) a partner, or
    - (ii) a person who becomes a partner as a result of or in connection with the transfer,

transfers a chargeable interest to the partnership.

- (2) This paragraph applies whether the transfer is in connection with the formation of the partnership or is a transfer to an existing partnership.

- (3) The chargeable consideration for the transaction is taken to be equal to—

$$MV \times (100 - SLP) \%$$

Figure 9

where—

MV is the market value of the chargeable interest transferred, and  
 SLP is the sum of the lower proportions.

- (4) Paragraph 14 provides for determining the sum of the lower proportions.
- (5) Part 7 applies if the whole or part of the chargeable consideration for the transaction is rent.
- (6) Paragraphs 9 to 11 (responsibility of partners) have effect in relation to a transaction to which this paragraph applies, but the responsible partners are—
- (a) those who were partners immediately before the transfer and who remain partners after the transfer, and
  - (b) any person becoming a partner as a result of, or in connection with, the transfer.
- (7) This paragraph has effect subject to any election under paragraph 36.

*Transfer of chargeable interest to a partnership: sum of the lower proportions*

- 14 The sum of the lower proportions in relation to a transaction to which paragraph 13 applies is determined as follows—

*Step 1*

Identify the relevant owner or owners (see paragraph 15).

*Step 2*

For each relevant owner, identify the corresponding partner or partners (see paragraph 16).

If there is no relevant owner with a corresponding partner, the sum of the lower proportions is zero.

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*Step 3*

For each relevant owner, find the proportion of the chargeable interest to which the owner was entitled immediately before the transaction.

Apportion that proportion between any one or more of the relevant owner's corresponding partners.

*Step 4*

Find the lower of the following (“the lower proportion”) for each corresponding partner—

- (a) the proportion of the chargeable interest attributable to the partner (see paragraph 17);
- (b) the partner's partnership share immediately after the transaction.

*Step 5*

Add together the lower proportions of each corresponding partner.

The result is the sum of the lower proportions.

*Relevant owner*

- 15 (1) For the purposes of paragraph 14 (see Step 1), a person is a relevant owner if—
- (a) immediately before the transaction, the person was entitled to a proportion of the chargeable interest, and
  - (b) immediately after the transaction, the person is a partner or is connected with a partner.
- (2) For the purposes of paragraph 14 and this paragraph, persons who are entitled to a chargeable interest as beneficial joint tenants are taken to be entitled to the chargeable interest as beneficial tenants in common in equal shares.

*Corresponding partner*

- 16 (1) For the purposes of paragraph 14 (see Step 2), a person is a corresponding partner in relation to a relevant owner if, immediately after the transaction—
- (a) the person is a partner, and
  - (b) the person is the relevant owner or is an individual connected with the relevant owner.
- (2) For the purpose of sub-paragraph (1)(b), a company is to be treated as an individual connected with the relevant owner if it—
- (a) holds property as trustee, and
  - (b) is connected with the relevant owner only because of section 1122(6) of the [Corporation Tax Act 2010 \(c. 4\)](#) (as it has effect with the omission of subsection (6)(c) to (e)).

*Proportion of chargeable interest attributable to corresponding partner*

- 17 For the purposes of paragraph 14 (Step 4), the proportion of the chargeable interest attributable to a corresponding partner is—
- (a) if the partner is a corresponding partner in relation to only one relevant owner, the proportion (if any) of the chargeable interest apportioned to that partner (at Step 3) in respect of that owner;

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- (b) if the partner is a corresponding partner in relation to more than one relevant owner, the sum of the proportions (if any) of the chargeable interest apportioned to that partner (at Step 3) in respect of each of those owners.

*Transfer of partnership interest pursuant to tax avoidance arrangements*

- 18 (1) This paragraph applies where—
- (a) there is a transfer of a chargeable interest to a partnership (“the land transfer”);
  - (b) the land transfer falls within paragraph 13(1);
  - (c) there is subsequently a transfer of an interest in the partnership (“the partnership transfer”);
  - (d) the partnership transfer is made—
    - (i) if the land transfer falls within paragraph 13(1)(a) or (b), by the person who makes the land transfer;
    - (ii) if the land transfer falls within paragraph 13(1)(c), by the partner concerned;
  - (e) the partnership transfer is made pursuant to arrangements which are, or form part of, tax avoidance arrangements that were in place at the time of the land transfer;
  - (f) the partnership transfer is not (apart from this paragraph) a chargeable transaction.
- (2) For the purposes of this Act, the partnership transfer—
- (a) is taken to be a land transaction, and
  - (b) is a chargeable transaction.
- (3) The partners are taken to be the buyers in the transaction.
- (4) The chargeable consideration for the transaction is taken to be equal to a proportion of the market value, as at the date of the transaction, of the interest transferred by the land transfer.
- (5) That proportion is—
- (a) if the person making the partnership transfer is not a partner immediately after the partnership transfer, that person’s partnership share immediately before that transfer;
  - (b) if the person is a partner immediately after the partnership transfer, the difference between the person’s partnership share before and after that transfer.
- (6) The partnership transfer and the land transfer are taken to be linked transactions.
- (7) Paragraphs 9 to 11 (responsibility of partners) have effect in relation to the partnership transfer, but the responsible partners are—
- (a) those who were partners immediately before the transfer and who remain partners after the transfer, and
  - (b) any person becoming a partner as a result of, or in connection with, the transfer.
- (8) In this paragraph, “tax avoidance arrangements” has the meaning given by section 31.

*Withdrawal of money etc. from partnership after transfer of chargeable interest*

- 19 (1) This paragraph applies where—
- (a) there is a transfer of a chargeable interest to a partnership (“the land transfer”);
  - (b) the land transfer falls within paragraph 13(1);
  - (c) during the period of 3 years beginning with the effective date of the land transfer, a qualifying event within sub-paragraph (2) occurs;
  - (d) the qualifying event is, or forms part of, a tax avoidance arrangement;
  - (e) at the time of the qualifying event, an election has not been made in respect of the land transfer under paragraph 36.
- (2) A qualifying event is—
- (a) a withdrawal from the partnership of money or money’s worth which does not represent income profit, by the relevant person—
    - (i) withdrawing capital from the relevant person’s capital account,
    - (ii) reducing the relevant person’s interest in the partnership, or
    - (iii) ceasing to be a partner, or
  - (b) in a case where the relevant person has made a loan to the partnership—
    - (i) the repayment (to any extent) by the partnership of the loan, or
    - (ii) a withdrawal by the relevant person from the partnership of money or money’s worth which does not represent income profit.
- (3) For the purposes of sub-paragraph (2), the relevant person is—
- (a) where the land transfer falls within 13(1)(a) or (b), the person who makes the land transfer, and
  - (b) where the land transfer falls within paragraph 13(1)(c), the partner concerned or a person connected with that partner.
- (4) For the purposes of this Act, the qualifying event—
- (a) is taken to be a land transaction, and
  - (b) is a chargeable transaction.
- (5) The partners are taken to be the buyers under the transaction.
- (6) Paragraphs 9 to 11 (responsibility of partners) have effect in relation to the transaction.
- (7) The chargeable consideration for the transaction is taken to be—
- (a) in a case falling within sub-paragraph (2)(a), equal to the value of the money or money’s worth withdrawn from the partnership;
  - (b) in a case falling within sub-paragraph (2)(b)(i), equal to the amount repaid;
  - (c) in a case falling within sub-paragraph (2)(b)(ii), equal to so much of the value of the money or money’s worth withdrawn from the partnership as does not exceed the amount of the loan.
- (8) But the chargeable consideration determined under sub-paragraph (7) is not to exceed the market value, as at the effective date of the land transfer, of the chargeable interest transferred by the land transfer, reduced by any amount previously chargeable to tax.
- (9) Where—
- (a) a qualifying event gives rise to a charge under this paragraph, and

(b) the same event gives rise to a charge under paragraph 34 (transfer of interest in property investment partnership),  
the amount of the charge under this paragraph is reduced (but not below zero) by the amount of the charge under that paragraph.

(10) In this paragraph, “tax avoidance arrangement” has the meaning given by section 31.

## PART 5

### TRANSACTIONS INVOLVING TRANSFERS FROM A PARTNERSHIP

#### *Introduction*

20 This Part of this Schedule makes provision about the treatment of certain land transactions involving the transfer of a chargeable interest from a partnership.

#### *Transfer of chargeable interest from a partnership: general*

21 (1) This paragraph applies where a chargeable interest is transferred—

- (a) from a partnership to a person who is or has been one of the partners, or
- (b) from a partnership to a person connected with a person who is or has been one of the partners.

(2) The chargeable consideration for the transaction is (subject to paragraph 30) taken to be equal to—

$$MV \times (100 - SLP) \%$$

Figure 10

where—

MV is the market value of the interest transferred, and  
SLP is the sum of the lower proportions.

- (3) Paragraph 22 provides for determining the sum of the lower proportions.
- (4) Part 7 applies if the whole or part of the chargeable consideration for the transaction is rent.
- (5) For the purposes of this paragraph, property that was partnership property before the partnership was dissolved or otherwise ceased to exist is to be treated as remaining partnership property until it is distributed.
- (6) This paragraph has effect subject to any election under paragraph 36.

#### *Transfer of chargeable interest from a partnership: sum of the lower proportions*

22 The sum of the lower proportions in relation to a transaction to which paragraph 21 applies is determined as follows—

*Step 1*

Identify the relevant owner or owners (see paragraph 23).

*Step 2*



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For each relevant owner, identify the corresponding partner or partners (see paragraph 24).

If there is no relevant owner with a corresponding partner, the sum of the lower proportions is zero.

*Step 3*

For each relevant owner, find the proportion of the chargeable interest to which that owner is entitled immediately after the transaction.

Apportion that proportion between any one or more of the relevant owner's corresponding partners.

*Step 4*

Find the lower of the following ("the lower proportion") for each corresponding partner—

- (a) the proportion of the chargeable interest attributable to the partner (see paragraph 25);
- (b) the partnership share attributable to the partner (see paragraphs 26 and 27).

*Step 5*

Add together the lower proportions of each corresponding partner.

The result is the sum of the lower proportions.

*Relevant owner*

- 23 (1) For the purposes of paragraph 22 (see Step 1), a person is a relevant owner if—
- (a) immediately after the transaction, that person is entitled to a proportion of the chargeable interest, and
  - (b) immediately before the transaction, that person was a partner or connected with a partner.
- (2) For the purposes of paragraph 22 and this paragraph, persons who are entitled to a chargeable interest as beneficial joint tenants are to be taken to be entitled to the chargeable interest as beneficial tenants in common in equal shares.

*Corresponding partner*

- 24 (1) For the purposes of paragraph 22 (see Step 2), a person is a corresponding partner in relation to a relevant owner if, immediately before the transaction—
- (a) the person was a partner, and
  - (b) the person was the relevant owner or was an individual connected with the relevant owner.
- (2) For the purpose of sub-paragraph (1)(b), a company is to be treated as an individual connected with the relevant owner if it—
- (a) holds property as trustee, and
  - (b) is connected with the relevant owner only because of section 1122(6) of the [Corporation Tax Act 2010 \(c. 4\)](#) (as it has effect with the omission of subsection (6)(c) to (e)).

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*Proportion of chargeable interest attributable to corresponding partner*

- 25 For the purposes of paragraph 22 (see Step 4), the proportion of the chargeable interest attributable to a corresponding partner is—
- (a) if the partner is a corresponding partner in relation to only one relevant owner, the proportion (if any) of the chargeable interest apportioned to that partner (at Step 3) in respect of that owner;
  - (b) if the partner is a corresponding partner in relation to more than one relevant owner, the sum of the proportions (if any) of the chargeable interest apportioned to that partner (at Step 3) in respect of each of those owners.

*Partnership share attributable to corresponding partner: effective date of transfer before 20 October 2003*

- 26 (1) This paragraph applies for the purposes of paragraph 22 (see Step 4) where the effective date of the transfer of the relevant chargeable interest to the partnership was before 20 October 2003.
- (2) Where this paragraph applies, the partnership share attributable to a corresponding partner is to be determined, as follows—
- Step 1*
- Find the partner’s actual partnership share on the relevant date.
- The relevant date—
- (a) if the partner was a partner on 19 October 2003, is that date;
  - (b) if the partner became a partner after that date, is the date on which the partner became a partner.
- Step 2*
- Add to that partnership share any increases in the partner’s partnership share which—
- (a) occur in the period beginning with the day after the relevant date and ending immediately before the transaction to which paragraph 22 applies, and
  - (b) count for this purpose (see sub-paragraph (5)).
- The result is the increased partnership share.
- Step 3*
- Deduct from the increased partnership share any decreases in the partner’s partnership share which occur in the period beginning with the day after the relevant date and ending immediately before the transaction to which paragraph 22 applies.
- The result is the partnership share attributable to the partner.
- (3) If the effect of applying Step 3 would be to reduce the partnership share attributable to the partner below zero, the partnership share attributable to the partner is zero.
  - (4) If the partner ceased to be a partner before 19 October 2003, the partnership share attributable to the partner is zero.
  - (5) An increase counts for the purpose of Step 2 only if the instrument by which the transfer was effected has been stamped with ad valorem stamp duty.
  - (6) In this paragraph and paragraph 27, the relevant chargeable interest is—

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- (a) the chargeable interest which ceases to be partnership property as a result of the transaction to which paragraph 22 applies, or
- (b) where the transaction to which paragraph 22 applies is the creation of a chargeable interest, the chargeable interest out of which that interest is created.

*Partnership share attributable to corresponding partner: effective date of transfer on or after 20 October 2003*

- 27 (1) This paragraph applies for the purposes of paragraph 22 (see Step 4) where the effective date of the transfer of the relevant chargeable interest to the partnership was on or after 20 October 2003.
- (2) Where this paragraph applies and neither of the conditions in sub-paragraph (3) is met, the partnership share attributable to the partner is zero.
- (3) The conditions are—
- (a) the instrument by which the transfer was effected has been stamped with ad valorem stamp duty;
  - (b) any land transaction tax or, as the case may be, stamp duty land tax payable in respect of the transfer has been paid.
- (4) Where this paragraph applies, and one of the conditions in sub-paragraph (3) is met, the partnership share attributable to the partner is determined as follows—

*Step 1*

Find the partner's actual partnership share on the relevant date.

The relevant date—

- (a) if the partner was a partner on the effective date of the transfer of the relevant chargeable interest to the partnership, is that date;
- (b) if the partner became a partner after that date, is the date on which the partner became a partner.

*Step 2*

Add to that partnership share any increases in the partner's partnership share which—

- (a) occur in the period beginning with the day after the relevant date and ending immediately before the transaction to which paragraph 22 applies, and
- (b) count for this purpose (see sub-paragraph (7)).

The result is the increased partnership share.

*Step 3*

Deduct from the increased partnership share any decreases in the partner's partnership share which occur in the period starting on the day after the relevant date and ending immediately before the transaction to which paragraph 22 applies.

The result is the partnership share attributable to the partner.

- (5) If the effect of applying Step 3 would be to reduce the partnership share attributable to the partner below zero, the partnership share attributable to the partner is zero.

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- (6) If the partner ceased to be a partner before the effective date of the transfer of the relevant chargeable interest to the partnership, the partnership share attributable to the partner is zero.
- (7) An increase counts for the purpose of Step 2 only if—
  - (a) where the transfer which resulted in the increase took place on or before 22 July 2004, the instrument by which the transfer was effected has been stamped with ad valorem stamp duty;
  - (b) where the transfer which resulted in the increase took place after that date, any land transaction tax or, as the case may be, stamp duty land tax payable in respect of the transfer has been paid.

## PART 6

### OTHER PARTNERSHIP TRANSACTIONS

#### *Introduction*

- 28 This Part of this Schedule makes provision about—
- (a) transactions involving a transfer from a partnership to a partnership, and
  - (b) transactions where the partnership consists entirely of bodies corporate.

#### *Transfer of chargeable interest from a partnership to a partnership*

- 29 (1) This paragraph applies where—
- (a) there is a transfer of a chargeable interest from a partnership to a partnership, and
  - (b) the transfer is both—
    - (i) a transaction to which paragraph 13 (transfer of chargeable interest to a partnership) applies, and
    - (ii) a transaction to which paragraph 21 (transfer of chargeable interest from a partnership) applies.
- (2) Paragraphs 13(3) and 21(2) do not apply.
- (3) The chargeable consideration for the transaction is taken to be what it would have been if paragraph 13(3) had applied or, if greater, what it would have been if paragraph 21(2) had applied.
- (4) Where the whole or part of the chargeable consideration for the transaction is rent—
- (a) paragraph 31 does not apply;
  - (b) the tax chargeable in respect of so much of the chargeable consideration as consists of rent is taken to be the greater of—
    - (i) what the tax chargeable would have been if paragraph 31 applied in relation to a transaction to which paragraph 13 applies, or
    - (ii) what the tax chargeable would have been if paragraph 31 applied in relation to a transaction to which paragraph 21 applies;
  - (c) the disapplication of the zero rate band provided for by paragraph 34 of Schedule 6 has effect if it would have had effect if paragraph 31(6) of this Schedule had applied.

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*Transfer of chargeable interest from a partnership consisting wholly of bodies corporate*

- 30 (1) This paragraph applies where—
- (a) there is a transaction to which paragraph 21 applies;
  - (b) immediately before the transaction all the partners are bodies corporate;
  - (c) the sum of the lower proportions is 75 or more.
- (2) Paragraphs 21 and 31 have effect with the following modifications.
- (3) Paragraph 21 has effect as if for sub-paragraphs (2) and (3) there were substituted—
- “(2) The chargeable consideration for the transaction is taken to be equal to the market value of the interest transferred.”
- (4) Paragraph 31(2) has effect as if for “sub-paragraphs (3) to (6)” there were substituted “sub-paragraph (5)”.
- (5) Paragraph 31 has effect as if sub-paragraphs (3), (4), (6) and (7) were omitted.

## PART 7

### APPLICATION OF PARTS 5 AND 6 IN RELATION TO LEASES

*Transfer of chargeable interest to or from a partnership: chargeable consideration including rent*

- 31 (1) This paragraph applies in relation to a transaction to which paragraph 13 or 21 applies where the whole or part of the chargeable consideration for the transaction is rent.
- (2) Part 5 of Schedule 6 (leases: calculation of tax chargeable) has effect with the modifications set out in sub-paragraphs (3) to (6).
- (3) Paragraph 29 has effect as if—
- (a) in Step 1, for “the net present value (the “NPV”) of the rent payable over the term of the lease” there were substituted “the relevant chargeable proportion of the net present value (the “NPV”) of the rent payable over the term of the lease”;
  - (b) in Step 2, for “the NPV” there were substituted “the relevant chargeable proportion”.
- (4) Paragraph 30 has effect as if—
- (a) in Step 1, for “the total of the net present values (the “TNPV”) of the rent payable over the terms of all the linked leases” there were substituted “the total of the relevant chargeable proportions of the net present values (the “TNPV”) of the rent payable over the terms of all the leases”;
  - (b) in Step 2, for “the TNPV” there were substituted “the total of the relevant chargeable proportions”;
  - (c) in Step 4, for “the NPV” substitute “the relevant chargeable proportion” and for “the TNPV” substitute “the total of the relevant chargeable proportions”.
- (5) Paragraph 33(1) has effect as if for “paragraphs 34 and 35” there were substituted “paragraphs 13 and 21 of Schedule 7 and paragraphs 34 and 35 of this Schedule”.
- (6) Paragraph 36(1)(a) has effect as if—

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- (a) in sub-paragraph (i) for “the annual rent” there were substituted “the relevant chargeable proportion of the annual rent”;
  - (b) in sub-paragraph (ii) for “the total of the annual rents” there were substituted “the relevant chargeable proportion of the total of the annual rents”.
- (7) For the purposes of paragraphs 29, 30 and 36 of Schedule 6 as modified by this paragraph, the relevant chargeable proportion is—
- $$\left(100 - \text{SLP}\right) \%$$

Figure 11

where SLP is the sum of the lower proportions.

- (8) The following paragraphs apply for determining the sum of the lower proportions—
- (a) in the case of a transaction to which paragraph 13 applies, paragraph 14, and
  - (b) in the case of a transaction to which paragraph 21 applies, paragraph 22.
- (9) In the case of a transaction to which paragraph 21 applies, this paragraph is subject to paragraph 30.

## PART 8

### TRANSFERS INVOLVING PROPERTY-INVESTMENT PARTNERSHIPS

#### *Introduction*

- 32 This Part of this Schedule makes provision—
- (a) about certain transactions involving the transfer of an interest in a property-investment partnership, and
  - (b) for a property investment partnership to elect to disapply paragraph 13 in relation to certain land transactions.

#### *Meaning of property investment partnerships*

- 33 (1) In this Schedule, a “property-investment partnership” is a partnership whose sole or main activity is investing or dealing in chargeable interests (whether or not that activity involves the carrying out of construction operations on the land in question).
- (2) In sub-paragraph (1), “construction operations” has the same meaning as in Chapter 3 of Part 3 of the [Finance Act 2004 \(c. 12\)](#) (see section 74 of that Act).
- (3) For the purposes of sub-paragraph (1), “chargeable interests” includes any interest which would be a chargeable interest but for the fact that it relates to land outside Wales.

#### *Transfer of interest in property-investment partnership*

- 34 (1) This paragraph applies where—
- (a) there is a transfer of an interest in a property-investment partnership, and
  - (b) the relevant partnership property includes a chargeable interest.
- (2) For the purposes of this Act, the transfer—

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- (a) is taken to be a land transaction, and
  - (b) is a chargeable transaction.
- (3) The buyer in the transaction is the person who acquires an increased partnership share or, as the case may be, becomes a partner in consequence of the transfer.
- (4) The chargeable consideration for the transaction is taken to be equal to a proportion of the market value of the relevant partnership property.
- (5) That proportion is—
  - (a) if the person acquiring the interest in the partnership was not a partner before the transfer, the person’s partnership share immediately after the transfer;
  - (b) if the person was a partner before the transfer, the difference between that person’s partnership share before and after the transfer.
- (6) The “relevant partnership property”, in relation to a Type A transfer of an interest in a partnership, is every chargeable interest held as partnership property immediately after the transfer, other than—
  - (a) any chargeable interest that was transferred to the partnership in connection with the transfer,
  - (b) a lease to which paragraph 35 (exclusion of market rent leases) applies, and
  - (c) any chargeable interest that is not attributable economically to the interest in the partnership that is transferred.
- (7) The “relevant partnership property”, in relation to a Type B transfer of an interest in a partnership, is every chargeable interest held as partnership property immediately after the transfer, other than—
  - (a) any chargeable interest that was transferred to the partnership in connection with the transfer,
  - (b) a lease to which paragraph 35 (exclusion of market rent leases) applies,
  - (c) any chargeable interest that is not attributable economically to the interest in the partnership that is transferred,
  - (d) any chargeable interest that was transferred to the partnership on or before 22 July 2004,
  - (e) any chargeable interest in respect of whose transfer to the partnership an election has been made under paragraph 36, and
  - (f) any other chargeable interest whose transfer to the partnership did not fall within paragraph 13(1).
- (8) A Type A transfer is—
  - (a) a transfer that takes the form of arrangements entered into under which—
    - (i) the whole or part of a partner’s interest as partner is acquired by another person (who may be an existing partner), and
    - (ii) consideration in money or money’s worth is given by or on behalf of the person acquiring the interest, or
  - (b) a transfer that takes the form of arrangements entered into under which—
    - (i) a person becomes a partner,
    - (ii) the interest of an existing partner in the partnership is reduced or an existing partner ceases to be a partner, and
    - (iii) there is a withdrawal of money or money’s worth from the partnership by the existing partner mentioned in paragraph (ii) (other

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than money or money's worth paid from the resources available to the partnership prior to the transfer).

- (9) Any other transfer to which this paragraph applies is a Type B transfer.
- (10) An interest in respect of the transfer of which this paragraph applies is to be treated as a chargeable interest for the purposes of paragraph 8(2) of Schedule 16 (group relief) to the extent that the relevant partnership property consists of a chargeable interest.

*Exclusion of market rent leases*

- 35 (1) A lease held as partnership property immediately after a transfer of an interest in the partnership is not relevant partnership property for the purposes of paragraph 34(6) or (7) if the following four conditions are met.
- (2) Condition 1 is that—
    - (a) no chargeable consideration other than rent has been given in respect of the grant of the lease, and
    - (b) no arrangements are in place at the time of the transfer for any chargeable consideration other than rent to be given in respect of the grant of the lease.
  - (3) Condition 2 is that the rent payable under the lease as granted was a market rent at the time of the grant.
  - (4) Condition 3 is that—
    - (a) the term of the lease is 5 years or less, or
    - (b) if the term of the lease is more than 5 years—
      - (i) the lease provides for the rent payable under it to be reviewed at least once in every 5 years of the term, and
      - (ii) the rent payable under the lease as a result of a review is required to be a market rent at the review date.
  - (5) Condition 4 is that there has been no change to the lease since it was granted which is such that, immediately after the change has effect, the rent payable under the lease is less than a market rent.
  - (6) The market rent of a lease at any time is the rent which the lease might reasonably be expected to fetch at that time in the open market.
  - (7) A review date is a date from which the rent determined as a result of a rent review is payable.

*Election by property-investment partnership to disapply paragraph 13*

- 36 (1) Paragraph 13 does not apply to a transfer of a chargeable interest to a property-investment partnership if the buyer in the transaction elects for that paragraph not to apply.
- (2) Where an election under this paragraph is made in respect of a transaction—
    - (a) paragraph 21 (transfer of chargeable interest from a partnership: general) is also disappplied,
    - (b) the chargeable consideration for the transaction is taken to be the market value of the chargeable interest transferred, and



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- (c) the transaction falls within Part 3 (ordinary partnership transactions) of this Schedule.
- (3) An election under this paragraph must be included in the return made in respect of the transaction, or in an amendment of that return (for provision as to amendment of returns, see section 41 of TCMA).
- (4) The election is irrevocable so that the return may not be amended so as to withdraw the election.
- (5) Where an election under this paragraph in respect of a transaction (the “main transaction”) is made in an amendment of a return—
  - (a) the election has effect as if it had been made on the date on which the return was made, and
  - (b) any return in respect of an affected transaction may be amended (within the period allowed for amendment of that return) to take account of that election.
- (6) In sub-paragraph (5), “affected transaction” in relation to the main transaction means a transaction—
  - (a) to which paragraph 34 (transfer of interest in property-investment partnership) applied, and
  - (b) with an effective date on or after the effective date of the main transaction.

*Partnership interests: application of provisions about exchange*

- 37
- (1) Where section 16 (exchanges) applies to the acquisition of an interest in a property-investment partnership in consideration of entering into a land transaction with an existing partner, the interest in the partnership is to be treated as a major interest in land, for the purposes of paragraph 5 of Schedule 4 if the relevant partnership property includes a major interest in land.
  - (2) In sub-paragraph (1), “relevant partnership property” has the meaning given by paragraphs 34(6) or (7) (as appropriate, and as read with paragraph 35).
  - (3) Where this paragraph applies, paragraph 6 of Schedule 4 (partition etc.: disregard of existing interest) does not apply.

## PART 9

### APPLICATION OF EXEMPTIONS, RELIEFS, PROVISIONS OF TCMA AND NOTIFICATION PROVISIONS

*Introduction*

- 38
- In this Part of this Schedule—
- (a) paragraph 39 makes provision about the application of exemptions and reliefs to transactions to which this Schedule applies;
  - (b) paragraphs 40 and 41 make provision about the application of group relief to certain transactions mentioned in Part 4 of this Schedule;
  - (c) paragraph 42 makes provision about the application of charities relief to certain transfers of interest in a partnership;

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- (d) paragraph 43 makes provision about the application of certain provisions of TCMA to partnerships;
- (e) paragraph 44 makes provision about the notification of certain transfers of interest in a partnership.

*Application of exemptions and reliefs*

- 39 (1) Paragraph 1 of Schedule 3 (exemption of transactions for which there is no chargeable consideration) does not apply to transactions to which paragraph 13, 18, 21 or 34 applies.
- (2) But (subject to paragraphs 40 and 42) this Schedule has effect subject to any other provision affording exemption or relief from tax.

*Application of group relief*

- 40 (1) Schedule 16 (group relief) applies to—
- (a) a transaction to which paragraph 13 applies, and
  - (b) a transaction that is a chargeable transaction by virtue of paragraph 18, with the following modifications.
- (2) Paragraph 8 has effect as if—
- (a) in sub-paragraph (2)(a), for “the buyer” there were substituted “a partner who was a partner at the effective date of the relieved transaction (“the relevant partner”)”;
  - (b) for sub-paragraph (2)(b) there were substituted—
    - “(b) at the time the relevant partner ceases to be a member of the same group as the seller (“the relevant time”), a chargeable interest is held by or on behalf of the members of the partnership and that chargeable interest—
      - (i) was acquired by or on behalf of the partnership under the relieved transaction, or
      - (ii) is derived from a chargeable interest so acquired, and has not subsequently been acquired at market value under a chargeable transaction for which group relief was available but was not claimed.”;
  - (c) in sub-paragraph (4), for the words from “the transferee company” to the end there were substituted “or on behalf of the partnership and to the proportion in which the relevant partner is entitled at the relevant time to share in the income profits of the partnership”;
  - (d) in sub-paragraph (5), the definition of “relevant associated company” were omitted.
- (3) Paragraphs 9 to 14 have effect as if for “the buyer” (each time it occurs) there were substituted “the relevant partner”.

*Sum of the lower portions: connected company*

- 41 (1) This paragraph applies where in calculating the sum of the lower proportions in relation to a transaction (in accordance with paragraph 14)—

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- (a) a company (“the connected company”) would have been a corresponding partner of a relevant owner (“the original owner”) but for the fact that, by virtue of paragraph 16(1)(b), Step 2 includes connected persons only if they are individuals, and
  - (b) the connected company and the original owner are members of the same group.
- (2) The charge in respect of the transaction is to be reduced to the amount that would have been payable had the connected company been a corresponding partner of the original owner for the purposes of calculating the sum of the lower proportions.
- (3) The provisions of Schedule 16 apply to relief under sub-paragraph (2) as to group relief under paragraph 2(1) of that Schedule, but—
- (a) as if paragraph 4(3)(a) were omitted,
  - (b) as if in paragraph 8(2)(a) for “the buyer” there were substituted “a partner who was, at the effective date of the transaction, a partner and a member of the same group as the transferor (“the relevant partner”)”, and
  - (c) with the other modifications specified in paragraph 40.

#### *Application of charities relief*

- 42 (1) Schedule 18 (charities relief) applies to the transfer of an interest in a partnership that is a chargeable transaction by virtue of paragraph 18 or 34 with the following modifications.
- (2) Paragraph 1(b) has effect as if for “a buyer in a land transaction” there were substituted “a transferee under a transfer of an interest in a partnership that is a chargeable transaction by virtue of paragraph 18 or 34 of Schedule 7”.
- (3) Paragraph 2 has effect as if—
- (a) in sub-paragraph (1), for “a buyer in a land transaction” there were substituted “a transferee under a transfer of an interest in a partnership by virtue of paragraph 18 or 34 of Schedule 7”;
  - (b) in sub-paragraph (1)(a), for “if C intends to hold the subject-matter of the transaction” there were substituted “if every chargeable interest held as partnership property immediately after the transfer is held”;
  - (c) sub-paragraph (1)(b) were omitted;
  - (d) in sub-paragraph (2), for “C holds the subject-matter of the transaction” there were substituted “a chargeable interest held as partnership property is held”;
  - (e) after sub-paragraph (2) there were inserted—
    - “(2A) There is a transfer of an interest in a partnership for the purposes of this Schedule if there is such a transfer for the purposes of Schedule 7 (see paragraph 48 of that Schedule).
    - (2B) Paragraph 45(1) of Schedule 7 (meaning of references to partnership property) applies for the purposes of this Schedule as it applies for the purposes of that Schedule.”;
  - (f) in sub-paragraph (4), for “a buyer in a land transaction” there were substituted “a transferee under a transfer of an interest in a partnership that is a chargeable transaction by virtue of paragraph 18 or 34 of Schedule 7”;

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- (g) in sub-paragraph (4)(b), for “the subject-matter of the transaction” there were substituted “any chargeable interest held as partnership property immediately after the transaction”.
- (4) Paragraph 3 has effect as if—
  - (a) for “a land transaction” there were substituted “a transfer of an interest in a partnership that is a chargeable transaction by virtue of paragraph 18 or 34 of Schedule 7”;
  - (b) for “the buyer” there were substituted “the transferee”.
- (5) Paragraph 4 has effect as if—
  - (a) in sub-paragraph (1)(a), for “a land transaction” were substituted “a transfer of an interest in a partnership that is a chargeable transaction by virtue of paragraph 18 or 34 of Schedule 7”;
  - (b) for sub-paragraph (4) there were substituted—
    - “(4) At the time of the disqualifying event the partnership property includes a chargeable interest—
      - (a) that was held as partnership property immediately after the relieved transaction, or
      - (b) that is derived from an interest held as partnership property at that time.”;
    - (c) for sub-paragraph (6) there were substituted—
      - “(6) An “appropriate proportion” means an appropriate proportion having regard to—
        - (a) the chargeable interests held as partnership property immediately after the relieved transaction and the chargeable interests held as partnership property at the time of the disqualifying event, and
        - (b) the extent to which any chargeable interest held as partnership property at that time becomes used or held for purposes other than qualifying charitable purposes.”

*Modifications of TCMA in relation to partnerships*

- 43 (1) TCMA applies in relation to land transaction tax in respect of a land transaction entered into as buyers by or on behalf of the members of a partnership with the following modifications.
- (2) Section 58 (conditions for making WRA assessments) has effect as if subsection (2)(c) were omitted.
  - (3) Section 59 (time limits for WRA assessments) has effect as if in subsection (7) in the definition of “related person”, paragraph (b) were omitted.
  - (4) Section 79 (the claimant: partnerships) has effect as if there were substituted for it—

**“79 The claimant: partnerships in relation to land transactions**

- (1) This section is about the application of sections 63 and 63A in a case where—

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- (a) (in a case falling within section 63(1)(a)) the person paid the amount in question in the capacity of a partner in a partnership (within the meaning of paragraph 3 of Schedule 7 to LTTA),
  - (b) (in a case falling within section 63(1)(b)) the assessment was made on, or the determination related to the liability of, the person in such a capacity, or
  - (c) (in a case falling within section 63A(1)) the buyer in the land transaction is a person acting in such a capacity.
- (2) In such a case, only a representative partner within the meaning of paragraph 10 of Schedule 7 to LTTA may make a claim under section 63 or 63A in respect of the amount in question.”
- (5) Section 80 (assessment of claimant in connection with claim) has effect as if in subsection (2), for “any relevant person (as defined in section 79(3))” there were substituted “a responsible partner within the meaning of paragraph 9 of Schedule 7 to LTTA”.
- (6) Section 91 (requiring information and documents in relation to a partnership) has effect as if—
  - (a) for subsection (1) there were substituted—

“(1) This section applies in relation to a partnership within the meaning of paragraph 3 of Schedule 7 to LTTA.”;
  - (b) in subsection (2)—
    - (i) in the opening words, for “one of the partners” (in both places) there were substituted “one of the responsible partners”;
    - (ii) in paragraphs (a)(iii) and (c), for “at least one of the partners” there were substituted “the representative partner, or where there is no representative partner, to at least one of the responsible partners”;
  - (c) after subsection (2) there were inserted—

“(3) “Responsible partner” and “representative partner” have the meanings given by paragraphs 9 and 10 of Schedule 7 to LTTA.”
- (7) Section 100 (taxpayer notices following a tax return) has effect as if for subsection (6) there were substituted—

“(6) Where any responsible partner in a partnership has made a tax return, this section has effect as if that return had been made by each of the responsible partners.

(6A) “Partnership” and “responsible partner” have the meanings given by paragraphs 3 and 9 of Schedule 7 to LTTA.”

#### *Notification of transfer of partnership interest*

- 44 (1) A transaction which is a chargeable transaction by virtue of paragraph 18 or 34 (transfer of partnership interest) is a notifiable transaction only if the chargeable consideration for the transaction exceeds the zero rate threshold.
- (2) The chargeable consideration for a transaction exceeds the zero rate threshold if it includes—
  - (a) any amount in respect of which tax is chargeable at a rate of more than 0%, or

- (b) any amount in respect of which tax would be so chargeable but for a relief.

## PART 10

### INTERPRETATION

#### *Partnership property and partnership share*

- 45 (1) Any reference in this Schedule to partnership property is to an interest or right held by or on behalf of a partnership, or the members of a partnership, for the purposes of the partnership business.
- (2) Any reference in this Schedule to a person's partnership share at any time is to the proportion in which the person is entitled at that time to share in the income profits of the partnership.

#### *Transfer of a chargeable interest*

- 46 References in this Schedule to a transfer of a chargeable interest include—
- (a) the creation of a chargeable interest,
  - (b) the variation of a chargeable interest, and
  - (c) the surrender or release of a chargeable interest.

#### *Transfer of chargeable interest to a partnership*

- 47 For the purposes of this Schedule, there is a transfer of a chargeable interest to a partnership in any case where a chargeable interest becomes partnership property.

#### *Transfer of interest in a partnership*

- 48 For the purposes of this Schedule, where a person acquires or increases a partnership share there is a transfer of an interest in the partnership (to that partner and from the other partners).

#### *Transfer of a chargeable interest from a partnership*

- 49 For the purposes of this Schedule, there is a transfer of a chargeable interest from a partnership in any case where—
- (a) a chargeable interest that was partnership property ceases to be partnership property, or
  - (b) a chargeable interest is granted or created out of partnership property and the interest is not partnership property.

#### *Market value of leases*

- 50 (1) This paragraph applies in relation to a lease for the purposes of this Schedule if—
- (a) the grant of the lease is or was a transaction to which paragraph 13 applies or applied (or a transaction to which paragraph 13 would have applied if that paragraph had been in force at the time of the grant), or
  - (b) the grant of the lease is a transaction to which paragraph 21 applies.

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- (2) In determining the market value of the lease, an obligation of the tenant under the lease is to be taken into account if (but only if)—
- (a) it is an obligation such as is mentioned in paragraph 16(1) of Schedule 6 (tenant’s obligations that do not count as chargeable consideration), or
  - (b) it is an obligation to make a payment to a person.

*Connected persons*

- 51 (1) Section 1122 of the [Corporation Tax Act 2010 \(c. 4\)](#) (connected persons) has effect for the purposes of this Schedule.
- (2) As applied by sub-paragraph (1), that section has effect with the omission of subsection (7) (partners connected with each other).
- (3) As applied by sub-paragraph (1) for the purposes of paragraphs 15, 16, 23 and 24, that section has effect with the omission of subsection (6)(c) to (e) (trustee connected with settlement).

*Arrangements*

- 52 In this Schedule, “arrangements” has the meaning given by section 31(3).