

SCHEDULE 7

PARTNERSHIPS

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;
 - (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

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- (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)—
- (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”;

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- (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”;
 - (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—
- (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—

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“(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.