

SCHEDULE 17
(introduced by section 49)

PARTNERSHIPS

PART 1

OVERVIEW

Overview

- 1 (1) This schedule makes provision about the application of this Act in relation to partnerships.
- (2) It is arranged as follows—
- Part 2 makes general provision about the treatment of partnerships,
 - Part 3 makes provision about ordinary transactions involving a partnership,
 - Part 4 makes provision about transactions involving transfers from a partner or certain other persons to a partnership,
 - Part 5 makes provision about transactions involving transfers from a partnership to a partner or certain other persons (including transfers between partnerships),
 - Part 7 makes provision about transfers of interest in, and transactions involving, a property investment partnership,
 - Part 8 makes provision about the application of provisions of this Act on exemptions, reliefs, and notification to transactions falling within Parts 4 to 7,
 - Part 9 defines expressions used in this schedule.

PART 2

GENERAL PROVISIONS

Meaning of “partnership”

- 2 In this Act, “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) or the Limited Liability Partnerships Act (Northern Ireland) 2002 (c.12 (N.I.)),
 - (d) a firm or entity of a similar character to any of those mentioned in paragraphs (a) to (c) formed under the law of a country or territory outside the United Kingdom.

Chargeable interests treated as being held by partners etc.

- 3 (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

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- (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 notwithstanding that the partnership is 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

- 4 The acquisition of an interest in a partnership is not a chargeable transaction, notwithstanding that the partnership property includes land, except as provided by—
- (a) Part 4 of this schedule (transfer of chargeable interest to a partnership),
 - (b) paragraph 17 (transfer of partnership interest pursuant to earlier arrangements), or
 - (c) paragraph 32 (transfer of interest in property-investment partnership).

Continuity of partnership

- 5 For the purposes of this Act, a partnership is treated as the same partnership notwithstanding 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 unit trust scheme etc.

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

PART 3

ORDINARY PARTNERSHIP TRANSACTIONS

Introduction

- 7 This Part of this schedule applies to land transactions entered into as buyer by or on behalf of the members of a partnership, other than transactions within Parts 4 to 7 of this schedule.

Responsibility of partners

- 8 (1) Anything required or authorised to be done under this Act by or in relation to the buyer in the transaction is required or authorised to 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 that date.
- (3) This paragraph has effect subject to paragraph 9 (representative partners).

Representative partners

- 9 (1) Anything required or authorised to be done 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 36 (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 of such a nomination, has effect only after notice of the nomination, or revocation, has been given to the Tax Authority.

Joint and several liability of responsible partners

- 10 (1) Where the responsible partners are liable to make a payment of tax, the liability is a joint and several liability of those partners.
- (2) No amount may be recovered by virtue of sub-paragraph (1) 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.

PART 4

TRANSACTIONS INVOLVING TRANSFER TO A PARTNERSHIP

Overview of Part

- 11 This Part of this schedule is arranged as follows—
- paragraphs 12 to 16 make provision about the treatment of certain land transactions involving the transfer of a chargeable interest to a partnership, paragraphs 17 and 18 provide for certain events following such transactions to be treated as land transactions.

Circumstances in which this Part applies

- 12 (1) This Part of this schedule 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 Part of this schedule applies whether the transfer is in connection with the formation of the partnership or is a transfer to an existing partnership.
- (3) In this Part of this schedule—
- “the land transfer” means the transaction mentioned in sub-paragraph (1), and

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“the partnership” means the partnership to which the chargeable interest is transferred.

(4) This paragraph has effect subject to any election under paragraph 35.

Calculation of chargeable consideration etc.

13 (1) The chargeable consideration for the land transfer is taken to be equal to—

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

where—

MV is the market value of the interest transferred, and
 SLP is the sum of the lower proportions determined in accordance with paragraph 14.

(2) Paragraphs 8 to 10 (responsibility of partners) have effect in relation to the land 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.

(3) This paragraph does not apply if the whole or part of the chargeable consideration for the land transfer is rent (see paragraph 29 (application of Parts 3 to 5 to leases)).

Sum of the lower proportions

14 The sum of the lower proportions in relation to the land transfer is determined as follows.

Step 1

Identify the relevant owner or owners.

Step 2

For each relevant owner, identify the corresponding partner or partners.

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

Step 3

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

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

Step 4

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

- (a) the sum of the proportions (if any) of the chargeable interest apportioned to the partner (at Step 3) in respect of each relevant owner,
- (b) the partner’s partnership share immediately after the land transfer.

Step 5

Add together the lower proportions for 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 land transfer, the person was entitled to a proportion of the chargeable interest, and
 - (b) immediately after the land transfer, the person is a partner or connected with a partner.
- (2) For the purposes of this paragraph and paragraph 14, persons who are entitled to a chargeable interest as joint owners are to be taken to be entitled to the chargeable interest as common owners 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 land transfer—
- (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 purposes of sub-paragraph (1)(b) a company is to be treated as an individual connected with the relevant owner in so far as 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).

Transfer of partnership interest pursuant to earlier arrangements

- 17 (1) This paragraph applies where—
- (a) subsequent to the land transfer, there is a transfer of an interest in the partnership (“the partnership transfer”),
 - (b) the partnership transfer is made—
 - (i) if the land transfer falls within paragraph 12(1)(a) or (b), by the person who makes the land transfer,
 - (ii) if the land transfer falls within paragraph 12(1)(c), by the partner concerned,
 - (c) the partnership transfer is made pursuant to arrangements that were in place at the time of the land transfer,
 - (d) the partnership transfer is not (apart from this paragraph) a chargeable transaction.
- (2) The partnership transfer—
- (a) is to be treated as a land transaction, and
 - (b) is a chargeable transaction.
- (3) The partners are taken to be the buyers under 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—

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- (a) if the person making the partnership transfer is not a partner immediately after the transfer, the person's partnership share immediately before the transfer,
 - (b) if that person is a partner immediately after the transfer, the difference between that person's partnership share before and after the transfer.
- (6) The partnership transfer and the land transfer are taken to be linked transactions.
- (7) Paragraphs 8 to 10 (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.

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

- 18 (1) This paragraph applies where, during the period of 3 years beginning with the date of the land transfer, a qualifying event occurs.
- (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 person's capital account,
 - (ii) reducing the person's interest, 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 this purpose the relevant person is—
- (a) where land transfer falls within paragraph 12(1)(a) or (b), the person who makes the land transfer,
 - (b) where the land transfer falls within paragraph 12(1)(c), the partner concerned or a person connected with the partner.
- (4) The qualifying event—
- (a) is treated as a land transaction, and
 - (b) is a chargeable transaction.
- (5) The partners are taken to be the buyers under the transaction.
- (6) Paragraphs 8 to 10 (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 (in any case) 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) The amount of tax payable by virtue of this paragraph in respect of the qualifying event (if any) is to be reduced (but not below nil) by any amount of tax payable by virtue of paragraph 32 (transfer for consideration of interest in property investment partnership) in respect of the event.

PART 5

TRANSACTIONS INVOLVING TRANSFER FROM A PARTNERSHIP

Overview of Part

- 19 This Part of this schedule is arranged as follows—
- paragraphs 20 to 26 make provision about certain land transactions involving the transfer of a chargeable interest from a partnership,
 - paragraph 27 makes special provision where the transaction involves a transfer from a partnership to a partnership,
 - paragraph 28 makes special provision where the partnership consists entirely of bodies corporate.

Circumstances in which Part applies

- 20 (1) This Part of this schedule 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) 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.
- (3) In this Part of this schedule—
- “the land transfer” means the transaction mentioned in sub-paragraph (1), and
 - “the partnership” means the partnership from which the chargeable interest is transferred.
- (4) This paragraph has effect subject to any election under paragraph 35.

Calculation of chargeable consideration

- 21 (1) The chargeable consideration for the land transfer is (subject to paragraph 28) taken to be equal to—
- $$MV \times (100 - SLP)\%$$

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where—

MV is the market value of the interest transferred, and

SLP is the sum of the lower proportions determined in accordance with paragraph 22.

- (2) This paragraph does not apply if the whole or part of the chargeable consideration for the transaction is rent (see paragraph 29 (application of Parts 3 to 5 to leases)).

Sum of the lower proportions

22 The sum of the lower proportions in relation to the land transfer is determined as follows.

Step 1

Identify the relevant owner or owners.

Step 2

For each relevant owner, identify the corresponding partner or partners.

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

Step 3

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

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

Step 4

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

- (a) the sum of the proportions (if any) of the chargeable interest apportioned to the partner (at Step 3) in respect of each relevant owner,
- (b) the partnership share attributable to the partner.

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 land transfer, the person is entitled to a proportion of the chargeable interest, and
 - (b) immediately before the land transfer, the person was a partner or connected with a partner.
- (2) For the purposes of this paragraph and paragraph 22, persons who are entitled to a chargeable interest as joint owners are taken to be entitled to the chargeable interest as common owners 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 land transfer—

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- (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 purposes of sub-paragraph (1)(b), a company is to be treated as an individual connected with the relevant owner in so far as 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).

Partnership share attributable to partner

- 25 (1) This paragraph provides for determining the partnership share attributable to a partner for the purposes of paragraph 22 (see Step 4).
- (2) Where any tax payable in respect of the transfer of the relevant chargeable interest to the partnership has not been paid under this Act, the partnership share attributable to a partner is zero.
- (3) Where the partner ceases 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.
- (4) In any other case, paragraph 26 applies for determining the partnership share attributable to a partner.
- (5) In this paragraph and paragraph 26, the relevant chargeable interest is—
- (a) the chargeable interest which ceases to be partnership property as a result of the land transfer, or
 - (b) where the land transfer is the creation of a chargeable interest, the chargeable interest out of which that interest is created.
- 26 (1) Where this paragraph applies, 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 starting on the day after the relevant date and ending immediately before the land transfer, and
- (b) count for this purpose.

The result is the increased partnership share.

An increase counts for the purpose of paragraph (b) only if any tax payable in respect of the transfer which resulted in the increase has been duly paid under this Act.

Step 3

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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 land transfer.

The result is the partnership share attributable to the partner.

- (2) 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.

Transfer of chargeable interest from a partnership to a partnership

- 27 (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 Part 4 of this schedule applies, and
 - (ii) a transaction to which this Part of this schedule applies.
- (2) Paragraphs 13(1) and 21(1) do not apply.
- (3) The chargeable consideration for the transaction is taken to be what it would have been if paragraph 13(1) had applied or, if greater, what it would have been if paragraph 21(1) had applied.

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

- 28 (1) This paragraph applies where—
- (a) immediately before the land transfer all the partners are bodies corporate, and
 - (b) the sum of the lower proportions is 75 or more.
- (2) Paragraphs 21, 27 and 29 have effect subject to the following modifications.
- (3) For paragraph 21 substitute—
- “21 The chargeable consideration for the land transfer is taken to be equal to the market value of the interest transferred.”.
- (4) In paragraph 27(2) and (3), for “21(1)” substitute “21”.
- (5) In paragraph 29—
- (a) in sub-paragraph (2), for “sub-paragraphs (3) to (6)” substitute “sub-paragraph (5)”,
 - (b) omit sub-paragraphs (3), (4), (6), (7) and (9).
- (6) Paragraph 22 provides for determining the sum of the lower proportions.

PART 6

APPLICATION OF PARTS 3 TO 5 TO LEASES

Application of Parts 3 to 5 to leases

- 29 (1) This paragraph applies in relation to a transaction to which paragraph 12 or 20 applies where the whole or part of the chargeable consideration for the transaction is rent.
- (2) Schedule 19 (leases) has effect with the modifications set out in sub-paragraphs (3) to (6).
- (3) In paragraph 4—
- (a) in Step 1, for “the net present value (NPV) of the rent payable over the term of the lease” substitute “the relevant chargeable proportion of the net present value (NPV) of the rent payable over the term of the lease”, and
 - (b) in Step 2, for “the NPV” substitute “the relevant chargeable proportion”.
- (4) In paragraph 5—
- (a) in Step 1, for “the total of the net present values (TNPV) of the rent payable over the terms of all the leases” substitute “the total of the relevant chargeable proportions of the net present values (TNPV) of the rent payable over the terms of all the leases”,
 - (b) in Step 2, for “the TNPV” substitute “the total of the relevant chargeable proportions”, and
 - (c) in Step 4—
 - (i) for “the net present value” substitute “the relevant chargeable proportion”, and
 - (ii) for “the TNPV” substitute “the total of the relevant chargeable proportions”.
- (5) In paragraph 8(1), for “paragraph 9” substitute “paragraph 13 or 21 of schedule 17 and paragraph 9 of this schedule”.
- (6) In paragraph 9(6)—
- (a) in paragraph (a), for “the annual rent” substitute “the relevant chargeable proportion of the annual rent”, and
 - (b) in paragraph (b), for “the total of the annual rents” substitute “the relevant chargeable proportion of the total of the annual rents”.
- (7) For the purposes of schedule 19 as modified by this paragraph, the relevant chargeable proportion is—
- (100-SLP)%**
- 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 12 applies, paragraph 14, and
 - (b) in the case of a transaction to which paragraph 20 applies, paragraph 22.
- (9) In the case of a transaction to which paragraph 20 applies, this paragraph is subject to paragraph 28.

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PART 7

PROPERTY INVESTMENT PARTNERSHIPS

Overview of Part

- 30 This Part of this schedule is arranged as follows—
- paragraphs 32 to 34 make provision about certain transactions involving the transfer of an interest in a property investment partnership,
 - paragraph 35 provides that a property investment partnership may elect to disapply paragraph 12 in relation to certain land transactions.

Meaning of “property investment partnership”

- 31 (1) In this schedule, “property-investment partnership” means 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) 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 outwith Scotland.
- (3) In sub-paragraph (1) “construction operations” has the same meaning as in Chapter 3 of Part 3 of the Finance Act 2004 (see section 74 of that Act).

Transfer of interest in partnership treated as land transaction

- 32 (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) The transfer—
- (a) is treated as 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 the 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 33 (exclusion of market rent leases) applies, and

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- (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 33 (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 in respect of whose transfer to the partnership an election has been made under paragraph 35, and
 - (e) any other chargeable interest whose transfer to the partnership did not fall within paragraph 12(1)(a), (b) or (c).
- (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 on 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 sub-paragraph (ii) (other 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 15 of schedule 10 to the extent that the relevant partnership property consists of a chargeable interest.

Exclusion of market rent leases

- 33 (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 32(6) or (7) if the following four conditions are met.
- (2) The first condition 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) The second condition is that the rent payable under the lease as granted was a market rent at the time of the grant.
 - (4) The third condition is that—

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- (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) The fourth condition 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.

Partnership interests: application of provisions about exchanges etc.

- 34 (1) Where paragraph 5 of schedule 2 (exchanges) applies to the acquisition of an interest in a 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 that paragraph if the relevant partnership property includes a major interest in land.
- (2) In sub-paragraph (1) “relevant partnership property” has the meaning given by paragraph 32(6) or (7) (as appropriate).
- (3) The provisions of paragraph 6 of schedule 2 (partition etc.: disregard of existing interest) do not apply where this paragraph applies.

Election by property-investment partnership to disapply Part 4

- 35 (1) Part 4 of this schedule does not apply to a transfer of a chargeable interest to a property-investment partnership if the buyer in relation to the transaction elects for that paragraph not to apply.
- (2) Where an election under this paragraph is made in respect of a transaction—
- (a) Part 5 of this schedule (if relevant) is also disappplied,
 - (b) the chargeable consideration for the transaction is taken to be the market value of the chargeable interest transferred, and
 - (c) the transaction falls within Part 3 of this schedule.
- (3) An election under this paragraph must be included in the land transaction return made in respect of the transaction or in an amendment of that return.
- (4) Such an election is irrevocable and a land transaction 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 the land transaction return—
- (a) the election has effect as if it had been made on the date on which the land transaction return was made, and

- (b) any land transaction 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 32 applied, and
 - (b) with an effective date on or after the effective date of the main transaction.

PART 8

APPLICATION OF PROVISIONS ON EXEMPTIONS, RELIEFS AND NOTIFICATION

Overview of Part

- 36 This Part of this schedule is arranged as follows—
- paragraph 37 makes general provision about the application of exemptions and reliefs to transactions mentioned in Parts 4 to 7 of this schedule,
 - paragraphs 38 and 39 makes provision about the application of group relief to certain transactions mentioned in Part 4 of this schedule,
 - paragraph 40 makes provision about the application of charities relief to certain transfers of interest in a partnership,
 - paragraph 41 makes provision about the notification of certain transfers of interest in a partnership.

Application of exemptions and reliefs: general

- 37 (1) Paragraph 1 of schedule 1 (exemption of transactions for which there is no chargeable consideration) does not apply to—
- (a) a transaction to which Part 4 applies,
 - (b) a transaction to which Part 5 applies, or
 - (c) a transfer of interest in a partnership which is treated as a land transaction by virtue of paragraph 17 or 32.
- (2) But subject to paragraphs 38 and 40 this schedule has effect subject to any other provision affording exemption or relief from the tax.

Application of group relief

- 38 (1) Schedule 10 (group relief) applies with the following modifications to—
- (a) a transaction to which Part 4 applies, and
 - (b) a transfer of interest in a partnership which is treated as a land transaction by virtue of paragraph 17.
- (2) For paragraphs 14 and 15 substitute—
- “14 This paragraph applies where a partner who was a partner at the effective date of the transaction which is exempt from charge by virtue of this schedule (“the relevant partner” and “the relevant transaction” respectively) ceases to be a member of the same group as the seller—

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- (a) before the end of the period of 3 years beginning with the effective date of the transaction, or
 - (b) in pursuance of, or in connection with, arrangements made before the end of that period.
- 15 This paragraph applies where, 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—
- (a) was acquired by or on behalf of the partnership under the relevant transaction, or
 - (b) 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.”.
- (3) For paragraph 19(b), substitute—
- “(b) what is held at the relevant time by 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.”.
- (4) In paragraphs 20 to 42, for “the buyer” (wherever appearing) substitute “the relevant partner”.
- 39 (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 paragraph 16 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 10 apply to the relief under sub-paragraph (2) as to group relief under paragraph 2 of that schedule, but—
- (a) with the omission of paragraph 5(a),
 - (b) with the substitution for paragraphs 14 and 15 of—
- “14 This paragraph applies where a partner (“the relevant partner”) who was, at the effective date of the transaction which is exempt from charge by virtue of this schedule (“the relevant transaction”), a partner and a member of the same group as the transferor, ceases to be a member of the same group as the seller—
- (a) before the end of the period of 3 years beginning with the effective date of the transaction, or
 - (b) in pursuance of, or in connection with, arrangements made before the end of that period.
- 15 This paragraph applies where, at the time the relevant partner ceases to be a member of the same group as the seller (“the

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relevant time”), a chargeable interest is held by or on behalf of the members of the partnership and that chargeable interest—

(a) was acquired by or on behalf of the partnership under the relevant transaction, or

(b) 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) with the other modifications specified in paragraph 38(3) and (4).

Application of charities relief

40 (1) Schedule 13 (charities relief) applies to the transfer of interest in a partnership that is a chargeable transaction by virtue of paragraph 17 or 32 with these modifications.

(2) In paragraph 1, for “A land transaction is exempt from charge if the buyer is a charity” substitute “A transfer of an interest in a partnership that is a chargeable transaction by virtue of paragraph 17 or 32 of schedule 17 is exempt from charge if the transferee is a charity”.

(3) For paragraph 2(a), substitute—

“(a) that every chargeable interest held as partnership property immediately after the transfer must be held for qualifying charitable purposes.”.

(4) In paragraph 2(b), for “the buyer” substitute “the transferee”.

(5) In paragraph 3, for “A buyer holds the subject-matter of a transaction for qualifying charitable purposes if the buyer holds it” substitute “A chargeable interest is held for qualifying charitable purposes if it is held”.

(6) In paragraph 3(a), for “the buyer” substitute “the transferee”.

(7) In paragraph 3(b), for “the buyer” substitute “the partners”.

(8) For paragraph 4(b) substitute—

“(b) at the time of the disqualifying event the partnership property includes a chargeable interest—

(i) that was held as partnership property immediately after the relevant transaction, or

(ii) that is derived from an interest held as partnership property at that time.”.

(9) In paragraph 5(a), for “the buyer” substitute “the transferee”.

(10) For paragraph 5(b) substitute—

“(b) any chargeable interest held as partnership property immediately after the relevant transaction, or any interest or right derived from it, being used or held otherwise than for qualifying charitable purposes.”.

(11) For paragraph 10 substitute—

“10 An “appropriate proportion” means an appropriate proportion having regard to—

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- (a) the chargeable interests held as partnership property immediately after the relevant 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.”.

(12) After paragraph 17 insert—

- “18 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 Part 3 of schedule 17 (see paragraph 48 of that schedule).
- 19 Paragraph 43 of schedule 17 (meaning of references to partnership property) applies for the purposes of this schedule as it applies for the purposes of that schedule.”.

Notification of transfers of partnership interests

- 41 (1) A transaction which is a chargeable transaction by virtue of paragraph 17 or 32 (transfer of partnership interest) is a notifiable transaction if (but only if) the consideration for the transaction exceeds the nil rate tax band.
- (2) The consideration for a transaction exceeds the nil rate tax band if—
- (a) the chargeable consideration, or
 - (b) where the transaction is one of a number of linked transactions, the total of the chargeable consideration for all the linked transactions, exceeds the nil rate tax band applicable to the transaction.

PART 9

INTERPRETATION

Introduction

- 42 This Part of this schedule defines expressions used in this schedule.

Partnership property

- 43 Any reference 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.

Partnership share

- 44 Any reference 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 chargeable interest

- 45 References to the transfer of a chargeable interest include—
- (a) the creation of a chargeable interest,

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- (b) the renunciation or release of a chargeable interest, and
- (c) the variation of a chargeable interest.

Transfer of chargeable interest to a partnership

- 46 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 chargeable interest from a partnership

- 47 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 created out of partnership property and the interest is not partnership property.

Transfer of interest in a partnership

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

Connected persons

- 49 In the application of section 1122 of the Corporation Tax Act 2010 (connected persons) for the purposes of this schedule—
- (a) that section has effect with the omission of subsection (7) (partners connected with each other), and
 - (b) for the purposes of paragraph 12 or 22, that section has effect with the omission of subsection (6)(c) to (e) (trustee connected with settlement).

Arrangements

- 50 “Arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.