

Changes to legislation: Taxation of Chargeable Gains Act 1992, PART 2 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 1A

ASSETS DERIVING 75% OF VALUE FROM UK LAND ETC

Textual Amendments

- F1** Sch. 1A inserted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by Finance Act 2019 (c. 1), Sch. 1 para. 14

PART 2

WHETHER ASSET DERIVES AT LEAST 75% OF ITS VALUE FROM UK LAND

The basic rule

- 3 (1) An asset derives at least 75% of its value from UK land if—
- (a) the asset consists of a right or an interest in a company, and
 - (b) at the time of the disposal, at least 75% of the total market value of the company's qualifying assets derives (directly or indirectly) from interests in UK land.
- (2) Market value may be traced through any number of companies, partnerships, trusts and other entities or arrangements but may not be traced through a normal commercial loan.
- (3) It is irrelevant whether the law under which a company, partnership, trust or other entity or an arrangement is established or has effect is—
- (a) the law of any part of the United Kingdom, or
 - (b) the law of any territory outside the United Kingdom.
- (4) The assets held by a company, partnership or trust or other entity or arrangement must be attributed to the shareholders, partners, beneficiaries or other participants at each stage in whatever way is appropriate in the circumstances.
- (5) For the purposes of this paragraph—
- “normal commercial loan” means a loan which is a normal commercial loan for the purposes of section 158(1)(b) or 159(4)(b) of CTA 2010, and
 - “qualifying assets” has the meaning given by paragraph 4.
- (6) The provision made by this paragraph is subject to exceptions provided by—
- (a) paragraph 5 (interests in UK land used for trading purposes), and
 - (b) paragraph 6 (certain disposals of rights or interests in connected companies).

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Meaning of “qualifying assets”

- 4 (1) Subject as follows, all of the assets of the company are qualifying assets.
- (2) An asset of the company is not a qualifying asset so far as it is matched to a related party liability.
- (3) But an interest in UK land is a qualifying asset of the company even if it is matched to any extent to a related party liability.
- (4) An asset of the company is matched to a related party liability if—
- (a) the asset consists of a right under a transaction (for example, a right under a loan relationship or derivative contract),
 - (b) the right entitles the company to require another person to meet a liability arising under the transaction, and
 - (c) the other person is relevant to the paragraph 3 tracing exercise or is a related party of the company on the day of the disposal.
- (5) For the purposes of this paragraph a person is relevant to the paragraph 3 tracing exercise if—
- (a) the person has assets that fall to be taken into account in the tracing exercise mentioned in paragraph 3, or
 - (b) the person has obligations (whether as a trustee or otherwise) in relation to the holding of assets comprised in any trust or other arrangement that fall to be taken into account in that exercise.
- (6) Whether, for the purposes of this paragraph, a person is a related party of the company on any day is determined in accordance with the rules in Part 8ZB of CTA 2010 but as if, in section 356OT(4) of that Act, the words “, within the period of 6 months beginning with that day” were omitted.
- (7) In this paragraph a liability includes a contingent liability (such as one arising as a result of the giving of a guarantee, indemnity or other form of financial assistance).

Exception in relation to interests in UK land used for trading purposes

- 5 (1) A disposal of a right or interest in a company is not to be regarded as a disposal of an asset deriving at least 75% of its value from UK land if it is reasonable to conclude that, so far as the market value of the company's qualifying assets derives (directly or indirectly) from interests in UK land—
- (a) all of the interests in UK land are used for trading purposes, or
 - (b) all of the interests in UK land would be used for those purposes if low-value non-trade interests in UK land were left out of account.
- (2) An interest in UK land is “used for trading purposes” for the purposes of this paragraph if (and only if), at the time of the disposal—
- (a) it is being used in, or for the purposes of, a qualifying trade, or
 - (b) it has been acquired for use in, or for the purposes of, a qualifying trade.
- (3) A trade is a “qualifying” trade for the purposes of this paragraph if—
- (a) it has been carried on by the company, or by a person connected with the company, throughout the period of one year ending with the time of the disposal on a commercial basis with a view to the realisation of profits, and

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- (b) it is reasonable to conclude that the trade will continue to be carried on (for more than an insignificant period of time) on a commercial basis with a view to the realisation of profits.
- (4) For the purposes of this paragraph, “low-value non-trade interests in UK land” means interests in UK land—
- (a) which are not used for trading purposes, and
 - (b) the total market value of which is, at the time of the disposal, no more than 10% of the total market value at that time of the interests in UK land that are used for trading purposes.

Exception for certain disposals of rights or interests under same arrangements etc

- 6 (1) This paragraph applies if—
- (a) there are two or more disposals of rights or interests in companies,
 - (b) the disposals are linked with each other,
 - (c) some but not all of the disposals would, apart from this paragraph, be disposals of assets deriving at least 75% of their value from UK land, and
 - (d) if one of the companies included all of the assets of the others, a disposal of a right or interest in it would not be a disposal of an asset deriving at least 75% of its value from UK land.
- (2) None of the disposals are to be regarded as disposals of assets deriving at least 75% of their value from UK land.
- (3) In determining whether the condition in sub-paragraph (1)(d) is met in the case of a disposal of a right or interest in a company, it is to be assumed that, for the purposes of paragraph 4, each of the other companies in which rights or interest are disposed of is (so far as this would not otherwise be the case) a related party of the company on the day of the disposal.
- (4) For the purposes of this paragraph a disposal of a right or interest in a company is linked with a disposal of a right or interest in another company if—
- (a) the disposals are made under the same arrangements,
 - (b) the disposals are made by the same person or by persons connected with each other,
 - (c) the disposals are made to the same person or to persons connected with each other, and
 - (d) in the case of each disposal, the person making the disposal is connected with the company in which the right or interest is disposed of.
- (5) For the purposes of this paragraph, the question whether or not a person is connected with another is to be determined immediately before the arrangements are entered into.
- (6) Section 286 (connected persons: interpretation) has effect for the purposes of this paragraph as if, in subsection (4), the words “Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements,” were omitted.

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Meaning of “interest in UK land”

- 7 For the purposes of this Part of this Schedule “interest in UK land” has the meaning given by section 1C.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by [S.I. 2008/3068, art. 2\(1\)\(b\)](#))
- s. 104(4)(b)(i) words substituted by [S.I. 1989/469, reg. 27\(2\)](#) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by [S.I. 1989/469, reg. 27\(2A\)](#) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)