

Changes to legislation: Taxation of Chargeable Gains Act 1992, PART 1 is up to date with all changes known to be in force on or before 10 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 5AAA

UK PROPERTY RICH COLLECTIVE INVESTMENT VEHICLES ETC

Textual Amendments

- F1** Sch. 5AAA inserted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by Finance Act 2019 (c. 1), [Sch. 1 para. 21](#)

PART 1

INTRODUCTION: KEY EXPRESSIONS

Meaning of “collective investment vehicle”, “participant” and “unit”

- 1 (1) In this Schedule “collective investment vehicle” means—
- (a) a collective investment scheme,
 - (b) an AIF,
 - (c) a company which is [^{F2}a company UK REIT or is the principal company of a group UK REIT],
 - [^{F3}(d) a company which—
 - (i) is resident outside the United Kingdom,
 - (ii) is not a member of a group, and
 - (iii) meets the property income condition,
 - (e) a company which—
 - (i) is resident outside the United Kingdom,
 - (ii) is the principal company of a group,
 - (iii) is not a close company or is a close company but only because it has a qualifying investor as a direct or indirect participant, and
 - (iv) meets the property income condition, or
 - (f) a company which—
 - (i) is resident outside the United Kingdom,
 - (ii) is a member of a group but is not the principal company of the group,
 - (iii) is a close company but only because it has a qualifying investor, or a company wholly (or almost wholly) owned by qualifying investors, as a direct participant, and
 - (iv) meets the property income condition.]
- (2) A company meets the property income condition [^{F4}for the purposes of subparagraph (1)(d)] if—

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- (a) it is not a close company or is a close company but only because it has a qualifying investor as a direct or indirect participator,
- (b) at least half of its income [^{F5}derives directly or indirectly from long-term property investments],
- (c) it distributes all, or substantially all, of its [^{F6}profits from long-term property investments] on an annual basis, and
- (d) it is not liable to tax on [^{F7}its profits under the law of any territory in which it is resident so far as the profits derive directly or indirectly from long-term property investments.]

[A company meets the property income condition for the purposes of sub-^{F8}(2A) paragraph (1)(e) or (f) if—

- (a) at least half of the income of the group derives directly or indirectly from long-term property investments,
- (b) all, or substantially all, of the group’s profits from long-term property investments are distributed on an annual basis, and
- (c) the company is not liable to tax on its profits under the law of any territory in which it is resident so far as the profits derive directly or indirectly from long-term property investments.]

[References to the group in sub-paragraph (2A) are to be read, in a case where that ^{F9}(2B) sub-paragraph applies for the purposes of sub-paragraph (1)(f), as references to—

- (a) the group that, if section 170(4) is ignored, would be the group of which the company is the principal company, or
- (b) the company (if there would be no group under paragraph (a)).]

(3) Paragraph 46 (meaning of “close company”, “qualifying investor” and “direct or indirect participator”) applies for the purposes of [^{F10}this paragraph but, for the purposes of sub-paragraph (1)(f)(iii), paragraph 46 has effect as if sub-paragraph (3) (c) were omitted].

(4) [^{F11}For the purposes of this paragraph “long-term property investments” means] direct or indirect investments in—

- (a) land, or
- (b) estates, interests or rights in or over land,

which are made on a long-term basis.

(5) In this Schedule “participant” means—

- (a) in relation to a collective investment scheme or an AIF, a person who takes part in the arrangements or undertaking constituting the scheme or AIF, whether by becoming the owner of, or of any part of, the property that is the subject of or held by the arrangements or undertaking or otherwise, or
- (b) in relation to a company within (1)(c) or (d), a shareholder in the company.

(6) In this Schedule “unit” means—

- (a) in the case of a collective investment scheme or an AIF, the rights or interests (however described) of the participant in the scheme or AIF, or
- (b) in the case of a company within (1)(c) or (d), a share in the company.

(7) In this paragraph—

“AIF” has the meaning given by regulation 3 of the Alternative Investment Fund Managers Regulations 2013, and

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[^{F12}“profits” does not include profits of a capital nature.]
^{F13}
...

[For the purposes of this paragraph whether a company is a member of a group, or is ^{F14}(8) the principal company of a group, is determined in accordance with section 170.]

Textual Amendments

- F2** Words in Sch. 5AAA para. 1(1)(c) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(a)**
- F3** Sch. 5AAA para. 1(1)(d)-(f) substituted for Sch. 5AAA para. 1(1)(d) and word (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(b)**
- F4** Words in Sch. 5AAA para. 1(2) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(c)(i)**
- F5** Words in Sch. 5AAA para. 1(2)(b) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(c)(ii)**
- F6** Words in Sch. 5AAA para. 1(2)(c) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(c)(iii)**
- F7** Words in Sch. 5AAA para. 1(2)(d) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(c)(iv)**
- F8** Sch. 5AAA para. 1(2A) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(d)**
- F9** Sch. 5AAA para. 1(2B) inserted (24.3.2021) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2021 \(S.I. 2021/213\)](#), regs. 1(1), **3** (with reg. 10)
- F10** Words in Sch. 5AAA para. 1(3) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(e)**
- F11** Words in Sch. 5AAA para. 1(4) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(f)**
- F12** Words in Sch. 5AAA para. 1(7) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(g)(i)**
- F13** Words in Sch. 5AAA para. 1(7) omitted (10.4.2020) by virtue of [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(g)(ii)**
- F14** Sch. 5AAA para. 1(8) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(h)**

Meaning of “offshore collective investment vehicle”

- 2 (1) In this Schedule “offshore collective investment vehicle” means—

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- (a) a collective investment vehicle constituted as a body corporate resident outside the United Kingdom,
- (b) a collective investment vehicle under which property is held on trust for the participants where the trustees of the property are not resident in the United Kingdom, or
- (c) a collective investment vehicle constituted by other arrangements that create rights in the nature of co-ownership where the arrangements take effect as a result of the law of a territory outside the United Kingdom.

(2) In this paragraph—

- “body corporate” does not include a limited liability partnership, and
- “co-ownership” is not restricted to the meaning of that term in the law of any part of the United Kingdom.

Meaning of a collective investment vehicle being “UK property rich” etc

- 3 (1) For the purposes of this Schedule the question whether a collective investment vehicle is “UK property rich” at any time is determined by applying the rules in Part 2 of Schedule 1A [^{F15}(but without regard to paragraphs 5 and 6 of that Schedule)] on the following assumptions.
- (2) The assumptions are—
- (a) that (so far as this would not otherwise be the case) the vehicle were a company, and
 - (b) that a disposal were made at that time of a right or interest in that company.
- (3) If that disposal would be regarded for the purposes of Schedule 1A as a disposal of an asset deriving at least 75% of its value from UK land, the vehicle is regarded for the purposes of this Schedule as being UK property rich at that time.
- (4) For the purposes of this Schedule the question whether a company is “UK property rich” at any time is determined by applying the rules in Part 2 of Schedule 1A [^{F16}(but without regard to paragraphs 5 and 6 of that Schedule)] on the assumption that a disposal were made at that time of a right or interest in the company.
- (5) If that disposal would be regarded for the purposes of Schedule 1A as a disposal of an asset deriving at least 75% of its value from UK land, the company is regarded for the purposes of this Schedule as being UK property rich at that time.]

Textual Amendments

- F15** Words in Sch. 5AAA para. 3(1) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), 4
- F16** Words in Sch. 5AAA para. 3(4) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), 4

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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](#)