

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 08 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 2

BASIC RULES

Application of Act to offshore CIV

- 4 (1) This paragraph applies to an offshore collective investment vehicle—
- (a) which is not a company, and
 - (b) which is not constituted by two or more persons carrying on a trade or business in partnership.
- (2) It is to be assumed that, for relevant purposes—
- (a) the vehicle is a company, and
 - (b) the rights of the participants are shares in that company.
- (3) The reference here to “relevant purposes” means—
- (a) the purposes of this Schedule, and
 - (b) the purpose of applying section 1A(3)(b) or (c) or 2B(4) (and the other provisions of this or any other Act so far as relevant to their application) in relation to the vehicle.
- (4) This paragraph does not apply to a collective investment vehicle in relation to which an election has effect under Part 3 of this Schedule (election for transparency).
- (5) This paragraph applies in relation to a collective investment vehicle to which section 103D applies (tax transparent funds) but does not affect the operation of the rules set out in—
- (a) section 103D(4) to (9) (calculation of gains on disposal of units etc), or
 - (b) section 103DA (share pooling etc).
- (6) If this paragraph applies in relation to a collective investment vehicle, section 99 (application of Act to unit trust schemes) does not apply in relation to the scheme.

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Modifications etc. (not altering text)

- C1** Sch. 5AAA para. 4(2) modified by 2010 c. 4, s. 269ZZB(9) (as inserted (with effect in accordance with Sch. 4 para. 42 of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [Sch. 4 para. 11](#) (with [Sch. 4 paras. 43-46](#)))

Units in a CoACS treated as shares in a company

- 5 (1) This paragraph applies to a unit in an authorised contractual scheme which is a co-ownership scheme where, as a result of the application of section 103D (application of Act to tax transparent funds), the unit is treated as an asset for the purposes of this Act.
- (2) The asset is treated for the purposes of Schedule 1A as if it were a share in a company.

Disposals by non-UK residents

- 6 (1) This paragraph applies if—
- (a) a person disposes of an asset that derives at least 75% of its value from UK land (as determined in accordance with Part 2 of Schedule 1A), and
 - (b) the disposal has an appropriate connection to a collective investment vehicle (see sub-paragraphs (3) to (6) for the cases in which this test is met).
- (2) For the purposes of section 1A(3)(c) or 2B(4)(b) (disposals by non-UK residents of assets deriving 75% of value from UK land etc), the person is treated as having a substantial indirect interest in the UK land at the time of the disposal.
- (3) A disposal has an appropriate connection to a collective investment vehicle if the asset disposed of consists of a right or interest in—
- (a) a collective investment vehicle, or
 - (b) a company at least half of whose market value derives from its being a direct or indirect participant in one or more collective investment vehicles.
- (4) A disposal has an appropriate connection to a collective investment vehicle if—
- (a) the vehicle is constituted by two or more persons carrying on a trade or business in partnership, and
 - (b) the disposal is made by a person as a participant in the vehicle.
- (5) A disposal has an appropriate connection to a collective investment vehicle if the vehicle is a company and the disposal is made by it.
- (6) A disposal has an appropriate connection to a collective investment vehicle if—
- (a) a company (which is not the vehicle) makes the disposal,
 - [^{F2}(b) the vehicle is UK property rich,
 - (c) the vehicle together with one or more other collective investment vehicles have a 50% investment in the company, and
 - (d) each of those other collective investment vehicles is also UK property rich.]
- (7) Collective investment vehicles have a 50% investment in a company if, applying the rule in paragraph 9 (but without regard to paragraph 10) of Schedule 1A as if references to 25% were references to 50%, the vehicles would be regarded as having a 50% investment in the company at the time of the disposal.

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- (8) For this purpose the collective investment [^{F3}vehicles] are to be regarded as if they were a single person.
- (9) This paragraph is subject to paragraph 7 (collective investment vehicles expected to have no more than 40% investments in UK land) [^{F4}, paragraph 7A (overseas life insurance companies) and paragraph 7B (offshore collective investment vehicles (other than UK feeder vehicles) that meet the conditions in paragraph 7(2)(a) and (b))].

Textual Amendments

- F2** Sch. 5AAA para. 6(6)(b)-(d) substituted for Sch. 5AAA para. 6(6)(b) and word (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), **4(2)**
- F3** Word in Sch. 5AAA para. 6(8) substituted (with effect in accordance with reg. 1(3) 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), **5**
- F4** Words in Sch. 5AAA para. 6(9) 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), **4(3)**

- 7 (1) This paragraph applies to a disposal which would otherwise have an appropriate connection to a collective investment vehicle as a result of paragraph 6(3), (5) or (6).
- (2) A disposal does not have an appropriate connection to a collective investment vehicle if, at the time of the disposal, [^{F5}the vehicle mentioned in paragraph 6(3)(a) or (5), or each of the vehicles mentioned in paragraph 6(3)(b) or (6),] meets—
- (a) the non-UK real estate condition, and
 - (b) the genuine diversity of ownership condition or, if the vehicle is a company, the non-close condition.
- (3) If—
- (a) a disposal is made as mentioned in paragraph 6(6), and
 - (b) the vehicle mentioned there is constituted by two or more persons carrying on a trade or business in partnership,
- the condition in sub-paragraph (2)(b) is taken to be met if the company mentioned in paragraph 6(6) meets the non-close condition.
- (4) A vehicle meets the non-UK real estate condition at any time if, by reference to the prospectus for the vehicle as the prospectus has effect at that time, no more than 40% of the expected market value of the vehicle's investments is intended to derive from investments consisting of—
- (a) interests in UK land, or
 - (b) rights or interests in companies which are UK property rich.
- (5) A vehicle meets the genuine diversity of ownership condition at any time if, at that time—
- (a) [^{F6}the vehicle meets or, if the vehicle is part of multi-vehicle arrangements, the arrangements meet][^{F7}the conditions in regulation 75(2), (3) and (4)(a) of the Offshore Funds (Tax) Regulations 2009, or

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- (b) [^{F8}the vehicle meets, or those multi-vehicle arrangements meet,] the condition in regulation 75(5) of those Regulations [^{F9}(assuming for this purpose that regulation 75(4)(b) is omitted)],

^{F10} ...

[For the purposes of sub-paragraph (5), those Regulations have effect as if references ^{F11}(5A) to a fund included—

- (a) multi-vehicle arrangements, and
 (b) a collective investment vehicle which is not an offshore fund.]

- (6) A company meets the non-close condition at any time if, at that time, it—
 (a) is not a close company, or
 (b) is a close company but only because it has a qualifying investor as a direct or indirect participator.

- (7) Paragraph 46 (meaning of “close company”, “qualifying investor” and “direct or indirect participator”) applies for the purposes of sub-paragraph (6).

[In this Schedule “multi-vehicle arrangements” means arrangements comprising two ^{F12}(8) or more vehicles under which an investor in one of those vehicles would reasonably regard that investment as an investment in the arrangements as a whole rather than exclusively in any particular vehicle.]

Textual Amendments

- F5** Words in Sch. 5AAA para. 7(2) substituted (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), **5**
- F6** Words in Sch. 5AAA para. 7(5)(a) substituted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), **Sch. 4 para. 1(2)(a)(i)**
- F7** Words in Sch. 5AAA para. 7(5)(a) substituted (with effect in accordance with reg. 1(3) 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), **6(a)**
- F8** Words in Sch. 5AAA para. 7(5)(b) substituted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), **Sch. 4 para. 1(2)(a)(ii)**
- F9** Words in Sch. 5AAA para. 7(5)(b) inserted (with effect in accordance with reg. 1(3) 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), **6(b)**
- F10** Words in Sch. 5AAA para. 7(5) omitted (11.7.2023) by virtue of [Finance \(No. 2\) Act 2023 \(c. 30\)](#), **Sch. 4 para. 1(2)(a)(iii)**
- F11** Sch. 5AAA para. 7(5A) inserted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), **Sch. 4 para. 1(2)(b)**
- F12** Sch. 5AAA para. 7(8) inserted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), **Sch. 4 para. 1(2)(c)**

Overseas life insurance companies

[(1) Paragraph 6 does not apply if—

- ^{F13}7A. (a) the person making the disposal (“D”) is an overseas life insurance company or would be such a company if it were carrying on its life assurance business in the United Kingdom through a permanent establishment there,
 (b) immediately before the disposal, no more than 40% of the market value of D’s assets derives from investments consisting of—

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- (i) interests in UK land, or
 - (ii) rights or interests in companies which are UK property rich,
 - (c) the asset disposed of is a right or interest in a collective investment vehicle that is a company (whether as a result of paragraph 4 or otherwise) and is UK property rich, and
 - (d) immediately before the disposal, D does not have a 10% investment in that vehicle.
- (2) D has a 10% investment in a collective investment vehicle if, applying the rule in paragraph 9 (but without regard to paragraph 10) of Schedule 1A as if references to 25% were references to 10%, D would be regarded as having a 10% investment in the vehicle.]

Textual Amendments

F13 Sch. 5AAA paras. 7A, 7B 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)(2), 6

Offshore collective investment vehicles (other than UK feeder vehicles) that meet the conditions in paragraph 7(2)(a) and (b)

- [^{F13}7B. (1) Paragraph 6 does not apply if—
- (a) the person making the disposal is an offshore collective investment vehicle which meets the conditions in paragraph 7(2)(a) and (b),
 - (b) immediately before the disposal, the offshore collective investment vehicle is not a UK feeder vehicle,
 - (c) the asset disposed of is a right or interest in a collective investment vehicle that is a company (whether as a result of paragraph 4 or otherwise) and is UK property rich (a “UK property rich vehicle”), and
 - (d) immediately before the disposal, the offshore collective investment vehicle does not have a 10% investment in the UK property rich vehicle.
- (2) An offshore collective investment vehicle is a “UK feeder vehicle” at any time if at least 85% of the market value of the assets of the vehicle at that time derives from units in a single collective investment vehicle that is UK property rich.
- (3) An offshore collective investment vehicle has a 10% investment in a UK property rich vehicle if, applying the rule in paragraph 9 (but without regard to paragraph 10) of Schedule 1A as if references to 25% were references to 10%, the offshore collective investment vehicle would be regarded as having a 10% investment in the UK property rich vehicle.]]

Textual Amendments

F13 Sch. 5AAA paras. 7A, 7B 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)(2), 6

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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](#)