SCHEDULES

SCHEDULE 7

Section 37

DISPOSALS OF UK RESIDENTIAL PROPERTY INTERESTS BY NON-RESIDENTS ETC

PART 1

AMENDMENTS OF TCGA 1992

1 TCGA 1992 is amended in accordance with paragraphs 2 to 40.

2 In section 1 (the charge to tax), in subsection (2A), for the words from "gains are" to the end substitute "gains are—

(a) ATED-related gains in respect of which the companies are chargeable to capital gains tax under section 2B, or

(b) NRCGT gains in respect of which the companies are chargeable to capital gains tax under section 14D or 188D."

3 (1) Section 2 (persons and gains chargeable to capital gains tax, and allowable losses) is amended as follows.

(2) After subsection (2) insert—

"(2A) Where subsection (1B) applies, the amounts that may be deducted under subsection (2)(a) include any allowable NRCGT losses accruing to the person in the overseas part of the tax year concerned (see section 14B(4)).

(2B) The amounts that may be deducted under subsection (2)(b) include any allowable NRCGT losses (other than group losses, as defined in section 188E(4)) accruing to the person in a tax year ("year P") previous to the year mentioned in subsection (2)(a) (so far as those losses have not been allowed as a deduction from chargeable gains accruing in year P or any previous year)."

(3) After subsection (7A) insert—

"(7B) Except where otherwise specified (see subsections (2A) and (2B)), nothing in this section applies in relation to an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D or 188D."

4 In section 2B (persons chargeable to capital gains tax on ATED-related gains), in subsection (10), in paragraph (b) of the definition of "ring-fenced ATED-related allowable losses", for "from ATED-related chargeable gains accruing in any previous tax year on relevant high value disposals," substitute " from chargeable gains accruing in any previous tax year, ".

5 (1) Section 3 (annual exempt amount) is amended as follows.

(2) In subsection (5), for the words from "is the amount" to the end substitute "is (what would apart from this section be) the total of the amounts for that year on which that individual is chargeable to capital gains tax in accordance with either (or both) of—

(a) section 2 (gains, other than ATED-related gains and NRCGT gains, chargeable to capital gains tax), and

(b) section 14D (NRCGT gains chargeable to capital gains tax)."

(3) After subsection (5B) insert—

"(5BA) In this section, "adjusted net gains", in relation to a tax year and an individual, means—

(a) if the residence condition is met (see section 2(1A)) and the year is not a split year as respects the individual, the section 2 adjusted net gains;

(b) if the residence condition is not met, the section 14D adjusted net gains;

(c) if the residence condition is met and the year is a split year as respects the individual, the total of the section 2 adjusted net gains (if any) and the section 14D adjusted net gains (if any)."

(4) In subsection (5C), for the words from "In subsections" to "in his case by—" substitute " In subsection (5BA) "section 2 adjusted net gains", in relation to an individual and a tax year, means the amount given in the individual's case by— ".

(5) After subsection (5C) insert—

"(5D) In subsection (5BA) "section 14D adjusted net gains", in relation to an individual and a tax year, means the amount given in the individual's case by—

(a) taking the amount from which the deductions provided for by paragraphs (a) and (b) of subsection (2) of section 14D are to be made, and

(b) deducting only the amounts falling to be deducted in accordance with paragraph (a) of that subsection."

(6) In subsection (7), for "(5C)" substitute " (5D) ".

6 In section 4 (rates of capital gains tax), after subsection (3A) insert—

"(3B) The rate of capital gains tax is 20% in respect of—

(a) gains chargeable under section 14D accruing to a company in a tax year, and

(b) gains chargeable under section 188D accruing in a tax year to the relevant body of an NRCGT group (as defined in that section)."

7 For section 4B (deduction of losses etc in most beneficial way) substitute—

"**4B Deduction of losses etc in most beneficial way**

(1) Where it is necessary to determine—

(a) from which chargeable gains an allowable loss accruing to a person is to be deducted, or

(b) which allowable losses are to be deducted from any chargeable gains accruing to a person,

(including in a case falling within subsection (2)), the losses concerned may be used in whichever way is most beneficial to that person.

(2) Where the gains accruing to a person in a tax year are (apart from this section) chargeable to capital gains tax at different rates, the exempt amount under section 3 may be used in respect of those gains in whichever way is most beneficial to that person.

(3) This section is subject to any enactment which contains a limitation on the gains from which allowable losses may be deducted."

8 (1) Section 8 (company's profits for corporation tax purposes to include chargeable gains) is amended as follows.

(2) In subsection (1), in paragraph (b), omit the words from "period" to the end and insert "period—

(i) any allowable losses previously accruing to the company while it has been within the charge to corporation tax, and

(ii) any allowable NRCGT losses previously accruing to the company."

(3) After subsection (4A) insert—

"(4B) Subject to subsection (1)(b)(ii), nothing in this section applies in relation to an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D or 188D."

9 In section 10A (temporary non-residents), as that section has effect where the year of departure (as defined in Part 4 of Schedule 45 to FA 2013) is the tax year 2012-13 or an earlier tax year, in subsection (5) after "section 10" insert " , 14D ".

10 In section 13 (attribution of gains to members of non-resident companies), in subsection (1A), for the words from "an ATED-related gain" to the end substitute—

"(a) an ATED-related gain chargeable to capital gains tax by virtue of section 2B (capital gains tax on ATED-related gains), or

(b) an NRCGT gain chargeable to capital gains tax by virtue of section 14D or 188D (capital gains tax on NRCGT gains)."

11 After section 14A insert—

"UK residential property: non-resident CGT

14B Meaning of "non-resident CGT disposal"

(1) For the purposes of this Act a disposal made by a person is a "non-resident CGT disposal" if—

(a) it is a disposal of a UK residential property interest, and

(b) condition A or B is met.

But see also subsection (5).

(2) Condition A is—

(a) in the case of an individual, that the individual is not resident in the United Kingdom for the tax year in question (see subsection (3)),

(b) in the case of personal representatives of a deceased person, that the single and continuing body mentioned in section 62(3) is not resident in the United Kingdom,

(c) in the case of the trustees of a settlement, that the single person mentioned in section 69(1) is not resident in the United Kingdom during any part of the tax year in question, and

(d) in any other case, that the person is not resident in the United Kingdom at the relevant time.

(3) In subsection (2)—

(a) "the tax year in question" means the tax year in which any gain on the disposal accrues (or would accrue were there to be such a gain);

(b) "the relevant time" means the time at which any gain on the disposal accrues (or would accrue were there to be such a gain).

(4) Condition B is that—

(a) the person is an individual, and

(b) any gain accruing to the individual on the disposal would accrue in the overseas part of a tax year which is a split year as respects the individual.

(5) A disposal by a person of a UK residential property interest is not a non-resident CGT disposal so far as any chargeable gains accruing to the person on the disposal—

(a) would be gains in respect of which the person would be chargeable to capital gains tax—

(i) under section 10(1) (non-resident with UK branch or agency), or

(ii) under section 2 as a result of subsection (1C) of that section (corresponding provision relating to the overseas part of a split year), or

(b) would be gains forming part of the person's chargeable profits for corporation tax purposes by virtue of section 10B (non-resident company with UK permanent establishment).

14C Meaning of "disposal of a UK residential property interest"

Schedule B1 gives the meaning in this Act of "disposal of a UK residential property interest".

14D Persons chargeable to capital gains tax on NRCGT gains

(1) A person is chargeable to capital gains tax in respect of any chargeable NRCGT gain accruing to the person in the tax year on a non-resident CGT disposal.

See also section 188D(1).

(2) Capital gains tax is charged on the total amount of chargeable NRCGT gains accruing to the person in the tax year, after deducting—

(a) any allowable losses accruing to the person in the tax year on disposals of UK residential property interests, and

(b) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous tax year, any allowable losses accruing to the person in any previous tax year (not earlier than the tax year 1965-66) on disposals of UK residential property interests.

(3) In subsection (2), the reference to chargeable NRCGT gains does not include any such gains which accrue to a member of an NRCGT group.

(4) The only deductions that can be made from chargeable NRCGT gains to which subsection (2) applies are those permitted by this section.

This is subject to section 62(2AA) (carry-back of losses accruing in year of death).

(5) See section 57B and Schedule 4ZZB for how to determine—

(a) whether an NRCGT gain (or loss) accrues on a non-resident CGT disposal, and

(b) the amount of any NRCGT gain (or loss) so accruing.

14E Further provision about use of NRCGT losses

(1) Subsections (2) to (4) apply in relation to an allowable NRCGT loss accruing to a person in a tax year on a non-resident CGT disposal.

(2) The loss is not allowable as a deduction from chargeable gains accruing in any earlier tax year.

This is subject to section 62(2) and (2AA) (carry-back of losses accruing in year of death).

(3) Relief is not to be given under this Act more than once in respect of the loss or any part of the loss.

(4) Relief is not to be given under this Act in respect of the loss if, and so far as, relief has been or may be given in respect of it under the Tax Acts.

14F Persons not chargeable under section 14D if a claim is made

(1) A person is not chargeable to capital gains tax under section 14D in respect of a chargeable NRCGT gain accruing to the person on a non-resident CGT disposal if the person—

(a) is an eligible person in relation to the disposal, and

(b) makes a claim under this section with respect to the disposal.

(2) A diversely-held company which makes a non-resident CGT disposal is an eligible person in relation to the disposal.

(3) A scheme (see subsection (7)) which makes a non-resident CGT disposal is an eligible person in relation to the disposal if condition A or B is met.

(4) Condition A is that the scheme is a widely-marketed scheme throughout the relevant ownership period.

(5) Condition B is that—

(a) an investor in the scheme is an offshore fund, an open-ended investment company or an authorised unit trust ("the feeder fund"),

(b) the scheme is a widely-marketed scheme throughout the alternative period, after taking into account—

(i) the scheme documents relating to the feeder fund, and

(ii) the intended investors in the feeder fund, and

(c) the scheme and the feeder fund have the same manager.

(6) A company carrying on life assurance business (as defined in section 56 of the Finance Act 2012) which makes a non-resident CGT disposal is an eligible person if immediately before the time of the disposal the interest in UK land which is the subject of that disposal is held for the purpose of providing benefits to policyholders in the course of that business.

(7) In this section "scheme" means any of the following—

(a) a unit trust scheme;

(b) a company which is an open-ended investment company incorporated by virtue of regulations under section 262 of the Financial Services and Markets Act 2000;

(c) a company incorporated under the law of a territory outside the United Kingdom which is, under that law, the equivalent of an open-ended investment company.

(8) In this section "the relevant ownership period", in relation to a scheme, means—

(a) the period beginning with the day on which the scheme acquired the interest in UK land which (or part of which) is the subject of the non-resident CGT disposal and ending with the day on which that disposal occurs, or

(b) if shorter, the period of 5 years ending with the day on which that disposal occurs.

(9) For the purposes of subsection (5), the "alternative period", in relation to a scheme, is the shorter of—

(a) the relevant ownership period, and

(b) the period beginning when the feeder fund first became an investor in the scheme and ending with the date of the disposal.

(10) In this section—

"diversely-held company" means a company which is not a closely-held company;

"interest in UK land" has the same meaning as in Schedule B1;

"open-ended investment company" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 236 of that Act).

(11) In Schedule C1—

(a) Part 1 sets out the rules for determining whether or not a company is a closely-held company;

(b) Part 2 sets out how to determine whether or not a scheme is a widely-marketed scheme at any time.

14G Section 14F: divided companies

(1) This section applies where a company which makes a non-resident CGT disposal—

(a) is a divided company, and

(b) would, without this section, be an eligible person for the purposes of section 14F in relation to the disposal.

(2) In determining for the purposes of section 14F whether or not the company is an eligible company in relation to the disposal, the company is to be treated as if it were a closely-held company if the conditions in subsection (3) are met.

(3) The conditions are that—

(a) the gain or loss accruing on the disposal is primarily or wholly attributable to a particular division of the company, and

(b) if that division were a separate company, that separate company would be a closely-held company.

(4) For the purposes of this section a company is a "divided company" if, under the law under which the company is formed, under the company's articles of association or other document regulating the company or under arrangements entered into by or in relation to the company—

(a) some or all of the assets of the company are available primarily, or only, to meet particular liabilities of the company, and

(b) some or all of the members of the company, and some or all of its creditors, have rights primarily, or only, in relation to particular assets of the company.

(5) References in this section to a "division" of a divided company are to an identifiable part of the company that carries on distinct business activities and to which particular assets and liabilities of the company are primarily or wholly attributable.

14H Section 14F: arrangements for avoiding tax

(1) Subsection (2) applies where—

(a) arrangements are entered into, and

(b) the main purpose, or one of the main purposes, of any party entering into them (or any part of them) is to avoid capital gains tax being charged under section 14D as a result of a person not being an eligible person in relation to the disposal by virtue of subsection (2) (diversely-held companies) or, as the case may be, subsection (3) (widely-marketed schemes) of section 14F (persons not chargeable under section 14D if a claim is made).

(2) The arrangements (or that part of the arrangements) are to be disregarded in determining whether or not the company is an eligible person by virtue of that subsection.

(3) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."

12 In section 16 (computation of losses), in subsection (3), for "or 10B," substitute " , 10B, 14D or 188D ".

13 After section 25 insert—

"**25ZA Deemed disposal of UK residential property interest under section 25(3)**

(1) This section applies if, ignoring subsections (3) and (4)—

(a) a gain or loss would accrue to a person on a disposal of a UK residential property interest deemed to have been made by virtue of section 25(3), and

(b) on the assumptions in subsection (2), that gain or loss would be an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D (see section 57B and Schedule 4ZZB).

(2) The assumptions are—

(a) the disposal is a non-resident CGT disposal, and

(b) if the person is a company, any claim which the company could make under section 14F is made.

(3) No gain or loss accrues to the person on that disposal.

(4) But, on a subsequent disposal of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1)(a), the whole or a corresponding part of the gain or loss which would have accrued to the person were it not for subsection (3)—

(a) is deemed to accrue to the person (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D accruing on a non-resident CGT disposal.

(5) A person may make an election for subsections (3) and (4) not to apply in relation to the disposal mentioned in subsection (1)(a).

(6) If the person is a company, such an election must be made within 2 years after the day on which the company ceases to carry on a trade in the United Kingdom through a branch or agency.

(7) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

14 After section 48 insert—

"**48A Unascertainable consideration**

(1) This section applies where—

(a) a person ("P") has made a non-resident CGT disposal in relation to which there accrued to P an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D or 188D ("the original disposal"),

(b) P acquired a right as the whole or part of the consideration for that disposal,

(c) on P's acquisition of the right, there was no corresponding disposal of it, and

(d) the right is a right to unascertainable consideration (see subsections (4) to (6)).

(2) If P subsequently receives consideration ("the ascertained consideration") representing the whole or part of the consideration referred to in subsection (1)(d) and condition A in section 14B would have been met in relation to the original disposal had a gain on that disposal accrued at the time of the receipt of the ascertained consideration—

(a) the ascertained consideration is treated as not accruing on the disposal of the right,

(b) the costs of P's acquisition of the right (or, in the case of a part disposal of the right, those costs so far as referable to the part disposed of) are taken to be nil, and

(c) the following steps are taken.

Step 1 Any amount by which the ascertained consideration exceeds the relevant original consideration is treated as consideration (or further consideration) accruing on the original disposal. If the relevant original consideration exceeds the ascertained consideration, the consideration accruing on the original disposal is treated as reduced by the amount of the excess.

Step 2 Compute the difference that the adjustment under step 1 makes to what (if any) NRCGT gain or loss, ATED-related gain or loss or other gain or loss accrues on the original disposal (computing this separately for each type of gain or loss). The difference is "positive" if a loss is decreased (to nil or otherwise) or a gain created or increased. The difference is "negative" if a gain is reduced (to nil or otherwise) or a loss created or increased.

Step 3 Any positive amount computed under step 2 is treated for the purposes of this Act and the Management Act as a gain (of the type appropriate to the computation) accruing to P at the time of the receipt of the ascertained consideration. Any negative amount computed under step 2 is treated for the purposes of this Act and the Management Act as a loss (of the type appropriate to the computation) accruing to P at the time of the receipt of the ascertained consideration.

(3) In step 1 in subsection (2), "the relevant original consideration" means the consideration accruing on the original disposal, so far as referable to the right mentioned in subsection (1)(b) (or, in the case of a part disposal of the right, referable to the part disposed of).

(4) A right is a right to unascertainable consideration if, and only if—

(a) it is a right to consideration the amount or value of which is unascertainable at the time when the right is conferred, and

(b) that amount or value is unascertainable at that time on account of its being referable, in whole or in part, to matters which are uncertain at that time because they have not yet occurred.

This subsection is subject to subsections (5) and (6).

(5) The amount or value of any consideration is not to be regarded as being unascertainable by reason only—

(a) that the right to receive the whole or any part of the consideration is postponed or contingent, if the consideration or, as the case may be, that part of it is, in accordance with section 48, brought into account in the computation of the gain accruing to a person on the disposal of an asset, or

(b) in a case where the right to receive the whole or any part of the consideration is postponed and is to be, or may be, to any extent satisfied by the receipt of property of one description or property of some other description, that some person has a right to select the property, or the description of property, that is to be received.

(6) A right is not to be taken to be a right to unascertainable consideration by reason only that either the amount or the value of the consideration has not been fixed, if—

(a) the amount will be fixed by reference to the value, and the value is ascertainable, or

(b) the value will be fixed by reference to the amount, and the amount is ascertainable."

15 In section 57A (gains and losses on relevant high value disposals), after subsection (2) insert—

"(3) Subsection (2) does not apply where Part 4 of Schedule 4ZZB applies (non-resident CGT disposals which are or involve relevant high value disposals)."

16 In Part 2, after Chapter 5 insert—

"CHAPTER 6

COMPUTATION OF GAINS AND LOSSES: NON-RESIDENT CGT DISPOSALS

Gains and losses on non-resident CGT disposals

57B (1) Schedule 4ZZB makes provision about the computation of—

(a) NRCGT gains or losses, and

(b) other gains or losses,

on non-resident CGT disposals.

(2) For further provision about non-resident CGT disposals and NRCGT gains and losses see sections 14B to 14H and 188D and 188E."

17 (1) Section 62 (death: general provisions) is amended as follows.

(2) In subsection (2A), for the words from "are gains" to the end substitute "are—

(a) gains that are treated as accruing by virtue of section 87 or 89(2) (read, where appropriate, with section 10A), or

(b) NRCGT gains (see section 57B and Schedule 4ZZB)."

(3) After subsection (2A) insert—

"(2AA) Where allowable NRCGT losses (see section 57B and Schedule 4ZZB) are sustained by an individual in the year of assessment in which the individual dies, the losses may, so far as they cannot be deducted from chargeable gains accruing to the individual in that year, be deducted from any gains such as are mentioned in subsection (2A)(b) that accrued to the deceased in the 3 years of assessment preceding the year of assessment in which the death occurs, taking chargeable gains accruing in a later year before those accruing in an earlier year."

18 After section 80 insert—

"**80A Deemed disposal of UK residential property interest under section 80**

(1) Subsection (2) applies if, ignoring subsections (2) to (4)—

(a) a gain or loss would accrue to the trustees of a settlement on a disposal of a UK residential property interest deemed to have been made by virtue of section 80(2), and

(b) on the assumption that the disposal is a non-resident CGT disposal, that gain or loss would be a chargeable NRCGT gain or an allowable NRCGT loss (see section 57B and Schedule 4ZZB).

(2) The trustees may elect for subsections (3) and (4) to have effect.

(3) No gain or loss accrues to the trustees on that disposal.

(4) But, on a subsequent disposal of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1)(a), the whole or a corresponding part of the gain or loss which would have accrued to the trustees were it not for subsection (3)—

(a) is deemed to accrue to the trustees (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as a chargeable NRCGT gain or an allowable NRCGT loss accruing on a non-resident CGT disposal.

(5) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

19 In section 86 (attribution of gains to settlors with interest in non-resident or dual-resident settlements), after subsection (4) insert—

"(4ZA) Where a disposal of any settled property (which would apart from this subsection meet the condition in subsection (1)(e) with respect to the tax year) is a non-resident CGT disposal—

(a) any chargeable gain or allowable loss accruing on the disposal, other than an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D, is to be treated as if it were a chargeable gain or (as the case requires) allowable loss falling to be taken into account in calculating the amount mentioned in subsection (1)(e) for the tax year, and

(b) the disposal is otherwise to be disregarded for the purposes of subsection (1)(e)."

20 In section 87 (non-UK resident settlements: attribution of gains to beneficiaries), after subsection (5) insert—

"(5A) For the purpose of determining the section 2(2) amount for a settlement for a tax year—

(a) any chargeable gain or allowable loss accruing in that tax year on a non-resident CGT disposal made (or treated as made) by the trustees, other than an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D, is to be treated as if it were a chargeable gain or (as the case requires) allowable loss falling to be taken into account in calculating the amount mentioned in subsection (4)(a), and

(b) such a disposal is otherwise to be disregarded."

21 (1) Section 139 (reconstruction involving transfer of business) is amended as follows.

(2) In subsection (1A)—

(a) in paragraph (a), after "chargeable assets" insert " or NRCGT assets ";

(b) in paragraph (b), after "chargeable assets" insert " or NRCGT assets ".

(3) After subsection (1A) insert—

"(1AA) For the purposes of subsection (1A), an asset is an "NRCGT asset" in relation to a company at any time if—

(a) the disposal of the asset by the company at that time would be a non-resident CGT disposal, and

(b) the company would not be, in relation to that disposal, an eligible person (as defined in section 14F)."

22 After section 159 insert—

"**159A Non-resident CGT disposals: roll-over relief**

(1) Section 152 does not apply in relation to a person who would (apart from that section) be chargeable to capital gains tax under section 14D or 188D in respect of NRCGT gains accruing on the disposal of the old assets, unless the new assets are qualifying residential property interests immediately after the time they are acquired.

(2) For the purposes of this section an asset is a "qualifying residential property interest" at any time if it—

(a) is an interest in UK land, and

(b) consists of or includes a dwelling.

(3) In this section—

(a) "dwelling" has the meaning given by paragraph 4 of Schedule B1;

(b) "interest in UK land" has the meaning given by paragraph 2 of Schedule B1;

(c) "the old assets" and "the new assets" have the same meaning as in section 152;

(d) the reference to disposal of the old assets includes a reference to disposal of an interest in them;

(e) the reference to acquisition of the new assets includes a reference to acquisition of an interest in them or entering into an unconditional contract for the acquisition of them."

23 (1) Section 165 (relief for gifts of business assets) is amended as follows.

(2) In subsection (1), after "167," insert " 167A, ".

(3) After subsection (7) insert—

"(7A) Subsections (7B) and (7C) apply in any case where—

(a) the disposal is a non-resident CGT disposal, and

(b) the transferee is resident in the United Kingdom.

(7B) Subsections (4) and (6) have effect in relation to the disposal as if the references to "chargeable gain" were references to "chargeable NRCGT gain".

(7C) Subsection (7) has effect in relation to the disposal as if the reference to "the excess referred to in paragraph (b) above" were a reference to "the chargeable NRCGT gain which, ignoring this section and section 17(1), would accrue to the transferor on the disposal"."

24 In section 166 (gifts to non-residents), in subsection (1), for "Section 165(4)" substitute " Subject to section 167A, section 165(4) ".

25 In section 167 (gifts to foreign-controlled companies), in subsection (1), for "Section 165(4)" substitute " Subject to section 167A, section 165(4) ".

26 After section 167 insert—

"**167A Gifts of UK residential property interests to non-residents**

(1) This section applies where the disposal in relation to which a claim could be made under section 165 is a disposal of a UK residential property interest to a transferee who is not resident in the United Kingdom and, ignoring section 165—

(a) a gain would accrue to the transferor on the disposal, and

(b) on the assumption that the disposal is a non-resident CGT disposal (whether or not that is the case), that gain would be a chargeable NRCGT gain (see section 57B and Schedule 4ZZB).

(2) Section 165(4) has effect in relation to the disposal as if it read—

"(4) Where a claim for relief is made under this section in respect of the disposal, the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, shall be reduced by an amount equal to the held-over gain on the disposal."

(3) Where the disposal is a non-resident CGT disposal—

(a) section 165(4), as modified by subsection (2) of this section, has effect in relation to the disposal as if the reference to "chargeable gain" were a reference to "chargeable NRCGT gain",

(b) section 165(6) has effect in relation to the disposal as if the references to "chargeable gain" were references to "chargeable NRCGT gain", and

(c) section 165(7) has effect in relation to the disposal as if the reference to "the excess referred to in paragraph (b) above" were a reference to "the chargeable NRCGT gain which, ignoring this section and section 17(1), would accrue to the transferor on the disposal".

(4) Where a claim for relief is made under section 165 in relation to the disposal mentioned in subsection (1), on a subsequent disposal by the transferee of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1), the whole or a corresponding part of the held-over gain (see section 165(6))—

(a) is deemed to accrue to the transferee (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as an NRCGT gain chargeable to capital gains tax by virtue of section 14D accruing on a non-resident CGT disposal.

(5) Where the subsequent disposal mentioned in subsection (4) is (or proves to be) a chargeable transfer for inheritance tax purposes, section 165(10) has effect in relation to the disposal as if—

(a) the reference to "the chargeable gain accruing to the transferee on the disposal of the asset" were a reference to the chargeable gain accruing on the disposal as computed apart from subsection (4), and

(b) the reference in section 165(10)(b) to "the chargeable gain" were a reference to—

(i) the chargeable gain chargeable to capital gains tax by virtue of any provision of this Act accruing on the disposal, and

(ii) the held-over gain deemed to accrue under subsection (4).

(6) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

27 In section 168 (emigration of donee), in subsection (1), after paragraph (a) insert—

"(aa) the transferee is resident in the United Kingdom at the time of that disposal; and".

28 After section 168 insert—

"**168A Deemed disposal of UK residential property interest under section 168**

(1) Subsection (2) applies if, ignoring subsections (2) to (4)—

(a) a gain would accrue to a transferee on a disposal of a UK residential property interest deemed to have been made by virtue of section 168(1), and

(b) on the assumption that the disposal is a non-resident CGT disposal, that gain would be an NRCGT gain chargeable to capital gains tax by virtue of section 14D (see section 57B and Schedule 4ZZB).

(2) The transferee may elect for subsections (3) and (4) to have effect.

(3) The held-over gain (within the meaning of section 165 or 260) does not accrue to the transferee on that disposal.

(4) But, on a subsequent disposal of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1)(a), the whole or a corresponding part of the held-over gain which would have accrued to the transferee were it not for subsection (3)—

(a) is deemed to accrue to the transferee (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as an NRCGT gain chargeable to capital gains tax by virtue of section 14D accruing on a non-resident CGT disposal.

(5) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

29 After section 187A insert—

"**187B Deemed disposal of UK residential property interest under section 185**

(1) This section applies if, ignoring subsections (3) and (4)—

(a) a gain or loss would accrue to a company on a disposal of a UK residential property interest deemed to have been made by virtue of section 185(2), and

(b) on the assumptions in subsection (2), that gain or loss would be an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D or 188D (see section 57B and Schedule 4ZZB).

(2) The assumptions are that—

(a) the disposal is a non-resident CGT disposal, and

(b) any claim which the company could make under section 14F is made.

(3) No gain or loss accrues to the company on that disposal.

(4) But, on a subsequent disposal of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1)(a), the whole or a corresponding part of the gain or loss which would have accrued to the company were it not for subsection (3)—

(a) is deemed to accrue to the company (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D accruing on a non-resident CGT disposal.

(5) A company may make an election for subsections (3) and (4) not to apply in relation to the disposal mentioned in subsection (1)(a).

(6) Such an election must be made within 2 years after the day on which the company ceases to be resident in the United Kingdom.

(7) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

30 Before section 189 (and the italic heading before it), insert—

"Pooling of NRCGT gains and losses

Election for pooling

188A(1) A "pooling election" is an election which—

(a) specifies the date from which the election is to have effect (the "effective date" of the election), and

(b) is made by all those members of a group (the "potential pooling group") which are qualifying members.

(2) For this purpose the "qualifying members" of a group are all the companies which are members of that group and meet the qualifying conditions on the effective date of the election.

(3) The "qualifying conditions" are met by a company at any time when it—

(a) is not resident in the United Kingdom,

(b) is a closely-held company,

(c) is not a company carrying on life assurance business (as defined in section 56 of the Finance Act 2012),

(d) does not hold any chargeable residential assets, and

(e) holds an asset the disposal of which would be a disposal of a UK residential property interest.

(4) For the purposes of subsection (3), an asset is a "chargeable residential asset" at any time if a disposal of the asset at that time would be a non-resident CGT disposal but for section 14B(5) (gains forming part of chargeable profits for corporation tax purposes by virtue of section 10B etc).

(5) The day on which a pooling election is made must not be later than the 30th day after the day specified as its effective date.

(6) A pooling election is irrevocable.

(7) In this section—

"closely-held company" is to be interpreted in accordance with Part 1 of Schedule C1;

"group" is to be interpreted in accordance with section 170.

Meaning of "NRCGT group"

188B(1) The companies which make a pooling election form an NRCGT group.

(2) An NRCGT group continues to exist as long as at least one member of the NRCGT group continues to be a member of the potential pooling group and to meet the conditions in paragraphs (a) to (d) of section 188A(3).

(3) See also section 188F (companies becoming eligible to join NRCGT group) and section 188G (company ceasing to be a member of an NRCGT group).

Transfers within an NRCGT group

188C(1) This section applies where a company ("company A") makes a non-resident CGT disposal to another company ("company B") at a time when both companies are members of the same NRCGT group.

(2) In subsections (3) to (5) "the asset" means the asset which is the subject of that disposal.

(3) For the relevant purposes (see subsection (4))—

(a) company A's acquisition of the asset is treated as company B's acquisition of the asset,

(b) everything done by company A in relation to the asset in the period of company A's ownership of the asset is accordingly treated as done by company B, and

(c) the disposal mentioned in subsection (1) is accordingly disregarded.

(4) The "relevant purposes" means the purposes of—

(a) the determination of whether or not an NRCGT gain or loss accrues on the disposal mentioned in subsection (1) or any subsequent disposal of the asset;

(b) the determination of the amount of any such gain or loss;

(c) the treatment for capital gains tax purposes of any such gain or loss.

(5) Accordingly, references in subsection (3) to an acquisition made by, or anything else done by, company A include anything that company A is treated as having done as a result of the application of this section in relation to an earlier disposal of the asset.

(6) Nothing in this section affects the treatment of the disposal in question for any other purposes (including the computation of any gains or losses, other than NRCGT gains or losses, that may accrue on the disposal).

Person chargeable to capital gains tax on NRCGT gains accruing to members of an NRCGT group

188D(1) The relevant body for a tax year ("year Y") of an NRCGT group (see subsection (4)) is chargeable to capital gains tax in respect of chargeable NRCGT gains accruing to members of the group in the tax year on non-resident CGT disposals (and section 14D(1) does not apply to such gains).

(2) Capital gains tax is charged on the total amount of chargeable NRCGT gains accruing in year Y to members of the NRCGT group, after deducting—

(a) any allowable NRCGT losses accruing in year Y to any member of the NRCGT group,

(b) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous tax year, any allowable NRCGT losses which in any previous tax year (not earlier than the tax year 2015-16) accrued to any member of the NRCGT group, and

(c) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous tax year, any allowable losses (not falling within paragraph (b)) on disposals of UK residential property

interests which in any previous tax year (not earlier than the tax year 1965-66) accrued to any company which is, at any time in year Y, a member of the NRCGT group.

(3) The only deductions that can be made in calculating the total amount of chargeable NRCGT gains accruing as mentioned in subsection (2) are those permitted by this section.

(4) The "relevant body" of an NRCGT group for a tax year is the body constituted by all the companies which are members of that NRCGT group at any time in that tax year.

(5) This Act and the Management Act have effect with any modifications that may be necessary in relation to cases where the relevant body of an NRCGT group is chargeable to capital gains tax in accordance with this section.

Further provision about group losses

188E (1) Relief is not to be given under this Act more than once in respect of a group loss or any part of a group loss.

(2) Relief is not to be given under this Act in respect of a group loss if, and so far as, relief has been or may be given in respect of it under the Tax Acts.

(3) No relief is to be given otherwise than in accordance with this section for group losses.

(4) In this section "group loss" means an NRCGT loss accruing to a member of an NRCGT group.

Companies becoming eligible to join an NRCGT group

188F (1) A company which is not a member of an NRCGT group and is eligible to become a member of that group may elect to do so.

(2) A company is eligible to become a member of an NRCGT group at any time when it—

(a) is a member of the potential pooling group, and

(b) meets the qualifying conditions.

But see subsections (3) and (4).

(3) Subsection (4) applies if, throughout a period of 12 months, a company—

(a) holds a UK residential asset, and

(b) is eligible to become a member of an NRCGT group.

(4) If the company has not elected to become a member of the NRCGT group by the end of that period of 12 months, the company is not eligible to become a member of the NRCGT group at any time after the end of that period of 12 months.

(5) The effect of subsection (4) in relation to a company expires if at any time the company—

(a) no longer holds the whole or part of any UK residential asset that was held by the company at any time in the 12 month period referred to in subsection (3), but

(b) holds another UK residential asset.

(6) For the purposes of this section a person holds a "UK residential asset" at any time when the person holds an interest in UK land the disposal of which would be a disposal of a UK residential property interest.

Company ceasing to be a member of an NRCGT group

188G(1) A company ceases to be a member of an NRCGT group if it ceases—

(a) to be a member of the potential pooling group, or

(b) to meet the any of the conditions in paragraphs (a) to (d) of section 188A(3).

(2) Where a company ceases to be a member of an NRCGT group, the company is treated for the purposes of this Act and the Management Act as having—

(a) disposed of the relevant assets immediately before the company ceased to be a member of the NRCGT group, and

(b) immediately re-acquired them,

at their market value at that time.

(3) References in subsection (2) to a company ceasing to be a member of an NRCGT group do not apply to cases where a company ceases to be a member of the potential pooling group in consequence of another member of that group ceasing to exist.

(4) Subsection (2) does not apply in a case where all the companies which are members of an NRCGT group cease to be members of that NRCGT group by reason only of an event which causes—

(a) the principal company of the potential pooling group to cease to be a closely-held company, or

(b) the head of a sub-group of which they are members, to cease to be a closely-held company or to become a member of another group (as defined in section 170).

(5) Subsection (2) does not apply where a company which is a member of an NRCGT group ceases to be a member of the potential pooling group by reason only of the fact that the principal company of the potential pooling group becomes a member of another group (as defined in section 170).

(6) In subsection (2) "the relevant assets" means any assets the company holds immediately before it ceases to be a member of the NRCGT group the disposal of which would be a disposal of a UK residential property interest (see Schedule B1).

(7) For the purposes of this section—

"sub-group" means anything that would be a group (as defined in section 170) in the absence of subsections (4) and (6) of section 170;

the "head" of a sub-group is the company which is not a 75% subsidiary of any other member of the sub-group;

references to the "principal company" of the potential pooling group are to be interpreted in accordance with section 170.

The responsible members of an NRCGT group

188H (1) Anything required or authorised to be done under this Act or the Management Act by or in relation to the relevant body of an NRCGT group is required or authorised to be done by or in relation to all the responsible members of that NRCGT group for that tax year.

(2) The "responsible members" of an NRCGT group for a tax year are—

(a) all the companies which are members of the NRCGT group at any time in that tax year, and

(b) any companies which have subsequently become members of the NRCGT group.

(3) This section is subject to section 188J (representative company).

Joint and several liability of responsible members

188I Where the responsible members of an NRCGT group are liable, in connection with their responsibility under section 188H to make a payment of tax or interest on unpaid tax, or pay any other amount, that liability is a joint and several liability of those responsible members.

The representative company of an NRCGT group

188J (1) Anything required or authorised to be done under this Act or the Management Act by or in relation to the relevant body of an NRCGT group may instead be done by or in relation to the company which is for the time being the representative company of the group.

(2) This includes the making of the declaration required by section 9(2) or 12ZB(4)(b) of the Management Act (declaration that return is correct and complete).

(3) The "representative company" means a member of the NRCGT group nominated by all the members of that group for the purposes of this section.

(4) A nomination under subsection (3), or the revocation of such a nomination, has effect only after written notice of the nomination or revocation has been given to an officer of Revenue and Customs.

Interpretation of sections 188A to 188J

188K (1) In sections 188A to 188J—

(a) references to the "relevant body" of an NRCGT group are to be interpreted in accordance with section 188D(4);

(b) references to an NRCGT gain or loss accruing to a member of an NRCGT group are to such a gain or loss accruing to a company at a time when the company is a member of the NRCGT group.

(2) In sections 188A to 188J and this section—

"company" is to be interpreted in accordance with section 170(9);

"interest in UK land" has the same meaning as in Schedule B1;

"pooling election" has the meaning given by section 188A(1);

"potential pooling group", in relation to an NRCGT group, is to be interpreted in accordance with section 188A(1)(b);

"qualifying conditions" has the meaning given by section 188A(3)."

31 (1) Section 260 (gifts on which inheritance tax is chargeable etc) is amended as follows.

(2) In subsection (1), for "and 261" substitute " , 261 and 261ZA ".

(3) After subsection (6) insert—

"(6ZA) Subsections (6ZB) and (6ZC) apply in any case where—

(a) the disposal is a non-resident CGT disposal, and

(b) the transferee is resident in the United Kingdom.

(6ZB) Subsections (3) and (4) have effect in relation to the disposal as if the reference to "chargeable gain" were a reference to "chargeable NRCGT gain".

(6ZC) Subsection (5) has effect in relation to the disposal as if the reference to "the excess referred to in paragraph (b) above" were a reference to "the chargeable NRCGT gain which, ignoring this section and section 17(1), would accrue to the transferor on the disposal"."

32 In section 261 (section 260 relief: gifts to non-residents), in subsection (1), for "Section 260(3)" substitute " Subject to section 261ZA, section 260(3) ".

33 After section 261 insert—

"**261ZA Gifts of UK residential property interests to non-residents**

(1) This section applies where the disposal in relation to which a claim could be made under section 260 is a disposal of a UK residential property interest to a transferee who is not resident in the United Kingdom and, ignoring section 260—

(a) a gain would accrue to the transferor on the disposal, and

(b) on the assumption that the disposal is a non-resident CGT disposal (whether or not that is the case), that gain would be a chargeable NRCGT gain (see section 57B and Schedule 4ZZB).

(2) Section 260(3) has effect in relation to the disposal as if it read—

"(3) Where this subsection applies in relation to a disposal, the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, shall be reduced by an amount equal to the held-over gain on the disposal."

(3) Where the disposal is a non-resident CGT disposal—

(a) section 260(3), as modified by subsection (2) of this section, and section 260(4) have effect in relation to the disposal as if the references to "chargeable gain" were references to "chargeable NRCGT gain", and

(b) section 260(5) has effect in relation to the disposal as if the reference to "the excess referred to in paragraph (b) above" were a reference to "the chargeable NRCGT gain which, ignoring this section and section 17(1), would accrue to the transferor on the disposal".

(4) Where a claim for relief is made under section 260 in relation to the disposal mentioned in subsection (1), on a subsequent disposal by the transferee of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1), the whole or a corresponding part of the held-over gain (see section 260(4))—

(a) is deemed to accrue to the transferee (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as a chargeable NRCGT gain accruing on a non-resident CGT disposal.

(5) Where the subsequent disposal mentioned in subsection (4) is a disposal within section 260(2)(a), subsection (7) of that section has effect in relation to the disposal as if—

(a) the reference to "the chargeable gain accruing to the transferee on the disposal of the asset" were a reference to the chargeable gain accruing on the disposal as computed apart from subsection (4), and

(b) the reference in section 260(7)(b) to "the chargeable gain" were a reference to—

(i) the chargeable gain (or, where the disposal is a non-resident CGT disposal, the chargeable NRCGT gain) accruing on the disposal, and

(ii) the held-over gain deemed to accrue under subsection (4).

(6) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

34 In section 288 (interpretation), in subsection (1), at the appropriate places insert—

""disposal of a UK residential property interest" has the meaning given by Schedule B1;""

""non-resident CGT disposal" has the meaning given by section 14B;"

""NRCGT gain" is to be interpreted in accordance with section 57B and Schedule 4ZZB;"

""NRCGT group" is to be interpreted in accordance with section 188B (read with sections 188F and 188G);"

""NRCGT loss" is to be interpreted in accordance with section 57B and Schedule 4ZZB;"

""NRCGT return" has the meaning given by section 12ZB(2) of the Management Act;".

35 (1) Schedule 1 (application of exempt amount etc in cases involving settled property) is amended as follows.

(2) In paragraph 1(1), for "(5C)" substitute " (5D) ".

(3) In paragraph 2(1), for "(5C)" substitute " (5D) ".

36 After Schedule A1, insert—

"SCHEDULE
B1

DISPOSALS OF UK RESIDENTIAL PROPERTY INTERESTS

Meaning of "disposal of a UK residential property interest"

1 (1) For the purposes of this Act, the disposal by a person ("P") of an interest in UK land (whether made before or after this Schedule comes into force) is a "disposal of a UK residential property interest" if the first or second condition is met.

(2) The first condition is that—

(a) the land has at any time in the relevant ownership period consisted of or included a dwelling, or

(b) the interest in UK land subsists for the benefit of land that has at any time in the relevant ownership period consisted of or included a dwelling.

(3) The second condition is that the interest in UK land subsists under a contract for an off-plan purchase.

(4) In sub-paragraph (2) "relevant ownership period" means the period—

(a) beginning with the day on which P acquired the interest in UK land or 6 April 2015 (whichever is later), and

(b) ending with the day before the day on which the disposal occurs.

(5) If the interest in UK land disposed of by P as mentioned in sub-paragraph (1) results from interests in UK land which P has acquired at different times ("the acquired interests"), P is regarded for the purposes of sub-paragraph (4)(a) as having acquired the interest when P first acquired any of the acquired interests.

(6) In this paragraph—

"contract for an off-plan purchase" means a contract for the acquisition of land consisting of, or including, a building or part of a building that is to be constructed or adapted for use as a dwelling;

"dwelling" has the meaning given by paragraph 4.

(7) Paragraphs 10 and 21 of Schedule 4ZZB contain further provision about interests under contracts for off-plan purchases.

"Interest in UK land"

2 (1) In this Schedule, "interest in UK land" means—

(a) an estate, interest, right or power in or over land in the United Kingdom, or

(b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power,

other than an excluded interest.

(2) The following are excluded interests—

(a) any security interest;
(b) a licence to use or occupy land;
(c) in England and Wales or Northern Ireland—
(i) a tenancy at will;
(ii) a manor.

(3) In sub-paragraph (2) "security interest" means an interest or right (other than a rentcharge) held for the purpose of securing the payment of money or the performance of any other obligation.

(4) In relation to land in Scotland the reference in sub-paragraph (3) to a rentcharge is to be read as a reference to a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000 (asp 5).

(5) The Treasury may by regulations provide that any other description of interest or right in relation to land in the United Kingdom is an excluded interest.

(6) Regulations under sub-paragraph (5) may make incidental, consequential, supplementary or transitional provision or savings.

Grants of options

3 (1) Sub-paragraph (2) applies where—
(a) a person ("P") grants at any time an option binding P to sell an interest in UK land, and
(b) a disposal by P of that interest in UK land at that time would be a disposal of a UK residential property interest by virtue of paragraph 1.

(2) The grant of the option is regarded for the purposes of this Schedule as the disposal of an interest in the land in question (if it would not be so regarded apart from this paragraph).

(3) Nothing in this paragraph affects the operation of section 144 in relation to the grant of the option (or otherwise).

(4) Subsection (6) of section 144 (interpretation of references to "sale" etc) applies for the purposes of this paragraph as it applies for the purposes of that section.

Meaning of "dwelling"

4 (1) For the purposes of this Schedule, a building counts as a dwelling at any time when—
(a) it is used or suitable for use as a dwelling, or
(b) it is in the process of being constructed or adapted for such use.

(2) Land that at any time is, or is intended to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land) is taken to be part of that dwelling at that time.

(3) For the purposes of sub-paragraph (1) a building is not used (or suitable for use) as a dwelling if it is used as—

(a) residential accommodation for school pupils;

(b) residential accommodation for members of the armed forces;

(c) a home or other institution providing residential accommodation for children;

(d) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder;

(e) a hospital or hospice;

(f) a prison or similar establishment;

(g) a hotel or inn or similar establishment.

(4) For the purposes of sub-paragraph (1) a building is not used (or suitable for use) as a dwelling if it is used, or suitable for use, as an institution (not falling within any of paragraphs (c) to (f) of sub-paragraph (3)) that is the sole or main residence of its residents.

(5) For the purposes of sub-paragraph (1) a building is not used (or suitable for use) as a dwelling if it falls within—

(a) paragraph 4 of Schedule 14 to the Housing Act 2004 (certain buildings occupied by students and managed or controlled by their educational establishment etc),

(b) any corresponding provision having effect in Scotland, or

(c) any corresponding provision having effect in Northern Ireland.

(6) In sub-paragraph (5) "corresponding provision" means provision designated by regulations made by the Treasury as corresponding to the provision mentioned in sub-paragraph (5)(a).

(7) If the accommodation provided by a building meets the conditions in sub-paragraph (8) in a tax year, the building is not to be regarded for the purposes of sub-paragraph (1) as used or suitable for use as a dwelling at any time in that tax year.

(8) The conditions are that the accommodation—

(a) includes at least 15 bedrooms,

(b) is purpose-built for occupation by students, and

(c) is occupied by students on at least 165 days in the tax year.

In the expression "purpose-built" the reference to building includes conversion.

(9) For the purposes of sub-paragraph (8), accommodation is occupied by students if it is occupied exclusively or mainly by persons who occupy it for the purpose of undertaking a course of education (otherwise than as school pupils).

(10) A building which (for any reason) becomes temporarily unsuitable for use as a dwelling is treated for the purposes of sub-paragraph (1) as continuing to be suitable for use as a dwelling; but see also the special rules in—

(a) paragraph 6 (damage to a dwelling), and
(b) paragraph 8(7) (periods before or during certain works).

(11) In this paragraph "building" includes a part of a building.

Power to modify meaning of "use as a dwelling"

5 (1) The Treasury may by regulations amend paragraph 4 for the purpose of clarifying or changing the cases where a building is or is not to be regarded as being used as a dwelling (or suitable for use as a dwelling).

(2) The provision that may be made under sub-paragraph (1) includes, in particular, provision omitting or adding cases where a building is or is not to be regarded as being used (or as suitable for use) as a dwelling.

(3) Regulations under this paragraph may make incidental, consequential, supplementary or transitional provision or savings.

(4) In this paragraph "building" includes a part of a building.

Damage to a dwelling

6 (1) Sub-paragraph (2) applies where a person disposes of an interest in UK land and a building that forms, or has formed, part of the land has at any time in the relevant ownership period been temporarily unsuitable for use as a dwelling.

(2) Paragraph 4(10) (disregard of temporary unsuitability) does not apply in relation to the building's temporary unsuitability for use as a dwelling if—
(a) the temporary unsuitability resulted from damage to the building, and
(b) the first and second conditions are met.

(3) The first condition is that the damage was—
(a) accidental, or
(b) otherwise caused by events beyond the control of the person disposing of the interest in UK land.

(4) The second condition is that, as a result of the damage, the building was unsuitable for use as a dwelling for a period of at least 90 consecutive days.

(5) Where the first and second conditions are met, work done in the 90-day period to restore the building to suitability for use as a dwelling does not count, for the purposes of paragraph 4(1), as construction or adaptation of the building for use as a dwelling.

(6) The first condition is regarded as not being met if the damage occurred in the course of work that—
(a) was being done for the purpose of altering the building, and
(b) itself involved, or could be expected to involve, making the building unsuitable for use as a dwelling for 30 days or more.

(7) The 90-day period mentioned in sub-paragraph (4) must end at or before the end of the relevant ownership period but may begin at any time (whether or not within the ownership period).

(8) In this paragraph—

(a) references to alteration include partial demolition;

(b) "building" includes a part of a building;

(c) "relevant ownership period" has the meaning given by paragraph 1(4).

Demolition of a building

7 A building is regarded as ceasing to exist from the time when it has either—

(a) been demolished completely to ground level, or

(b) been demolished to ground level except for a single facade (or, in the case of a building on a corner site, a double facade) the retention of which is a condition or requirement of planning permission or development consent.

Disposal of a building that has undergone works

8 (1) This paragraph applies where a person disposes of an interest in UK land, and a building which is (or was formerly) on the land and has at any time in the relevant ownership period been suitable for use as a dwelling—

(a) has undergone complete or partial demolition or any other works during the relevant ownership period, and

(b) as a result of the works, has, at or at any time before the completion of the disposal, either ceased to exist or become unsuitable for use as a dwelling.

(2) If the conditions in sub-paragraph (4) are met at, or at any time before, the completion of the disposal, the building is taken to have been unsuitable for use as a dwelling throughout the part of the relevant ownership period when the works were in progress.

(3) If the conditions in sub-paragraph (4) are met at, or at any time before, the completion of the disposal, the building is also taken to have been unsuitable for use as a dwelling throughout any period which—

(a) ends immediately before the commencement of the works, and

(b) is a period throughout which the building was, for reasons connected with the works, not used as a dwelling.

(4) The conditions are that—

(a) as a result of the works the building has (at any time before the completion of the disposal) either ceased to exist or become suitable for use otherwise than as a dwelling,

(b) any planning permission or development consent required for the works, or for any change of use with which they are associated, has been granted, and

(c) the works have been carried out in accordance with any such permission or consent.

(5) If at the completion of the disposal the conditions in sub-paragraph (4) have not been met, the works are taken not to have affected the building's suitability for use as a dwelling (at any time before the disposal).

(6) Sub-paragraph (2) does not apply in relation to any time when—

(a) the building was undergoing any work, or put to a use, in relation to which planning permission or development consent was required but had not been granted, or

(b) anything was being done in contravention of a condition or requirement attached to a planning permission or development consent relating to the building.

(7) Where a building is treated under sub-paragraph (2) or (3) as unsuitable for use as a dwelling, the unsuitability is not regarded as temporary for the purposes of paragraph 4(10).

(8) In this paragraph—

"building" includes a part of a building;

"relevant ownership period" has the meaning given by paragraph 1(4).

Retrospective planning permission or development consent

9 (1) The condition in paragraph 8(4)(b) is taken to have been met at the time of the completion of the disposal if the required planning permission or development consent is given subsequently.

(2) For the purposes of paragraph 8(6)(a), the fact that planning permission or development consent had not been given at any time in relation to any work or use of a building is ignored if the required planning permission or development consent is given subsequently.

Interpretation

10 (1) For the purposes of this Schedule, the "completion" of the disposal of an interest in UK land is taken to occur—

(a) at the time of the disposal, or

(b) if the disposal is under a contract which is completed by a conveyance, at the time when the interest is conveyed.

(2) In this Schedule—

"conveyance" includes any instrument (and "conveyed" is to be construed accordingly);

"development consent" means development consent under the Planning Act 2008;

"interest in UK land" has the meaning given by paragraph 2;

"land" includes a building;

"planning permission" has the meaning given by the relevant planning enactment.

(3) In sub-paragraph (2) "the relevant planning enactment" means—

(a) in relation to land in England and Wales, section 336(1) of the Town and Country Planning Act 1990;

(b) in relation to land in Scotland, section 227(1) of the Town and Country Planning (Scotland) Act 1997;

(c) in relation to land in Northern Ireland, Article 2(2) of the Planning (Northern Ireland) Order 1991 (S.I. 1991/1220 (N.I. 11)).”

37 After Schedule B1 (as inserted by paragraph 36), insert—

“SCHEDULE
C1

SECTION 14F: MEANING OF “CLOSELY-HELD COMPANY” AND “WIDELY-MARKETED SCHEME”

PART 1

MEANING OF “CLOSELY-HELD COMPANY”

Introduction

1 This Part of this Schedule sets out the rules for determining, for the purposes of sections 14F and 14G, whether or not a company is a closely-held company.

Main definition

2 (1) “Closely-held company” means a company in relation to which condition A or B is met.

(2) Condition A is that the company is under the control of 5 or fewer participators.

(3) Condition B is that 5 or fewer participators together possess or are entitled to acquire—

(a) such rights as would, in the event of the winding up of the company (“the relevant company”) on the basis set out in paragraph 3, entitle them to receive the greater part of the assets of the relevant company which would then be available for distribution among the participators, or

(b) such rights as would, in that event, so entitle them if there were disregarded any rights which any of them or any other person has as a loan creditor (in relation to the relevant company or any other company).

3 (1) This paragraph applies for the purposes of paragraph 2(3).

(2) In the notional winding up of the relevant company, the part of the assets available for distribution among the participators which any person is entitled to receive is the aggregate of—

(a) any part of those assets which the person would be entitled to receive in the event of the winding up of the relevant company, and

(b) any part of those assets which the person would be entitled to receive if—

(i) any other company which is a participator in the relevant company and is entitled to receive any assets in the notional

winding up were also wound up on the basis set out in this paragraph, and

(ii) the part of the assets of the relevant company to which the other company is entitled were distributed among the participators in the other company in proportion to their respective entitlement to the assets of the other company available for distribution among the participators.

(3) In the application of sub-paragraph (2)—

(a) to the notional winding up of the other company mentioned in paragraph (b) of that sub-paragraph, and

(b) to any further notional winding up required by that paragraph (or by any further application of that paragraph),

references to "the relevant company" are to be read as references to the company concerned.

4 (1) This paragraph applies for the purpose of determining whether, under sub-paragraph (3) of paragraph 2, 5 or fewer participators together possess or are entitled to acquire rights such as are mentioned in paragraph (a) or (b) of that sub-paragraph.

(2) A person is to be treated as a participator in the relevant company if the person is a participator in any other company which would be entitled to receive assets in the notional winding up of the relevant company on the basis set out in paragraph 3.

(3) No account is to be taken of a participator which is a company unless the company possesses or is entitled to acquire the rights in a fiduciary or representative capacity.

(4) But sub-paragraph (3) does not apply for the purposes of paragraph 3.

5 (1) A company is not to be treated as a closely-held company if condition A or B is met.

(2) Condition A is that the company cannot be treated as a closely-held company except by taking, as one of the 5 or fewer participators requisite for its being so treated, a person which is a diversely-held company.

(3) Condition B is that the company—

(a) would not be a closely-held company were it not for paragraph (a) of paragraph 2(3) or paragraph (d) of paragraph 7(2), and

(b) would not be a closely-held company if the references in paragraphs 2(3)(a) and 7(2)(d) to participators did not include loan creditors which are diversely-held companies or qualifying institutional investors.

(4) In this paragraph "qualifying institutional investor" means any of the following persons—

(a) a scheme (as defined in section 14F(7)) which is a widely-marketed scheme;

(b) the trustee or manager of a qualifying pension scheme;

(c) a company carrying on life assurance business (as defined in section 56 of the Finance Act 2012);

(d) a person who cannot be liable for corporation tax or income tax (as relevant) on the ground of sovereign immunity.

(5) In sub-paragraph (4)(b) "qualifying pension scheme" means a pension scheme (as defined in section 150(1) of the Finance Act 2004) other than—

(a) an investment-regulated pension scheme within the meaning of Part 1 of Schedule 29A to that Act, or

(b) a pension scheme that would be an investment-regulated pension scheme if it were a registered pension scheme.

(6) The Treasury may by regulations amend sub-paragraphs (4) and (5).

(7) Regulations under sub-paragraph (6) may make incidental, consequential, supplementary or transitional provision or savings.

6 (1) Sub-paragraph (2) applies where a participator in a company is a qualifying institutional investor.

(2) For the purpose of determining whether or not the company is a closely-held company, any share or interest which the qualifying institutional investor has as a participator in the company (in any of the ways set out in section 454(2) of CTA 2010 or otherwise) is treated as a share or interest held by more than 5 participators.

(3) Sub-paragraph (4) applies where a participator in a company is a general partner of a limited partnership which is a collective investment scheme (as defined in section 235 of the Financial Services and Markets Act 2000).

(4) For the purpose of determining whether or not the company is a closely-held company, any share or interest which the general partner has as a participator in the company (in any of the ways set out in section 454(2) of CTA 2010 or otherwise) is treated as a share or interest held by more than 5 participators.

(5) Sub-paragraph (4) does not apply to—

(a) any rights which would, in the event of the winding up of the company ("the relevant company") on the basis set out in paragraph 3, or in any other circumstances, entitle the general partner (or a participator in the general partner) to receive assets of the company which would then be available for distribution among the participators, or

(b) any rights which would, in that event, so entitle the general partner (or a participator in the general partner) if there were disregarded any rights which a person has as a loan creditor (in relation to the relevant company or another company).

(6) In this paragraph "limited partnership" means—

(a) a limited partnership registered under the Limited Partnerships Act 1907, or

(b) a firm or entity of a similar character formed under the law of a territory outside the United Kingdom.

(7) In this paragraph, "general partner", in relation to a limited partnership, means a partner other than a limited partner.

(8) In this paragraph, "limited partner" means a person carrying on business as a partner in a limited partnership who—

(a) is not entitled to take part in the management of that business, and

(b) is entitled to have any liabilities of that business (or those beyond a certain limit) for debts or obligations incurred for the purposes of that business met or reimbursed by some other person.

(9) In this paragraph "qualifying institutional investor" has the same meaning as in paragraph 5.

Meaning of "control"

7 (1) For the purposes of this Schedule, a person ("P") is treated as having control of a company ("C") if P—

(a) exercises,

(b) is able to exercise, or

(c) is entitled to acquire,

direct or indirect control over C's affairs.

(2) In particular, P is treated as having control of C if P possesses or is entitled to acquire—

(a) the greater part of the share capital or issued share capital of C,

(b) the greater part of the voting power in C,

(c) so much of the issued share capital of C as would, on the assumption that the whole of the income of C were distributed among the participators, entitle P to receive the greater part of the amount so distributed, or

(d) such rights as would entitle P, in the event of the winding up of C or in any other circumstances, to receive the greater part of the assets of C which would then be available for distribution among the participators.

(3) Any rights that P or any other person has as a loan creditor are to be disregarded for the purposes of the assumption in sub-paragraph (2)(c).

(4) If two or more persons together satisfy any of the conditions in sub-paragraphs (1) and (2), they are treated as having control of C.

8 (1) This paragraph applies for the purposes of paragraph 7.

(2) If a person—

(a) possesses any rights or powers on behalf of another person ("A"), or

(b) may be required to exercise any rights or powers on A's direction or on A's behalf,

those rights or powers are to be attributed to A.

(3) There are also to be attributed to P all the rights and powers of any associate of P (including rights and powers exercisable jointly by any two or more associates of P).

(4) In this paragraph "associate", in relation to P, means—

(a) any relative of P,

(b) the trustees of any settlement in relation to which P is a settlor, and

(c) the trustees of any settlement in relation to which any relative of P (living or dead) is or was a settlor.

(5) In this paragraph "relative" means—

(a) a spouse or civil partner,

(b) a parent or remoter forebear,

(c) a child or remoter issue, or

(d) a brother or sister.

Interpretation

9 In this Part of this Schedule—

"diversely-held company" means a company which is not a closely-held company;

"loan creditor" has the meaning given by section 453 of CTA 2010;

"open-ended investment company" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 236 of that Act);

"participator", in relation to a company, has the meaning given by section 454 of CTA 2010.

PART 2

UNIT TRUST SCHEMES AND OEICS: WIDELY-MARKETED SCHEMES

Introduction

10 (1) This Part of this Schedule sets out the rules for determining, for the purposes of this Schedule and section 14F, whether or not a scheme is a widely-marketed scheme at any time.

(2) In this Part of this Schedule "scheme" has the same meaning as in section 14F.

Widely-marketed schemes

11 (1) A scheme is a widely-marketed scheme at any time when the scheme meets conditions A to C.

(2) Condition A is that the scheme produces documents, available to investors and to Her Majesty's Revenue and Customs, which contain—

(a) a statement specifying the intended categories of investor,

(b) an undertaking that units in the scheme will be widely available, and

(c) an undertaking that units in the scheme will be marketed and made available in accordance with the requirements of sub-paragraph (5)(a).

(3) Condition B is that—

(a) the specification of the intended categories of investor does not have a limiting or deterrent effect, and

(b) any other terms or conditions governing participation in the scheme do not have a limiting or deterrent effect.

(4) In sub-paragraph (3) "limiting or deterrent effect" means an effect which—

(a) limits investors to a limited number of specific persons or specific groups of connected persons, or

(b) deters a reasonable investor falling within one of (what are specified as) the intended categories of investor from investing in the scheme.

(5) Condition C is that—

(a) units in the scheme are marketed and made available—

(i) sufficiently widely to reach the intended categories of investors, and

(ii) in a manner appropriate to attract those categories of investors, and

(b) a person who falls within one of the intended categories of investors can, upon request to the manager of the scheme, obtain information about the scheme and acquire units in it.

(6) A scheme is not regarded as failing to meet condition C at any time by reason of the scheme's having, at that time, no capacity to receive additional investments, unless—

(a) the capacity of the scheme to receive investments in it is fixed by the scheme documents (or otherwise), and

(b) a pre-determined number of specific persons or specific groups of connected persons make investments in the scheme which collectively exhaust all, or substantially all, of that capacity.

Interpretation

12 In this Part of this Schedule—

"open-ended investment company" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 236 of that Act);

"units" means the rights or interests (however described) of the participants in a unit trust scheme or open-ended investment company."

38 (1) Schedule 4ZZA (relevant high value disposals: gains and losses) is amended as follows.

(2) In paragraph 1 the existing text becomes sub-paragraph (1).

(3) After that sub-paragraph insert—

"(2) See also Part 4 of Schedule 4ZZB, which—

(a) makes provision about non-resident CGT disposals which are, or involve, relevant high value disposals, and

(b) includes provision about the computation of gains or losses on such disposals which are neither NRCGT gains or losses (as defined in section 57B and Schedule 4ZZB) nor ATED-related."

(4) In paragraph 2(1), after paragraph (b) insert—

"See also the special rule in paragraph 6 (which takes precedence over paragraphs 3 and 4 where it applies)."

(5) In paragraph 5, after sub-paragraph (3) insert—

"(3A) An election made in relation to an asset under paragraph 2(1)(b) of Schedule 4ZZB (disposals by non-residents etc of UK residential property interests: gains and losses) also has effect as an election made under this paragraph in relation to the asset."

(6) After paragraph 6 insert—

"Special rule for certain disposals to which both this Schedule and Schedule 4ZZB relate

6A (1) This paragraph applies where conditions A and B are met.

(2) Condition A is that the relevant high value disposal is—

(a) a non-resident CGT disposal (see section 14B), or

(b) one of two or more disposals which are (by virtue of section 2C and this Schedule) treated as comprised in a non-resident CGT disposal.

(3) Condition B is that—

(a) the interest disposed of by the relevant high value disposal was held by P on 5 April 2015,

(b) neither Case 2 nor Case 3 in paragraph 2 applies, and

(c) no election under paragraph 5 of this Schedule (or paragraph 2(1)(b) of Schedule 4ZZB) is or has been made in relation to the chargeable interest which (or a part of which) is the subject of the relevant high value disposal.

(4) The ATED-related gain or loss accruing on the relevant high value disposal is computed as follows.

Step 1 Determine the amount of the post-April 2015 ATED-related gain or loss.

Step 2 Determine the amount of the pre-April 2015 ATED-related gain or loss.

Step 3 Add—

(a) the amount of any gain or loss determined under Step 1, and

(b) the amount of any gain or loss determined under Step 2,

(treating any amount which is a loss as a negative amount). If the result is a positive amount, that amount is the ATED-related gain on the relevant high value disposal. If the result is a negative amount, that amount (expressed as a positive number) is the ATED-related loss on the relevant high value disposal.

(5) The post-April 2015 ATED-related gain or loss is equal to the amount that would be given by paragraph 3(1) as the amount of the ATED-related gain or loss if the relevant year for the purposes of that paragraph were 2015.

(6) The "pre-April 2015 ATED-related gain or loss" means the relevant fraction of the notional pre-April 2015 gain or loss.

(7) "The relevant fraction" is—

$$\frac{CD}{TD}$$

where—

"CD" is the number of days in the relevant ownership period which are ATED chargeable days;

"TD" is the total number of days in the relevant ownership period.

(8) If the interest disposed of was not held by P on 5 April 2013, the "notional pre-April 2015 gain or loss" is the gain or loss which would have accrued on 5 April 2015 had the interest been disposed of on that date for a consideration equal to its market value on that date.

(9) If the interest disposed of was held by P on 5 April 2013, the "notional pre-April 2015 gain or loss" is the gain or loss which would have accrued on 5 April 2015 if P had—

(a) acquired the interest on 5 April 2013 for a consideration equal to its market value on that date, and

(b) disposed of it on 5 April 2015 for a consideration equal to its market value on that date.

(10) Paragraph 3(3) applies for the purposes of sub-paragraphs (8) and (9) as for the purposes of paragraph 3(2).

(11) In sub-paragraph (7) "relevant ownership period" means the period—

(a) beginning with the day on which P acquired the chargeable interest or, if later, 6 April 2013, and

(b) ending with 5 April 2015.

(12) For how to compute the amount of the gain or loss on the relevant high value disposal that is neither ATED-related nor an NRCGT gain or loss (as defined in section 57B and Schedule 4ZZB) see paragraphs 16 to 19 of Schedule 4ZZB."

(7) After paragraph 7 insert—

"Wasting assets

8 (1) Sub-paragraph (2) applies where it is necessary, in computing in accordance with paragraph 3(2) the notional post-commencement gain or loss accruing to a person on a relevant high value disposal, to determine whether or not the interest which is the subject of the disposal is a wasting asset.

(2) The assumption in paragraph 3(2) that the interest was acquired on a particular 5 April is to be ignored in determining that question.

(3) Sub-paragraph (4) applies where it is necessary, in computing in accordance with paragraph 6A(9) the notional pre-April 2015 gain or loss accruing to a person on a disposal, to determine whether or not the interest which is the subject of the disposal is a wasting asset.

(4) The assumption in paragraph 6A(9) that the interest was acquired on 5 April 2013 is to be ignored in determining that question.

(5) In this paragraph references to a "wasting asset" are to a wasting asset as defined for the purposes of Chapter 2 of Part 2 of this Act.

Capital allowances

9 (1) Sub-paragraph (2) applies where it is to be assumed for the purpose of computing—

(a) the notional post-commencement gain or loss accruing to a person on a relevant high value disposal in accordance with paragraph 3(2), or

(b) the notional pre-April 2015 gain or loss accruing to a person on a disposal in accordance with paragraph 6A(9),

that an asset was acquired by a person on 5 April 2013 for a consideration equal to its market value on that date.

(2) For the purposes of that computation, sections 41 (restriction of losses by reference to capital allowances etc) and 47 (wasting assets qualifying for capital allowances) are to apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by the person in acquiring or providing the asset as if that allowance were made in respect of the expenditure treated as incurred by the person on 5 April 2013 as mentioned in sub-paragraph (1)."

39 After Schedule 4ZZA insert—

"SCHEDULE
4ZZB

NON-RESIDENT CGT DISPOSALS: GAINS AND LOSSES

PART 1

INTRODUCTION

1 (1) This Schedule applies for the purpose of determining, in relation to a non-resident CGT disposal made by a person ("P")—

(a) whether an NRCGT gain or loss accrues to P on the disposal, and the amount of any such gain or loss, and

(b) whether a gain or loss other than an NRCGT gain or loss accrues to P on the disposal, and the amount of any such gain or loss;

(and see also sub-paragraph (2)(c)).

(2) In this Schedule—

(a) Part 2 is about elections to vary the method of computation of gains and losses;

(b) Part 3 contains the main rules for computing the gains and losses;

(c) Part 4 contains separate rules for computing, in a case where the non-resident CGT disposal is, or involves, a relevant high value disposal (as defined in section 2C)—

(i) the amount of any NRCGT gains or losses accruing on the disposal, and

(ii) the amount of any gains or losses accruing on the disposal that are neither ATED-related nor NRCGT gains or losses;

(d) Part 5 contains special rules about non-resident CGT disposals made by companies;

(e) Part 6 (miscellaneous provisions) contains special rules relating to wasting assets and capital allowances;

(f) Part 7 contains definitions for the purposes of this Schedule.

(3) See section 14B for the meaning of "non-resident CGT disposal".

PART 2

ELECTIONS FOR ALTERNATIVE METHODS OF COMPUTATION

2 (1) A person ("P") making a non-resident CGT disposal of (or of a part of) an interest in UK land which P held on 5 April 2015 may—

(a) make an election for straight-line time apportionment in relation to the interest in UK land;

(b) make an election for the retrospective basis of computation to apply in relation to that interest,

(but may not do both).

(2) P may not make an election under sub-paragraph (1)(a) if the disposal is one to which Part 4 of this Schedule applies (cases involving relevant high value disposals).

(3) For the effect of making an election under sub-paragraph (1)(a), see paragraph 8.

(4) For the effect of making (or not making) an election under sub-paragraph (1)(b), see paragraphs 5(1)(b), 9(1)(b), 13(1)(b), 14(1)(a) and 15(1)(c) (and paragraph 6A(3)(c) of Schedule 4ZZA).

(5) An election made under paragraph 5 of Schedule 4ZZA (including any such election made before the coming into force of this paragraph) has effect as if it were also an election under sub-paragraph (1)(b).

3 (1) An election under paragraph 2(1) is irrevocable (and where an election has been made under paragraph 2(1) or paragraph 5 of Schedule 4ZZA in relation to an asset, no election may subsequently be made under either of those provisions in relation to the asset).

(2) An election under paragraph 2(1) may (regardless of section 42(2) of the Management Act) be made by being included in—

(a) a tax return under the Management Act for the tax year in which the first non-resident CGT disposal by P of the interest in UK land (or any part of it) is made, or

(b) the NRCGT return relating to the disposal,

(but not by any other method).

(3) References in sub-paragraph (2) to an election being included in a return include an election being included by virtue of an amendment of the return.

(4) All such adjustments are to be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under paragraph 2(1).

PART 3

MAIN COMPUTATION RULES

Disposals to which this Part applies

4 (1) This Part of this Schedule applies where a person ("P") makes a non-resident CGT disposal of (or of a part of) an interest in UK land.

(2) But this Part of this Schedule does not apply if the disposal is—

(a) a relevant high value disposal, or

(b) a disposal in which a relevant high value disposal is comprised (see paragraph 12(3)).

(3) In this Part of this Schedule "the disposed of interest" means—

(a) the interest in UK land, or

(b) if the disposal is of part of that interest, the part disposed of.

Introduction to paragraphs 6 to 8

5 (1) Paragraphs 6 to 8 apply where—

(a) the disposed of interest was held by P on 5 April 2015, and

(b) P has not made an election under paragraph 2(1)(b) in relation to the interest in UK land.

(2) In paragraphs 6 and 7—

(a) "notional post-April 2015 gain or loss" means the gain or loss which would have accrued on the disposal had P acquired the disposed of interest on 5 April 2015 for a consideration equal to its market value on that date;

(b) "notional pre-April 2015 gain or loss" means the gain or loss which would have accrued on 5 April 2015 had the disposed of interest been disposed of for a consideration equal to its market value on that date;

but see also paragraph 8(1).

(3) For the purpose of determining the amount of the hypothetical gain or loss mentioned in sub-paragraph (2)(a), no account is taken of section 57B or this Schedule (apart from paragraph 23).

Assets held at 5 April 2015: default method

6 (1) The NRCGT gain or loss accruing on the disposal is equal to the relevant fraction of the notional post-April 2015 gain or loss (as the case may be).

But see also sub-paragraph (3).

(2) "The relevant fraction" is—

$$\frac{RD}{TD}$$

where—

"RD" is the number of days in the post-commencement ownership period on which the subject matter of the disposed of interest consists wholly or partly of a dwelling;

"TD" is the total number of days in the post-commencement ownership period.

(3) If there has been mixed use of the subject matter of the disposed of interest on one or more days in the post-commencement ownership period, the NRCGT gain or loss accruing on the disposal is the fraction of the amount that would (apart from this sub-paragraph) be given by sub-paragraphs (1) and (2) that is, on a just and reasonable apportionment, attributable to the dwelling or dwellings.

(4) For the purposes of this paragraph there is "mixed use" of land on any day on which the land consists partly, but not exclusively, of one or more dwellings.

(5) "Post-commencement ownership period" means the period beginning with 6 April 2015 and ending with the day before the day on which the disposal occurs.

7 The gain or loss accruing on the disposal which is not an NRCGT gain or (as the case may be) loss is computed as follows.

Step 1 Determine the amount of the notional pre-April 2015 gain or loss.

Step 2 In a case where there is a notional post-April 2015 gain, determine the amount of that gain remaining after the deduction of the NRCGT gain determined under paragraph 6.

Step 3 In a case where there is a notional post-April 2015 loss, determine the amount of that loss remaining after the deduction of the NRCGT loss determined under paragraph 6.

Step 4 Add—

(a) the amount of any gain or loss determined under Step 1, and

(b) the amount of any gain determined under Step 2 or (as the case may be) any loss determined under Step 3,

(treating any amount which is a loss as a negative amount). If the result is a positive amount, that amount is the gain on the disposal which is not an NRCGT gain. If the result is a negative amount, that amount (expressed as a positive number) is the loss on the disposal which is not an NRCGT loss.

Modified application of paragraphs 5 to 7 where election made for straight-line time apportionment

8 (1) Where the non-resident CGT disposal is of (or of a part of) an interest in UK land in respect of which P makes, or has made, an election for straight-line time apportionment under paragraph 2(1)(a)—

(a) paragraphs (a) and (b) of paragraph 5(2) do not apply in relation to the disposal, and

(b) for the purposes of paragraphs 6 and 7, the "notional pre-April 2015 gain or loss" and the "notional post-April 2015 gain or loss" are to be determined in accordance with the following steps.

Step 1 Determine the amount of the gain or loss which accrues to P on the disposal. For the purpose of determining that amount, no account is taken of section 57B or this Schedule (apart from paragraph 23).

Step 2 An amount equal to the post-commencement fraction of that gain or loss is the notional post-April 2015 gain or (as the case may be) loss.

Step 3 An amount equal to the pre-commencement fraction of that gain or loss is the notional pre-April 2015 gain or (as the case may be) loss.

(2) The "post-commencement fraction" is—

$$\frac{\text{PCD}}{\text{TD}}$$

where—

"PCD" is the number of days in the post-commencement ownership period;

"TD" is the total number of days in the ownership period.

(3) The "pre-commencement fraction" is—

$$\frac{\text{TD} - \text{PCD}}{\text{TD}}$$

where "PCD" and "TD" have the same meanings as in sub-paragraph (2).

(4) In this paragraph—

"ownership period" means the period beginning with the day on which P acquired the disposed of interest or, if later, 31 March 1982 and ending with the day before the day on which the disposal occurs;

"post-commencement ownership period" has the meaning given by paragraph 6(5).

Cases where asset acquired after 5 April 2015 or election made under paragraph 2(1)(b)

9 (1) This paragraph applies if—

(a) the disposed of interest was not held by P throughout the period beginning with 5 April 2015 and ending with the disposal, or

(b) the non-resident CGT disposal is of (or of part of) an interest in UK land in respect of which P makes, or has made, an election under paragraph 2(1)(b).

(2) The NRCGT gain or loss accruing on the disposal is computed as follows.

Step 1 Determine the amount of the gain or loss which accrues to P. For the purpose of determining the amount of that gain or loss, no account is taken of section 57B or this Schedule (apart from paragraph 23).

Step 2 The NRCGT gain or (as the case may be) loss accruing on the disposal is an amount equal to the relevant fraction of that gain or loss (but see Step 3).

Step 3 If there has been mixed use of the subject matter of the disposed of interest on one or more days in the relevant ownership period, the NRCGT gain or loss accruing on the disposal is equal to the appropriate fraction of the amount given by Step 2.

(3) For the purposes of this paragraph there is "mixed use" of land on any day on which the land consists partly, but not exclusively, of one or more dwellings.

(4) In Step 3 "the appropriate fraction" means the fraction that is, on a just and reasonable apportionment, attributable to the dwelling or dwellings.

(5) The gain or loss accruing on the disposal which is not an NRCGT gain or (as the case may be) loss is to be computed as follows.

Step 1 In a case where there is a gain under Step 1 of sub-paragraph (2), determine the amount of that gain remaining after the deduction of the NRCGT gain determined under that sub-paragraph. That remaining gain is the gain accruing on the disposal which is not an NRCGT gain.

Step 2 In a case where there is a loss under Step 1 of sub-paragraph (2), determine the amount of that loss remaining after deduction of the NRCGT loss determined under that sub-paragraph. That remaining loss is the loss accruing on the disposal which is not an NRCGT loss.

(6) For the purposes of sub-paragraph (2), "the relevant fraction" is—

$$\frac{RD}{TD}$$

where—

"RD" is the number of days in the relevant ownership period on which the subject matter of the disposed of interest consists wholly or partly of a dwelling;

"TD" is the total number of days in the relevant ownership period.

(7) "The relevant ownership period" means the period—

(a) beginning with the day on which P acquired the disposed of interest or, if later, 31 March 1982, and

(b) ending with the day before the day on which the disposal mentioned in paragraph 4(1) occurs.

Interest subsisting under contract for off-plan purchase

10 (1) Sub-paragraph (2) applies where the non-resident CGT disposal referred to in paragraph 4(1) is a disposal of a UK residential property interest only because of the second condition in paragraph 1 of Schedule B1 (interest subsisting under a contract for the acquisition of land that consists of, or includes, a building that is to be constructed for use as a dwelling etc).

(2) The land that is the subject of the contract concerned is treated for the purposes of this Part of this Schedule as consisting of (or, as the case requires, including) a dwelling throughout P's period of ownership of the disposed of interest.

PART 4

CASES INVOLVING RELEVANT HIGH VALUE DISPOSALS

Overview

11 (1) This Part is about non-resident CGT disposals which are, or involve, relevant high value disposals (see section 2B, which charges capital gains tax on ATED-related gains on relevant high value disposals).

(2) Paragraphs 12 to 15 contain provision about how any NRCGT gains and losses on such a disposal are computed, including provision—

(a) for the NRCGT gains or losses to be computed for each relevant high value disposal comprised in the non-resident CGT disposal (paragraphs 13 to 15), and

(b) for the results to be added (where necessary) to find the NRCGT gain or loss on the non-resident CGT disposal (see paragraph 12).

(3) For provision about how to compute any ATED-related gains or losses accruing on the relevant high value disposals, see Schedule 4ZZA.

(4) Paragraphs 16 to 19 contain provisions for computing any gains or losses accruing on the disposals mentioned in sub-paragraph (1) which are neither ATED-related nor NRCGT gains or losses, including provision—

(a) for such balancing gains or losses to be computed for each relevant high value disposal comprised in the non-resident CGT disposal, and

(b) for the results to be added together (where necessary) to find the balancing gain or loss on the non-resident CGT disposal (see paragraph 16).

(5) Paragraph 20 is about cases where a disposal which is not a relevant high value disposal is also comprised in the non-resident CGT disposal.

Disposal involving one or more relevant high value disposals

12 (1) This Part of this Schedule applies where—

(a) a person (other than an excluded person) ("P") makes a non-resident CGT disposal of (or of part of) an interest in UK land, and

(b) that disposal ("the disposal of land") is a relevant high value disposal or a relevant high value disposal is comprised in it.

In this sub-paragraph "excluded person" has the meaning given by section 2B(2).

(2) The NRCGT gain or loss accruing on the disposal of land is computed as follows.

Step 1 Determine in accordance with paragraphs 13 to 15 the amount of the NRCGT gain or loss accruing on each relevant high value disposal.

Step 2 Add together the amounts of any gains or losses determined under Step 1 (treating any amount which is a loss as a negative amount). If the result is a positive amount, that amount is the NRCGT gain on the disposal of land. If the result is a negative amount, that amount (expressed as a positive number) is the NRCGT loss on the disposal of land. See paragraphs 16 to 19 for how to compute the gain or loss on the disposal of land which is neither ATED-related nor an NRCGT gain or loss.

(3) For the purposes of this Schedule, a relevant high value disposal is "comprised in" a non-resident CGT disposal if—

(a) the non-resident CGT disposal is treated for the purposes of section 2C and Schedule 4ZZA as two or more disposals, and

(b) the relevant high value disposal is one of those.

(4) In this Part of this Schedule—

(a) "the asset", in relation to a relevant high value disposal, means the chargeable interest which (or a part of which) is the subject of that disposal, and

(b) "the disposed of interest", in relation to a relevant high value disposal, means the asset or, if only part of the asset is the subject of the relevant high value disposal, that part of the asset.

(5) For the purposes of this Part of this Schedule a day is a "section 14D chargeable day" in relation to a relevant high value disposal if—

(a) it is a day on which the subject matter of the disposed of interest consists wholly or partly of a dwelling, but

(b) it is not an ATED chargeable day (as defined in paragraph 3 of Schedule 4ZZA).

Assets held at 5 April 2015 (where no election made and no rebasing in 2016 required)

13 (1) This paragraph applies where—

(a) the disposed of interest was held by P on 5 April 2015,

(b) P has not made an election under paragraph 2(1)(b) (or paragraph 5 of Schedule 4ZZA) in respect of the asset, and

(c) paragraph 15 does not apply.

(2) The NRCGT gain or loss accruing on the relevant high value disposal is equal to the special fraction of the notional post-April 2015 gain or loss (as the case may be) on that disposal.

(3) "Notional post-April 2015 gain or loss" means the gain or loss which would have accrued on the relevant high value disposal had P acquired the disposed of interest on 5 April 2015 for a consideration equal to the market value of that interest on that date.

(4) "The special fraction" is—

$$\frac{SD}{TD}$$

where—

"SD" is the number of section 14D chargeable days (see paragraph 12(5)) in the post-commencement ownership period;

"TD" is the total number of days in the post-commencement ownership period.

(5) "The post-commencement ownership period" means the period beginning with 6 April 2015 and ending with the day before the day on which the relevant high value disposal occurs.

Asset acquired after 5 April 2015 or election made under paragraph 2(1)(b) (but no rebasing in 2016 required)

14 (1) This paragraph applies where—

(a) P makes, or has made, an election under paragraph 2(1)(b) (or paragraph 5 of Schedule 4ZZA) in respect of the asset, or

(b) the disposed of interest was not held by P throughout the period beginning with 5 April 2015 and ending with the disposal.

(2) But this paragraph does not apply if paragraph 15 applies.

(3) The NRCGT gain or loss accruing on the relevant high value disposal is computed as follows.

Step 1 Determine the amount of the gain or loss which accrues to P. (For the purpose of determining the amount of that gain or loss, no account need be taken of section 57B or this Schedule (apart from paragraph 23).)

Step 2 The NRCGT gain or loss accruing on the relevant high value disposal is equal to the special fraction of that gain or loss.

(4) For this purpose "the special fraction" is—

$$\frac{SD}{TD}$$

where—

"SD" is the number of section 14D chargeable days (see paragraph 12(5)) in the relevant ownership period;

"TD" is the total number of days in the relevant ownership period.

(5) "Relevant ownership period" means the period—

(a) beginning with the day on which P acquired the disposed of interest or, if later, 31 March 1982, and

(b) ending with the day before the day on which the relevant high value disposal occurs.

Certain disposals after 5 April 2016 (computation involving additional rebasing in 2016)

15 (1) This paragraph applies where—

(a) the disposed of interest was held by P on 5 April 2016,

(b) the relevant high value disposal falls within Case 3 for the purposes of Schedule 4ZZA (see paragraph 2(4) of that Schedule), and

(c) no election is or has been made (or treated as made) by P under paragraph 2(1)(b) in respect of the asset.

(2) The NRCGT gain or loss accruing on the relevant high value disposal is computed as follows.

Step 1 Determine the amount equal to the special fraction of the notional post-April 2016 gain or loss (as the case may be).

Step 2 Determine the amount equal to the special fraction of the notional pre-April 2016 gain or loss (as the case may be).

Step 3 Add—

(a) the amount of any gain or loss determined under Step 1, and

(b) the amount of any gain or loss determined under Step 2,

(treating any amount which is a loss as a negative amount). If the result is a positive amount, that amount is the NRCGT gain on the relevant high value disposal. If the result is a negative amount, that amount (expressed as a positive number) is the NRCGT loss on the relevant high value disposal.

(3) "The special fraction" is—

$$\frac{SD}{TD}$$

where—

"SD" is the number of section 14D chargeable days (see paragraph 12(5)) in the relevant ownership period;

"TD" is the total number of days in the relevant ownership period.

(4) The "relevant ownership period" is—

(a) for the purpose of computing under Step 1 of sub-paragraph (2) the special fraction of the notional post-April 2016 gain or loss, the period beginning with 6 April 2016 and ending with the day before the day on which the relevant high value disposal occurs;

(b) for the purpose of computing under Step 2 of sub-paragraph (2) the special fraction of the notional pre-April 2016 gain or loss, the period beginning with the day on which P acquired the disposed of interest or, if later, 6 April 2015 and ending with 5 April 2016.

(5) "Notional post-April 2016 gain or loss" means the gain or loss which would have accrued on the relevant high value disposal had P acquired the disposed of interest on 5 April 2016 for a consideration equal to its market value on that date.

(6) If the disposed of interest was not held by P on 5 April 2015, "notional pre-April 2016 gain or loss" means the gain or loss which would have accrued on 5 April 2016 had the disposed of interest been disposed of for a consideration equal to the market value of the interest on that date.

(7) If the disposed of interest was held by P on 5 April 2015, "notional pre-April 2016 gain or loss" means the gain or loss which would have accrued to P on the disposal mentioned in paragraph (b), had P—

(a) acquired the disposed of interest on 5 April 2015 for a consideration equal to the market value of that interest on that date, and

(b) disposed of that interest on 5 April 2016 for a consideration equal to the market value of that interest on that date.

Amount of gain or loss that is neither ATED-related nor an NRCGT gain or loss

16 (1) The gain or loss on the disposal of land (see paragraph 12(1)(b)) which is neither ATED-related nor an NRCGT gain or loss ("the balancing gain or loss") is computed as follows.

Step 1 Determine in accordance with paragraphs 17 to 19 the amount of the gain or loss accruing on each relevant high value disposal which is neither ATED-related nor an NRCGT gain or loss. This is the "balancing" gain or loss for each such disposal.

Step 2 Add together the amounts of any balancing gains or losses determined under Step 1 (treating any amount which is a loss as a negative amount). If the result is a positive amount, that amount is the balancing gain on the disposal of land. If the result is a negative amount, that amount (expressed as a positive number) is the balancing loss on the disposal of land.

(2) In relation to a relevant high value disposal, "balancing day" means a day which is neither—

(a) a section 14D chargeable day (see paragraph 12(5)), nor

(b) an ATED chargeable day.

(3) In relation to a relevant high value disposal, "non-ATED chargeable day" means a day which is not an ATED chargeable day.

(4) The references in sub-paragraphs (2) and (3) to an "ATED chargeable day" are to be interpreted in accordance with paragraph 3(6) of Schedule 4ZZA.

17 (1) This paragraph applies in relation to a relevant high value disposal to which paragraph 13 applies.

(2) If paragraph 6A of Schedule 4ZZA does not apply, the amount of the balancing gain or loss on the relevant high value disposal is found by adding—

(a) the amount of the balancing gain or loss belonging to the notional post-April 2015 gain or loss, and

(b) the amount of the balancing gain or loss belonging to the notional pre-April 2015 gain or loss,

(treating any amount which is a loss as a negative amount).

If the result is a positive amount, that amount is the balancing gain on the relevant high value disposal.

If the result is a negative amount, that amount (expressed as a positive number) is the balancing loss on the relevant high value disposal.

(3) If paragraph 6A of Schedule 4ZZA applies, the amount of the balancing gain or loss on the relevant high value disposal is found by adding—

(a) the amount of the balancing gain or loss belonging to the notional post-April 2015 gain or loss,

(b) the amount of the balancing gain or loss belonging to the notional pre-April 2015 gain or loss, and

(c) if P held the disposed of interest on 5 April 2013, the amount of the notional pre-April 2013 gain or loss,

(treating any amount which is a loss as a negative amount).

If the result is a positive amount, that amount is the balancing gain on the relevant high value disposal.

If the result is a negative amount, that amount (expressed as a positive number) is the balancing loss on the relevant high value disposal.

(4) The balancing gain or loss belonging to the notional post-April 2015 gain or loss is equal to the balancing fraction of the notional post-April 2015 gain or loss.

(5) The balancing gain or loss belonging to the notional pre-April 2015 gain or loss is equal to the non-ATED related fraction of the notional pre-April 2015 gain or loss.

(6) "The balancing fraction" is—

$$\frac{BD}{TD}$$

where—

"BD" is the number of balancing days (see paragraph 16(2)) in the appropriate ownership period;

"TD" is the total number of days in the appropriate ownership period.

(7) "The non-ATED related fraction" is—

$$\frac{NAD}{TD}$$

where—

"NAD" is the number of non-ATED chargeable days (see paragraph 16(3)) in the appropriate ownership period;

"TD" is the total number of days in the appropriate ownership period.

(8) "Appropriate ownership period" means—

(a) for the purpose of computing the balancing gain or loss belonging to the notional post-April 2015 gain or loss, the post-commencement ownership period defined in paragraph 13(5);

(b) for the purpose of computing the balancing gain or loss belonging to the notional pre-April 2015 gain or loss, the relevant ownership period defined in paragraph 6A(11) of Schedule 4ZZA.

(9) In this paragraph—

(a) "notional post-April 2015 gain or loss" has the same meaning as in paragraph 13;

(b) "notional pre-April 2015 gain or loss" has the same meaning as in paragraph 6A of Schedule 4ZZA;

(c) "notional pre-April 2013 gain or loss" means the gain or loss which would have accrued on 5 April 2013 had the disposed of interest been disposed of for a consideration equal to the market value of that interest at that date.

18 (1) In the case of a relevant high value disposal to which paragraph 14 applies, the amount of the balancing gain or loss is determined as follows.

(2) Determine the number of balancing days (see paragraph 16(2)) in the relevant ownership period.

(3) The balancing gain or loss on the disposal is equal to the balancing fraction of the amount of the gain or (as the case may be) loss determined under Step 1 of paragraph 14(3).

(4) "The balancing fraction" is—

$$\frac{BD}{TD}$$

where—

"BD" is the number of balancing days in the relevant ownership period;

"TD" is the total number of days in the relevant ownership period.

(5) In this paragraph "relevant ownership period" has the same meaning as in paragraph 14.

19 (1) The amount of the balancing gain or loss on a relevant high value disposal to which paragraph 15 applies is found by adding—

(a) the amount of the balancing gain or loss belonging to the notional post-April 2016 gain or loss,

(b) the amount of the balancing gain or loss belonging to the notional pre-April 2016 gain or loss, and

(c) if P held the disposed of interest on 5 April 2015, the amount of the notional pre-April 2015 gain or loss,

(treating any amount which is a loss as a negative amount).

If the result is a positive amount, that amount is the balancing gain on the relevant high value disposal.

If the result is a negative amount, that amount (expressed as a positive number) is the balancing loss on the relevant high value disposal.

(2) The balancing gain or loss belonging to the notional post-April 2016 gain or loss is equal to the balancing fraction of the notional post-April 2016 gain or loss.

(3) The balancing gain or loss belonging to the notional pre-April 2016 gain or loss is equal to the balancing fraction of the notional pre-April 2016 gain or loss.

(4) "The balancing fraction" is—

$$\frac{BD}{TD}$$

where—

"BD" is the number of balancing days (see paragraph 16(2)) in the appropriate ownership period;

"TD" is the total number of days in the appropriate ownership period.

(5) The appropriate ownership period is—

(a) for the purpose of computing the balancing gain or loss belonging to the notional post-April 2016 gain or loss, the relevant ownership period mentioned in paragraph 15(4)(a);

(b) for the purpose of computing the balancing gain or loss belonging to the notional pre-April 2016 gain or loss, the relevant ownership period mentioned in paragraph 15(4)(b).

(6) In this paragraph—

(a) "notional post-April 2016 gain or loss" and "notional pre-April 2016 gain or loss" mean the same as in paragraph 15;

(b) "notional pre-April 2015 gain or loss" means the gain or loss which would have accrued on 5 April 2015 if the disposed of interest had been disposed of for a consideration equal to the market value of that interest on that date.

Where relevant high value disposal and "other" disposal are comprised in the disposal of land

20 (1) This paragraph applies where the disposals comprised in the disposal of land (see paragraph 12(3)) include a disposal (the "non-ATED related disposal") which is not a relevant high value disposal.

(2) This Part of this Schedule (apart from this paragraph) applies in relation to the non-ATED related disposal as if it were a relevant high value disposal.

(3) Sub-paragraph (4) applies if there has, at any time in the relevant ownership period, been mixed use of the subject matter of the disposed of interest.

(4) The amount of any NRCGT gain or loss on the non-ATED related disposal computed under this Part of this Schedule is taken to be the appropriate fraction of the amount that it would otherwise be.

(5) In sub-paragraph (4) "the appropriate fraction" means the fraction that is, on a just and reasonable apportionment, attributable to the dwelling or dwellings.

(6) In this paragraph "the relevant ownership period" means, as applicable—

(a) the post-commencement ownership period, as defined in paragraph 13(5),

(b) the relevant ownership period, as defined in paragraph 14(5), or

(c) the relevant ownership period as defined in paragraph 15(4).

Interest subsisting under contract for off-plan purchase

21 (1) Sub-paragraph (2) applies where the non-resident CGT disposal made by P as mentioned in paragraph 12(1) is a disposal of a UK residential property interest only because of the second condition in paragraph 1 of Schedule B1 (interest subsisting under a contract for the acquisition of land that consists of, or includes, a building that is to be constructed for use as a dwelling etc).

(2) The land that is the subject of the contract concerned is treated for the purposes of this Part of this Schedule as consisting of (or, as the case requires, including) a dwelling throughout P's period of ownership of the interest in UK land.

PART 5

SPECIAL RULES FOR COMPANIES

22 This Part of this Schedule applies where the person making the non-resident CGT disposal is a company.

Indexation

23 The following amounts are computed as if the computation were for corporation tax purposes—

(a) the notional post-April 2015 gain or loss for the purposes of paragraphs 6 and 7;

(b) the notional pre-April 2015 gain or loss for the purposes of paragraphs 6 and 7;

(c) the gain or loss determined under Step 1 of paragraph 9(2);

(d) the notional post-April 2015 gain or loss for the purposes of paragraph 13;

(e) the gain or loss determined under Step 1 of paragraph 14(3);

(f) the notional post-April 2016 gain or loss for the purposes of paragraph 15;

(g) the notional pre-April 2016 gain or loss for the purposes of paragraph 15;

(h) the notional post-April 2015 gain or loss, the notional pre-April 2015 gain or loss and the notional pre-April 2013 gain or loss for the purposes of paragraph 17;

(i) the notional post-April 2016 gain or loss, the notional pre-April 2016 gain or loss and the notional pre-April 2015 gain or loss for the purposes of paragraph 19.

PART 6

MISCELLANEOUS PROVISIONS

Wasting assets

24 (1) Sub-paragraph (2) applies where it is necessary, for the purposes of a relevant computation, to determine whether or not the asset which is the subject of the disposal in question is a wasting asset (as defined for the purposes of Chapter 2 of Part 2).

(2) The assumption (which operates for the purposes of that computation) that the asset was acquired on 5 April 2015 or, as the case may be, 5 April 2016 is to be ignored in determining that question.

(3) In sub-paragraph (1) "relevant computation" means a computation of—

(a) the notional post-April 2015 gain or loss accruing to a person on a non-resident CGT disposal in accordance with paragraph 5(2)(a),

(b) the notional post-April 2015 gain or loss accruing to a person on a relevant high value disposal in accordance with paragraph 13(3),

(c) the notional post-April 2016 gain or loss accruing to a person on a relevant high value disposal in accordance with paragraph 15(5), or

(d) the notional pre-April 2016 gain or loss accruing to a person on a disposal in accordance with paragraph 15(7).

Capital allowances

25 (1) Sub-paragraph (2) applies where it is to be assumed for the purpose of computing—

(a) the notional post-April 2015 gain or loss accruing to a person on a non-resident CGT disposal in accordance with paragraph 5(2)(a),

(b) the notional post-April 2015 gain or loss accruing to a person on a relevant high value disposal in accordance with paragraph 13(3),

(c) the notional post-April 2016 gain or loss accruing to a person on a relevant high value disposal in accordance with paragraph 15(5), or

(d) the notional pre-April 2016 gain or loss accruing to a person on a disposal in accordance with paragraph 15(7),

that an asset was acquired by a person on 5 April 2015 or (as the case may be) 5 April 2016 ("the deemed acquisition date") for a consideration equal to its market value on that date.

(2) For the purposes of that computation, sections 41 (restriction of losses by reference to capital allowances and renewals allowances) and 47 (wasting assets qualifying for capital allowances) are to apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by the person in acquiring or providing the asset as if that allowance were made in respect of the expenditure treated as incurred by the person on the deemed acquisition date as mentioned in sub-paragraph (1).

PART 7

INTERPRETATION

26 In this Schedule—

"chargeable interest" has the same meaning as in Part 3 of the Finance Act 2013 (annual tax on enveloped dwellings) (see section 107 of that Act);

"dwelling" has the meaning given by paragraph 4 of Schedule B1;

"subject matter", in relation to an interest in UK land (or a chargeable interest) means the land to which the interest relates."

40 In Schedule 4C (transfers of value: attribution of gains etc), in paragraph 4, after sub-paragraph (2) insert—

"(3) Where any of the disposals which the trustees are treated as having made as mentioned in sub-paragraph (2) is a non-resident CGT disposal—

(a) any chargeable gain or allowable loss accruing on that disposal, other than an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D, is to be treated for the purposes of sub-paragraph (2) as if it were a chargeable gain or (as the case requires) allowable loss falling to be taken into account in calculating the chargeable amount, and

(b) that disposal is otherwise to be disregarded for the purpose of calculating the chargeable amount."

PART 2

OTHER AMENDMENTS

41 TMA 1970 is amended in accordance with paragraphs 42 to 55.

42 After section 7 insert—

"**7A Disregard of certain NRCGT gains for purposes of section 7**

(1) This section applies where—

(a) a person ("P") is the taxable person in relation to an NRCGT return relating to a tax year ("year X") which is made and delivered to an officer of Revenue and Customs before the end of the notification period and contains an advance self-assessment,

(b) the return is in respect of a non-resident CGT disposal on which an NRCGT gain accrues, and

(c) P would (apart from this section) be required to give a notice under section 7 with respect to year X.

(2) For the purpose of determining whether or not P is required to give such a notice (and only for that purpose), P is regarded as not being chargeable to capital gains tax in respect of the NRCGT gain mentioned in subsection (1)(b).

(3) The reference in subsection (1) to the tax year to which an NRCGT return "relates" is to be interpreted in accordance with section 12ZB(7).

(4) In this section—

"advance self-assessment" has the meaning given by section 12ZE(1);

"the notification period" has the meaning given by section 7(1C);

the "taxable person", in relation to a non-resident CGT disposal, means the person who would be chargeable to capital gains tax in respect of any chargeable NRCGT gain accruing on the disposal (were such a gain to accrue).

(5) See—

section 14B of the 1992 Act for the meaning of "non-resident CGT disposal";

section 57B of, and Schedule 4ZZB to, the 1992 Act for the meaning of "NRCGT gain"."

43 Before section 12AA (and the italic heading before it) insert—

"NRCGT returns

Interpretation of sections 12ZB to 12ZN

12ZA(1) In sections 12ZA to 12ZN—

"advance self-assessment" is to be interpreted in accordance with section 12ZE(1);

"amount notionally chargeable" is to be interpreted in accordance with section 12ZF(1);

"filing date", in relation to an NRCGT return, is to be interpreted in accordance with section 12ZB(8);

"interest in UK land" has the same meaning as in Schedule B1 to the 1992 Act (see paragraph 2 of that Schedule);

the "taxable person", in relation to a non-resident CGT disposal, means the person who would be chargeable to capital gains tax in respect of any chargeable NRCGT gain (see section 57B of, and Schedule 4ZZB to, the 1992 Act) accruing on the disposal (were such a gain to accrue).

(2) In those sections, references to the tax year to which an NRCGT return "relates" are to be interpreted in accordance with section 12ZB(7).

(3) For the purposes of those sections the "completion" of a non-resident CGT disposal is taken to occur—

(a) at the time of the disposal, or

(b) if the disposal is under a contract which is completed by a conveyance, at the time when the asset is conveyed.

(4) For the meaning in those sections of "non-resident CGT disposal" see section 14B of the 1992 Act (and see also section 12ZJ).

(5) For the meaning of "NRCGT group" in those sections see section 288(1) of the 1992 Act.

(6) In this section "conveyance" includes any instrument (and "conveyed" is to be construed accordingly).

NRCGT return

12ZB(1) Where a non-resident CGT disposal is made, the appropriate person must make and deliver to an officer of Revenue and Customs, on or before the filing date, a return in respect of the disposal.

(2) In subsection (1) the "appropriate person" means—

(a) the taxable person in relation to the disposal, or

(b) if the disposal is made by a member of an NRCGT group, the relevant members of the group.

(3) A return under this section is called an "NRCGT return".

(4) An NRCGT return must—

(a) contain the information prescribed by HMRC, and

(b) include a declaration by the person making it that the return is to the best of the person's knowledge correct and complete.

(5) Subsection (1) does not apply to a non-resident CGT disposal to which section 188C of the 1992 Act applies (transfers within NRCGT group).

(6) For the purposes of subsection (2)(b), the "relevant members" of the NRCGT group are—

(a) the companies which are members of that group when the disposal is made, and

(b) any other companies which are, at any time before the time of the disposal in the tax year to which the return relates, members of that group.

(7) An NRCGT return "relates to" the tax year in which any gains on the non-resident CGT disposal would accrue.

(8) The "filing date" for an NRCGT return is the 30th day following the day of the completion of the disposal to which the return relates.

But see also section 12ZJ(5).

Single return in respect of two or more non-resident CGT disposals

12ZC Where—

(a) a person is required to make and deliver an NRCGT return with respect to two or more non-resident CGT disposals,

(b) the date of the completion of each of the disposals is the same, and

(c) any gains accruing on the disposals would accrue in the same tax year,

the person is to make and deliver a single return with respect to all those disposals.

NRCGT returns: grant and exercise of options

12ZD(1) This section applies where—

(a) by virtue of section 144(2) of the 1992 Act, the grant of an option binding the grantor to sell an interest in UK land is, on the exercise of the option, treated as the same transaction as the sale, and

(b) both the grant of the option and the transaction entered into by the grantor in fulfilment of the grantor's obligations under the option ("the sale") would be non-resident CGT disposals (were they not treated as a single transaction).

(2) On completion of the sale—

(a) the grantor is to be subject to the same obligations under sections 12ZB, 12ZE and 59AA (duties relating to returns and payments on account) in relation to the grant of the option as the grantor would be subject to were the option never to be exercised, and

(b) the consideration for the option is to be disregarded (despite section 144(2) of the 1992 Act) in calculating under section 12ZF the amount of capital gains tax notionally chargeable at the completion date of the single transaction mentioned in subsection (1)(a).

(3) In this section "sell" is to be interpreted in accordance with section 144(6) of the 1992 Act.

NRCGT return to include advance self-assessment

12ZE(1) An NRCGT return ("the current return") relating to a tax year ("year Y") which a person ("P") is required to make in respect of one or more non-resident CGT disposals ("the current disposals") must include an assessment (an "advance self-assessment") of—

(a) the amount notionally chargeable at the filing date for the current return (see section 12ZF), and

(b) if P has made (or is to make) a prior NRCGT return, the amount of any increase in the amount notionally chargeable for year Y.

But see the exceptions in section 12ZG.

(2) In a case falling within subsection (1)(b)—

(a) there is an "increase in the amount notionally chargeable" for year Y if the amount notionally chargeable at the filing date for the current return exceeds the corresponding amount for the prior NRCGT return (or the prior NRCGT return which has the most recent filing date, if there is more than one), and

(b) the amount of that increase is the amount of the excess.

(3) "Prior NRCGT return" means an NRCGT return which—

(a) relates to year Y, and

(b) is in respect of a non-resident CGT disposal (or disposals) the completion date of which is earlier than that of the current disposals.

The "amount notionally chargeable"

12ZQ(1) The "amount notionally chargeable" at the filing date for an NRCGT return ("the current return") is the amount of capital gains tax to which the person whose return it is ("P") would be chargeable under section 14D or 188D of the 1992 Act for the year to which the return relates ("year Y"), as determined—

(a) on the assumption in subsection (2),

(b) in accordance with subsection (3), and

(c) if P is an individual, on the basis of a reasonable estimate of the matters set out in subsection (4).

(2) The assumption mentioned in subsection (1)(a) is that in year Y no NRCGT gain or loss accrues to P on any disposal the completion of which occurs after the day of the completion of the disposals to which the return relates ("day X").

(3) In the determination of the amount notionally chargeable—

(a) all allowable losses accruing to P in year Y on disposals of assets the completion of which occurs on or before day X which are available to be deducted under paragraph (a) or (b) of section 14D(2) or (as the case may be) section 188D(2) of the 1992 Act are to be so deducted, and

(b) any other relief or allowance relating to capital gains tax which is required to be given in P's case is to be taken into account, so far as the relief would be available on the assumption in subsection (2).

(4) The matters mentioned in subsection (1)(c) are—

(a) whether or not income tax will be chargeable at the higher rate or the dividend upper rate in respect of P's income for year Y (see section 4(4) of the 1992 Act), and

(b) (if P estimates that income tax will not be chargeable as mentioned in paragraph (a)) what P's Step 3 income will be for year Y.

(5) An advance self-assessment must, in particular, give particulars of any estimate made for the purposes of subsection (1)(c).

(6) A reasonable estimate included in an NRCGT return in accordance with subsection (5) is not regarded as inaccurate for the purposes of Schedule 24 to the Finance Act 2007 (penalties for errors).

(7) Where P is the relevant body of an NRCGT group—

(a) the references to P in subsections (2) and (3)(a) are to be read as references to any member of the NRCGT group;

(b) the reference to P in subsection (3)(b) is to be read as including any member of the NRCGT group.

(8) For the purposes of this section—

an estimate is "reasonable" if it is made on a basis that is fair and reasonable, having regard to the circumstances in which it is made;

"Step 3 income", in relation to an individual, has the same meaning as in section 4 of the 1992 Act.

(9) In this section, references to the "relevant body" of an NRCGT group are to be interpreted in accordance with section 188D(4) of the 1992 Act.

(10) Section 989 of ITA 2007 (the definitions) applies for the purposes of this section as it applies for income tax purposes.

(11) For the meaning of "NRCGT gain" and "NRCGT loss" see section 57B of, and Schedule 4ZZB to, the 1992 Act.

Cases where advance self-assessment not required

12ZG(1) Where a person ("P") is required to make and deliver an NRCGT return relating to a tax year ("year Y"), section 12ZE(1) (requirement to include advance self-assessment in return) does not apply if condition A, B or C is met.

(2) Condition A is that P (or, if P is the trustees of a settlement, any trustee of the settlement) has been given, on or before the day on which the NRCGT return is required to be delivered, a notice under section 8 or 8A with respect to—

(a) year Y, or

(b) the previous tax year,

and that notice has not been withdrawn.

(3) Condition B is that P has been given, on or before the day on which the NRCGT return is required to be delivered, a notice under paragraph 3 of Schedule 18 to the Finance Act 1998 (notice requiring delivery of a company tax return) specifying a period which includes the whole or part of—

(a) year Y, or

(b) the previous tax year,

and that notice has not been withdrawn.

(4) Condition C is that an annual tax on enveloped dwellings return has been delivered by P (or a representative partner acting instead of P) for the preceding chargeable period.

(5) In subsection (4)—

"the preceding chargeable period" means the chargeable period (as defined in section 94(8) of the Finance Act 2013) which ends with the 31 March preceding year Y;

"representative partner" has the meaning given by section 167(6) of the Finance Act 2013.

(6) The Treasury may by regulations prescribe further circumstances in which section 12ZE(1) is not to apply.

(7) Regulations under subsection (6)—

(a) may make different provision for different purposes;

(b) may include incidental, consequential, supplementary or transitional provision.

NRCGT returns and annual self-assessment: section 8

12ZH1 (1) This section applies where a person ("P") (other than the relevant trustees of a settlement)—

(a) is not required to give a notice under section 7 with respect to a tax year ("year X"), and

(b) would be required to give such a notice in the absence of section 7A (which removes that duty in certain cases where the person has made an NRCGT return that includes an advance self-assessment).

(2) In this section, "the relevant NRCGT return" means—

(a) the NRCGT return by virtue of which P is not required to give a notice under section 7 with respect to year X, or

(b) if more than one NRCGT return falls within paragraph (a), the one relating to the disposal which has the latest completion date.

(3) P is treated for the purposes of the Taxes Acts as having been required to make and deliver to an officer of Revenue and Customs a return under section 8 for the purpose of establishing, with respect to year X, the matters mentioned in section 8(1).

(4) For the purposes of subsection (3), section 8 is to be read as if subsections (1E) to (1G) of that section were omitted.

(5) If P does not give a notice under subsection (6) before 31 January in the tax year after year X, the Taxes Acts have effect, from that date, as if the advance self-assessment contained in the relevant NRCGT return were a self-assessment included, for the purposes set out in section 9(1), in a return under section 8 made by P and delivered on that date.

(6) If P gives HMRC a notice under this subsection specifying an NRCGT return which—

(a) relates to year X, and

(b) contains an advance self-assessment,

the Taxes Acts are to have effect, from the effective date of the notice, as if that advance self-assessment were a self-assessment included, for the purposes set out in section 9(1), in a return under section 8 made by P and delivered on that date.

(7) References in the Taxes Acts to a return under section 8 (for example, references to amending, or enquiring into, a return under that section) are to be read in accordance with subsections (5) and (6).

(8) A notice under subsection (6)—

(a) must be given before 31 January in the tax year after year X;

(b) must state that P considers the advance self-assessment in question to be an accurate self-assessment in respect of year X for the purposes of section 9.

(9) The "effective date" of a notice under subsection (6) is—

(a) the day on which the NRCGT return specified in the notice is delivered, or

(b) if later, the day on which the notice is given.

(10) The self-assessment which subsection (5) or (6) treats as having been made by P is referred to in this section as the "section 9 self-assessment".

(11) If P—

(a) gives a notice under subsection (6), and

(b) makes and delivers a subsequent NRCGT return relating to year X which contains an advance self-assessment,

that advance self-assessment is to be treated as amending the section 9 self-assessment.

(12) For the purposes of subsection (11), an NRCGT return made and delivered by P ("return B") is "subsequent" to an NRCGT return to which P's notice under subsection (6) relates ("the notified return") if the day of the completion of the disposal to which return B relates is later than the day of the completion of the disposal to which the notified return relates.

NRCGT returns and annual self-assessment: section 8A

12ZA(1) This section applies where the relevant trustees of a settlement ("the trustees")—

(a) are not required to give a notice under section 7 with respect to a tax year ("year X"), and

(b) would be required to give such a notice in the absence of section 7A (which removes that duty in certain cases where the person has made an NRCGT return including an advance self-assessment).

(2) In this section, "the relevant NRCGT return" means—

(a) the NRCGT return by virtue of which P is not required to give a notice under section 7 with respect to year X, or

(b) if more than one NRCGT return falls within paragraph (a), the one relating to the disposal which has the latest completion date.

(3) The trustees are treated for the purposes of the Taxes Acts as having been required to make and deliver to an officer of Revenue and Customs a return under section 8A, for the purpose of establishing, with respect to year X, the matters mentioned in section 8A(1).

(4) For the purposes of subsection (3), section 8A is to be read as if—

(a) in subsection (1) of that section, ", and the settlors and beneficiaries," were omitted, and

(b) subsections (1C) to (1E) of that section were omitted.

(5) If the trustees do not give a notice under subsection (6) before 31 January in the tax year after year X, the Taxes Acts have effect, from that date, as if the advance self-assessment contained in the relevant NRCGT return were a self-assessment included, for the purposes set out in section 9(1), in a return under section 8A made by the trustees and delivered on that date.

(6) If the trustees give HMRC a notice under this subsection specifying an NRCGT return which—

(a) relates to year X, and

(b) contains an advance self-assessment,

the Taxes Acts are to have effect, from the effective date of the notice, as if that advance self-assessment were a self-assessment included, for the purposes set out in section 9(1), in a return under section 8A made by the trustees and delivered on that date.

(7) References in the Taxes Acts to a return under section 8A (for example, references to amending, or enquiring into, a return under that section) are to be read in accordance with subsections (5) and (6).

(8) A notice under subsection (6)—

(a) must be given before 31 January in the tax year after year X;

(b) must state that the trustees consider the advance self-assessment in question to be an accurate self-assessment in respect of year X for the purposes of section 9.

(9) The "effective date" of a notice under subsection (6) is—

(a) the day on which the NRCGT return specified in the notice is delivered, or

(b) if later, the day on which the notice is given.

(10) The self-assessment which subsection (5) or (6) treats as having been made by the trustees is referred to in this section as the "section 9 self-assessment".

(11) If the trustees—

(a) give a notice under subsection (6), and

(b) make and deliver a subsequent NRCGT return relating to year X which contains an advance self-assessment,

that advance self-assessment is to be treated as amending the section 9 self-assessment.

(12) For the purposes of subsection (11), an NRCGT return made and delivered by the trustees ("return B") is "subsequent" to an NRCGT return to which the trustees' notice under subsection (6) relates ("the notified return") if the day of the completion of the disposal to which return B relates is later than the day of the completion of the disposal to which the notified return relates.

Sections 12ZA to 12ZI: determination of residence status

12ZI(1) For the purposes of sections 12ZA to 12ZI, the question whether or not a disposal of a UK residential property interest is a non-resident CGT disposal is to be determined in accordance with subsections (2) and (3).

(2) A non-residence condition is to be taken to be met in relation to a disposal of a UK residential property interest if, at the time of the completion of the disposal—

(a) it is uncertain whether or not that condition will be met, but

(b) it is reasonable to expect that that condition will be met.

(3) If (in a case within subsection (2)) it later becomes certain that neither of the non-residence conditions is met in relation to the disposal, the disposal is treated as not being, and as never having been, a non-resident CGT disposal (and any necessary repayments or adjustments are to be made accordingly).

(4) Subsection (5) applies if—

(a) at the time of the completion of the disposal of a UK residential property interest it is uncertain whether or not the disposal is a non-resident CGT disposal because it is uncertain whether or not a non-residence condition will be met, but the case does not fall within subsection (2), and

(b) it later becomes certain that a non-residence condition is met in relation to the disposal.

(5) For the purposes of this Act, the filing date for the NRCGT return is taken to be the 30th day following the day on which it becomes certain that a non-residence condition is met in relation to the disposal.

(6) In this section "a non-residence condition" means condition A or B in section 14B of the 1992 Act.

Amendment of NRCGT return by the taxpayer

12ZK (1) A person may, by notice to an officer of Revenue and Customs, amend the person's NRCGT return.

(2) An amendment may not be made more than 12 months after 31 January of the year following the relevant tax year.

(3) In subsection (2) "the relevant tax year" means the tax year in which any gains on the disposal to which the return relates would accrue.

Correction of NRCGT return by HMRC

12ZL (1) An officer of Revenue and Customs may amend an NRCGT return so as to correct—

(a) obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise), and

(b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer.

(2) A correction under this section is made by notice to the person whose return it is.

(3) No such correction may be made more than 9 months after—

(a) the day on which the return was delivered, or

(b) if the correction is required in consequence of an amendment of the return under section 12ZK (amendment by the taxpayer), the day on which that amendment was made.

(4) A correction under this section is of no effect if the person to whom the notice of correction was given gives notice rejecting the correction.

(5) Notice of rejection under subsection (4) must be given—

(a) to the officer of Revenue and Customs by whom the notice of correction was given,

(b) before the end of the period of 30 days beginning with the date of issue of the notice of correction.

Notice of enquiry

12ZM(1) An officer of Revenue and Customs may enquire into an NRCGT return if the officer gives notice of the intention to do so ("notice of enquiry")—

(a) to the person whose return it is,

(b) within the time allowed.

(2) The time allowed is—

(a) if the return was delivered on or before 31 January in the year following the relevant tax year (the "annual filing date"), up to the end of the period of 12 months after the day on which the return was delivered;

(b) if the return was delivered after the annual filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;

(c) if the return is amended under section 12ZL (correction by HMRC), up to and including the quarter day next following the first anniversary of the day on which the amendment was made.

For this purpose the quarter days are 31 January, 30 April, 31 July and 31 October.

(3) An enquiry extends to anything contained in the return, or required to be contained in the return, including any claim or election included in the return, subject to the following limitation.

(4) If the notice of enquiry is given as a result of an amendment of the return under section 12ZK (amendment by taxpayer)—

(a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b), or

(b) after an enquiry into the return has been completed,

the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

(5) In subsection (2) "the relevant tax year" means the tax year in which any gain on the disposal to which the return relates would accrue.

Amendment of return by taxpayer during enquiry

12ZN(1) This section applies if an NRCGT return is amended under section 12ZK (amendment by taxpayer) at a time when an enquiry is in progress into the return.

(2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.

(3) So far as the amendment affects the amount notionally chargeable for the purposes of the return (see section 12ZF(1)), it does not take effect while the enquiry is in progress and—

(a) if the officer states in the closure notice that the officer has taken the amendment into account and that—

(i) the amendment has been taken into account in formulating the amendments contained in the notice, or

(ii) the officer's conclusion is that the amendment is incorrect,

the amendment is not to take effect;

(b) otherwise, the amendment takes effect when the closure notice is issued.

(4) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—

(a) beginning with the day on which the notice of enquiry is given, and

(b) ending with the day on which the enquiry is completed."

44 (1) Section 28A (completion of enquiry into personal or trustee return) is amended as follows.

(2) In subsection (1), after "9A(1)" insert " or 12ZM ".

(3) In the heading, after "return" insert " or NRCGT return ".

45 Before section 29 insert—

Determination of amount notionally chargeable where no NRCGT return delivered

"28G(1) This section applies where it appears to an officer of Revenue and Customs that—

(a) a person is required to make and deliver in respect of a non-resident CGT disposal an NRCGT return containing an advance self-assessment, and

(b) the person has not delivered the required return by the filing date for the return.

(2) The officer may make a determination, to the best of the officer's information and belief, of the amount of capital gains tax which should have been assessed in the required return as the amount notionally chargeable.

(3) Notice of any determination under this section must be served on the person in respect of whom it is made and must state the date on which it is issued.

(4) Until such time (if any) as it is superseded by an advance self-assessment on the basis of information contained in an NRCGT return, a determination under this section is to have effect as if it were an advance self-assessment contained in an NRCGT return made by the person in respect of the disposal concerned.

(5) Where—

(a) proceedings have been commenced for the recovery of an amount payable by virtue of a determination under this section, and

(b) before those proceedings are concluded, the determination is superseded by an advance self-assessment made by the person in respect of the disposal,

those proceedings may be continued as if they were proceedings for the recovery of so much of the amount payable by virtue of the advance self-assessment as is due and payable and has not been paid.

(6) No determination under this section, and no advance self-assessment superseding such a determination may be made—

(a) after the end of the period of 3 years beginning with 31 January of the year following the tax year to which the determination relates, or

(b) in the case of such an advance self-assessment, after the end of the period of 12 months beginning with the date of the determination.

(7) In this section—

"advance self-assessment" is to be interpreted in accordance with section 12ZE(1);

"amount notionally chargeable" is to be interpreted in accordance with section 12ZF(1);

"filing date", in relation to an NRCGT return, is to be interpreted in accordance with section 12ZB(8).

(8) For the meaning in this section of "non-resident CGT disposal" see section 14B of the 1992 Act."

46 In section 29 (assessment where loss of tax discovered), in subsection (7)(a), omit the "and" following sub-paragraph (i), and after that sub-paragraph insert—

"(ia) a reference to any NRCGT return made and delivered by the taxpayer which contains an advance self-assessment relating to the relevant year of assessment or either of the two immediately preceding chargeable periods; and".

47 After section 29 insert—

"**29A Non-resident CGT disposals: determination of amount which should have been assessed**

(1) Subsection (2) applies if HMRC discover, as regards a non-resident CGT disposal made by a person ("P") (or two or more such disposals in a case falling within section 12ZC) and a tax year ("the relevant tax year") that—

(a) an amount that ought to have been assessed as the amount notionally chargeable in an advance self-assessment under section 12ZE(1) has not been so assessed by the filing date, or

(b) an assessment of the amount notionally chargeable for the purposes of section 12ZF(1) contained in an NRCGT return made and delivered by P has become insufficient.

(2) HMRC may determine that the amount or further amount which in its opinion ought to be assessed under section 12ZE to remedy the failure mentioned in subsection (1)(a) or the insufficiency mentioned in subsection (1)(b) is to be treated for the purposes of this Act as if it were so assessed in—

(a) an NRCGT return made by P in respect of the disposal, or

(b) (if P has made and delivered an NRCGT return in respect of the disposal) that return.

But see subsections (3) to (5).

(3) Where P has made and delivered in respect of the disposal an NRCGT return containing an advance self-assessment, HMRC may not make a

determination under subsection (2) in respect of the disposal unless one of the two conditions mentioned below is met.

(4) The first condition is that the situation mentioned in subsection (1) was brought about carelessly or deliberately by P or a person acting on P's behalf.

(5) The second condition is that at the time when an officer of Revenue and Customs—

(a) ceased to be entitled to give notice of the officer's intention to enquire into the NRCGT return, or

(b) informed P of the completion of the officer's enquiries into the return,

the officer could not reasonably have been expected, on the basis of the information made available to the officer before that time, to be aware of the situation mentioned in subsection (1).

(6) For the purposes of subsection (5), information is made available to an officer of Revenue and Customs if—

(a) it is contained in an NRCGT return made and delivered by P which relates to the relevant tax year or either or the two immediately preceding tax years,

(b) it is contained in any return under section 8 or 8A made and delivered by P in respect of either of the two tax years immediately preceding the relevant tax year,

(c) it is contained in any claim made by P which relates to P's capital gains tax position with respect to the relevant tax year or either of the two immediately preceding tax years,

(d) it is contained in any accounts, statements or documents accompanying a return falling within paragraph (a) or (b) or a claim falling within paragraph (c),

(e) it is contained in any documents, accounts or particulars which, for the purposes of any enquiries by an officer of Revenue and Customs into a return falling within paragraph (a) or (b) or a claim falling within paragraph (c) are produced or provided by P to the officer, or

(f) it is information the existence of which, and the relevance of which as regards the situation mentioned in subsection (1)—

(i) could be reasonably expected to be inferred by an officer of Revenue and Customs from information falling within paragraphs (a) to (e), or

(ii) are notified in writing by the taxpayer to an officer of Revenue and Customs.

(7) In subsection (6)—

(a) any reference to a return made and delivered by P under section 8 in respect of a tax year includes, if P carries on a trade, profession or business in partnership, a reference to any partnership return with respect to the partnership for that tax year, and

(b) any reference to P includes a person acting on P's behalf.

(8) An objection to the making of a determination under subsection (2) on the ground that neither of the two conditions mentioned above is fulfilled may not be made otherwise than on an appeal against the assessment.

(9) In this section—

"advance self-assessment" has the meaning given by section 12ZE(1);

"amount notionally chargeable" is to be interpreted in accordance with section 12ZF(1);

"filing date", in relation to an NRCGT return, has the meaning given by section 12ZB(8).

(10) For the meaning in this section of "non-resident CGT disposal" see section 14B of the 1992 Act."

48 In section 34 (ordinary time limit of 4 years), after subsection (1) insert—

"(1A) In subsection (1) the reference to an assessment to capital gains tax includes a determination under section 29A (non-resident CGT disposals: determination of amount which should have been assessed)."

49 In section 42 (procedure for making claims), in subsection (11), after "8A," insert " 12ZB ".

50 In section 59A (payments on account of income tax), omit subsection (7).

51 After section 59A insert—

"**59AA Non-resident CGT disposals: payments on account of capital gains tax**

(1) Subsections (2) and (3) apply where a person ("P") is required to make, in relation to a tax year, an NRCGT return in respect of one or more non-resident CGT disposals containing an advance self-assessment and the amount in subsection (6)(a) is greater than the amount in subsection (6)(b).

(2) With effect from the filing date for the return, the balancing amount is (or, where applicable, becomes) the amount payable by P on account of P's liability to capital gains tax for the tax year.

(3) Where P is the relevant members of an NRCGT group, P is responsible for discharging the obligation of the taxable person to pay any balancing amounts and such amounts are payable on account of the taxable person's liability to capital gains tax for the tax year.

(4) Subsection (5) applies where a person ("P") is required to make, in relation to a tax year, an NRCGT return containing an advance self-assessment and the amount in subsection (6)(a) is less than the amount in subsection (6)(b).

(5) The balancing amount is repayable to P on the filing date for the return.

(6) The amounts referred to in subsections (1) and (4) are—

(a) the amount notionally chargeable contained in the self-assessment, and

(b) the total of any amounts previously paid under this section on account of P's liability to capital gains tax for the tax year.

(7) In subsections (2) and (5) "the balancing amount" means the difference between those amounts.

(8) Where, in the case of a repayment, the NRCGT return is enquired into by an officer of Revenue and Customs—

(a) nothing in subsection (5) requires the repayment to be made before the day on which, by virtue of section 28A(1), the enquiry is completed, but

(b) the officer may at any time before that day make the repayment, on a provisional basis, to such extent as the officer thinks fit.

(9) Subsection (10) applies to—

(a) any amount payable on account of capital gains tax as a result of the amendment or correction under section 12ZK, 12ZL or 28A of an advance self-assessment, and

(b) any amount paid on account of capital gains tax which is repayable as a result of such an amendment or correction.

(10) The amount is payable or (as the case may be) repayable on or before the day specified by the relevant provision of Schedule 3ZA.

(11) Subsection (12) applies where a determination under section 28G (determination of amount notionally chargeable where no NRCGT return delivered) which has effect as a person's advance self-assessment is superseded by an advance self-assessment in an NRCGT return made and delivered by the person under section 12ZB.

(12) Any amount which is payable on account of capital gains tax, and any amount paid on account of capital gains tax which is repayable, by virtue of the supersession is to be payable or (as the case may be) repayable on or before the filing date for the return.

(13) In this section—

"advance self-assessment" has the meaning given by section 12ZE(1);

"amount notionally chargeable" is to be interpreted in accordance with section 12ZF(1);

"filing date", in relation to an NRCGT return, has the meaning given by section 12ZB(8);

the "taxable person", in relation to a non-resident CGT disposal, means the person who would be chargeable to capital gains tax in respect of any chargeable NRCGT gain accruing on the disposal (were such a gain to accrue).

(14) For the meaning in this section of "non-resident CGT disposal" see section 14B of the 1992 Act.

(15) For the meaning in this section of "NRCGT group" see section 288(1) of the 1992 Act.

59AB Amounts payable on account: recovery

The provisions of the Taxes Acts as to the recovery of tax shall apply to an amount falling to be paid on account of tax in the same manner as they apply to an amount of tax."

52 (1) Section 59B (payment of income tax and capital gains tax) is amended as follows.

(2) In subsection (1)(b), after "59A" insert " or 59AA ".

(3) After subsection (2) insert—

"(2A) The reference in subsection (1)(b) to payments on account under section 59AA does not include any amounts already repaid under section 59AA(5)."

53 In section 107A (relevant trustees), in subsection (2)(b), after "59A" insert " , 59AA ".

54 In section 118 (interpretation), in subsection (1), at the appropriate place insert—

""NRCGT return" has the meaning given by section 12ZB;".

55 (1) Schedule 3ZA (date by which payment to be made after amendment or correction of self-assessment) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1), at the end insert " or an advance self-assessment (see section 12ZE(1)) ";

(b) in sub-paragraph (2), after "section" insert " 59AA(2) or ".

(3) In paragraph 2—

(a) in sub-paragraph (1), at the end insert " or an amendment of an advance self-assessment under section 12ZK (amendment of NRCGT return by taxpayer) ";

(b) in sub-paragraph (3), after "9B(3)" insert " or 12ZN(3) " and after "self-assessment" insert " or advance self-assessment ".

(4) In paragraph 3(1), after "9ZB" insert " or 12ZL " and after "trustee return" insert " or NRCGT return ".

(5) In paragraph 5(1)—

(a) after "amount of tax" insert " or an amount on account of capital gains tax ";

(b) after "self-assessment" insert " or advance self-assessment ";

(c) omit "personal or trustee".

56 (1) In FA 2007, Schedule 24 (penalties for errors) is amended as follows.

(2) In paragraph 1, in the table in sub-paragraph (4), after the entry relating to accounts in connection with a partnership return insert—

"Capital gains tax	Return under section 12ZB of TMA 1970 (NRCGT return)."

(3) After paragraph 21B insert—

"Treatment of certain payments on account of tax

21C In paragraphs 1(2) and 5 references to "tax" are to be interpreted as if amounts payable under section 59AA(2) of TMA 1970 (non-resident CGT disposals: payments on account of capital gains tax) were tax."

57 In Schedule 36 to FA 2008 (information and inspection powers), after paragraph 21 insert—

"Taxpayer notices following NRCGT return

21ZA (1) Where a person has delivered an NRCGT return with respect to a non-resident CGT disposal, a taxpayer notice may not be given for the purpose of checking the person's capital gains tax position as regards the matters dealt with in that return.

(2) Sub-paragraph (1) does not apply where, or to the extent that, any of conditions A to C is met.

(3) Condition A is that notice of enquiry has been given in respect of—

(a) the return, or

(b) a claim (or an amendment of a claim) made by the person in relation to the chargeable period,

and the enquiry has not been completed.

(4) In sub-paragraph (3) "notice of enquiry" means a notice under section 12ZM of TMA 1970.

(5) Condition B is that an officer of Revenue and Customs has reason to suspect that—

(a) an amount that ought to have been assessed under section 12ZE of TMA 1970 as payable on account of the person's liability to capital gains tax for the tax year to which the return relates has not been so assessed by the filing date for the return, or

(b) an assessment under section 12ZE of TMA 1970 of the amount payable on account of P's liability to capital gains tax for the tax year to which the return relates has become insufficient.

(6) Condition C is that the notice is given for the purpose of obtaining any information or document that is also required for the purpose of checking that person's position as regards a tax other than capital gains tax.

(7) In this paragraph—

"NRCGT return" has the meaning given by section 12ZB of TMA 1970;

"non-resident CGT disposal" has the meaning given by section 14B of TCGA 1992."

58 In CTA 2009, in section 2 (charge to corporation tax), in subsection (2A), for the words from "under" to the end substitute "under—

(a) section 2B of TCGA 1992 (companies etc chargeable to capital gains tax on ATED-related gains on relevant high value disposals), or

(b) section 14D or 188D of that Act (persons chargeable to capital gains tax on NRCGT gains on non-resident CGT disposals)."

59 (1) In Schedule 55 to FA 2009 (penalty for failure to make returns etc), in the Table in paragraph 1, after item 2 insert—

"2A	Capital gains tax	NRCGT return under section 12ZB of TMA 1970".

(2) That Schedule, as amended by sub-paragraph (1), is taken to have come into force for the purposes of NRCGT returns on the date on which this Act is passed.

PART 3

COMMENCEMENT

60 The amendments made by this Schedule have effect in relation to disposals made on or after 6 April 2015.

Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 21 para. 2(e) and word inserted by 2021 c. 26 Sch. 27 para. 44(3)(b)
- Sch. 21 para. 5(6) inserted by 2021 c. 26 Sch. 27 para. 44(4)(b)