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SCHEDULES

SCHEDULE 7

DISPOSALS OF UK RESIDENTIAL PROPERTY INTERESTS BY NON-RESIDENTS ETC

PART 1

AMENDMENTS OF TCGA 1992

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

“Pooling of NRCGT gains and losses

Election for pooling

188A) 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—

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“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) 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) 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) 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

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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) 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) 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).

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- (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).

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- (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) 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) 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.

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Interpretation of sections 188A to 188J

188K) 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).”

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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\(4\)\(b\)](#)