
Changes to legislation: Finance Act 2016, Paragraph 5 is up to date with all changes known to be in force on or before 07 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 12

DISPOSALS OF RESIDENTIAL PROPERTY INTERESTS: GAINS AND LOSSES

5 After Schedule 4ZZB insert—

“SCHEDULE 4ZZC

Section 57C

DISPOSALS OF RESIDENTIAL PROPERTY INTERESTS: GAINS AND LOSSES

PART 1

INTRODUCTION AND INTERPRETATION

Introduction

- 1 (1) In this Schedule “RPI disposal” means a disposal of a residential property interest which is not a non-resident CGT disposal.
- (2) This Schedule applies for the purpose of determining, in relation to an RPI disposal—
 - (a) whether a residential property gain or loss accrues on the disposal, and the amount of any such gain or loss, and
 - (b) whether a gain or loss other than a residential property gain or loss accrues on the disposal, and the amount of any such gain or loss.
- (3) In this Schedule—
 - (a) Part 2 contains the main rules for computing the gains and losses;
 - (b) Part 3 contains the rules for computing the gains and losses in a case where the RPI disposal is, or involves, a relevant high value disposal (as defined in section 2C).

Interpretation

- 2 (1) For the purposes of this Schedule, a relevant high value disposal is “comprised in” an RPI disposal if—
 - (a) the RPI 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.
- (2) 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);

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“dwelling” has the meaning given by —

- (a) paragraph 4 of Schedule B1, in relation to a disposal of a UK residential property interest;
- (b) paragraph 4 of Schedule BA1, in relation to a disposal of a non-UK residential property interest;

“subject-matter”, in relation to an interest in land (or a chargeable interest) means the land to which the interest relates.

PART 2

RPI DISPOSALS NOT INVOLVING RELEVANT HIGH VALUE DISPOSALS

Application of Part

- 3 (1) This Part of this Schedule applies where a person (“P”) makes an RPI disposal of (or of part of) an interest in 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.
- (3) In this Part of this Schedule “the disposed of interest” means—
- (a) the interest in land, or
 - (b) if the disposal is of part of that interest, the part disposed of.

Computation of residential property gains and losses

- 4 (1) The residential property gain or loss accruing on the disposal is computed as follows.
- Step 1* Determine the amount of the gain or loss that accrues to P.
- Step 2* The residential property gain or 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 residential property gain or loss accruing on the disposal is equal to the appropriate fraction of the amount given by Step 2.
- (2) In Step 2 “the relevant fraction” means—

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

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.

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- (3) For the purposes of Step 3 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) In this paragraph 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 occurs.

Computation of balancing gains and losses

- 5 The gain or loss accruing on the disposal which is not a residential property gain or loss is computed as follows.

Step 1 In a case where there is a gain under Step 1 of paragraph 4(1), determine the amount of that gain remaining after the deduction of the residential property gain determined under that paragraph.

That remaining gain is the gain accruing on the disposal which is not a residential property gain.

Step 2 In a case where there is a loss under Step 1 of paragraph 4(1), determine the amount of that loss remaining after the deduction of the residential property loss determined under that paragraph.

That remaining loss is the loss accruing on the disposal which is not a residential property loss.

Interest subsisting under contract for off-plan purchase

- 6 (1) This paragraph applies where the disposal referred to in paragraph 3(1) is a disposal of a residential property interest only because of—
- (a) the second condition in paragraph 1 of Schedule B1, or
 - (b) the second condition in paragraph 1 of Schedule BA1,
- (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).
- (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 3

RPI DISPOSALS INVOLVING RELEVANT HIGH VALUE DISPOSALS

Application of Part

- 7 (1) This Part of this Schedule applies where—
- (a) a person (other than an excluded person) (“P”) makes an RPI disposal of (or of part of) an interest in land, and

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- (b) that disposal (“the disposal of land”) is a relevant high value disposal or a relevant high value disposal is comprised in it.
- (2) “Excluded person” has the meaning given by section 2B(2).

Interpretation of Part

- 8 (1) This paragraph applies for the interpretation of this Part of this Schedule.
- (2) “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.
- (3) “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.
- (4) A day is a “residential property 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).

Computation of residential property gains or losses on the RPI disposal

- 9 (1) The residential property gain or loss accruing on the disposal of land is computed as follows.
 - Step 1* Determine in accordance with paragraphs 10 to 15 the amount of the residential property 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).
- (2) If the result is a positive amount, that amount is the residential property gain on the disposal of land.
- (3) If the result is a negative amount, that amount (expressed as a positive number) is the residential property loss on the disposal of land.

Computation of residential property gains or losses on relevant high value disposal not within Case 1, 2 or 3 (or where an election is made)

- 10 (1) This paragraph applies to a relevant high value disposal where—
 - (a) the disposal does not fall within any of Cases 1, 2 or 3 in paragraph 2 of Schedule 4ZZA, or
 - (b) P has made an election under paragraph 5 of that Schedule in respect of the asset.
- (2) The residential property gain or loss accruing on the relevant high value disposal is computed as follows—
 - Step 1* Determine the amount of 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 57C or this Schedule.)

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

(3) The “special fraction” is—

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

where—

“SD” is the number of residential property chargeable days in the relevant ownership period;

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

(4) “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.

Computation of residential property gains and losses on relevant high value disposal within Case 1, 2 or 3 (and no election made)

- 11 (1) This paragraph applies to a relevant high value disposal where—
- (a) the disposal falls within Case 1, 2 or 3 in paragraph 2 of Schedule 4ZZA, and
 - (b) P has not made an election under paragraph 5 of that Schedule in respect of the asset.
- (2) The residential property gain or loss accruing on the relevant high value disposal is computed in accordance with paragraphs 12 to 15.
- (3) In those paragraphs “the relevant year” means—
- (a) where the relevant high value disposal falls within Case 1 in paragraph 2 of Schedule 4ZZA, 2013,
 - (b) where it falls within Case 2 in that paragraph, 2015, and
 - (c) where it falls within Case 3 in that paragraph, 2016.
- 12 (1) Take the following steps—
- Step 1* Determine the amount equal to the special fraction of the notional pre-ATED gain or loss (as the case may be) (see paragraph 13).
- Step 2* Determine the amount equal to the special fraction of the notional post-ATED gain or loss (as the case may be) (see paragraph 14).
- Step 3* Add (treating any amount which is a loss as a negative amount)
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- (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.
- (2) If the result is a positive amount, that amount is the residential property gain on the relevant high value disposal.

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- (3) If the result is a negative amount, that amount (expressed as a positive number) is the residential property loss on the relevant high value disposal.
- 13 (1) This paragraph applies for the purposes of Step 1 in paragraph 12.
- (2) “Notional pre-ATED gain or loss” means the gain or loss which would have accrued on 5 April of the relevant year had the disposed of interest been disposed of for a consideration equal to the market value of the interest on that date.
- (3) The “special fraction” is—

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

where—

“SD” is the number of residential property chargeable days in the relevant ownership period;

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

- (4) The “relevant ownership period” is 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 5 April of the relevant year.
- 14 (1) This paragraph applies for the purposes of Step 2 in paragraph 12.
- (2) “Notional post-ATED 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 of the relevant year for a consideration equal to its market value on that date (and see paragraph 15).
- (3) The “special fraction” is—

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

where—

“SD” is the number of residential property chargeable days in the relevant ownership period;

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

- (4) The “relevant ownership period” is the period beginning with 6 April of the relevant year and ending with the day before the day on which the relevant high value disposal occurs.
- 15 (1) This paragraph applies for the purposes of computing the notional post-ATED gain or loss for the purposes of Step 2 in paragraph 12.

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- (2) In determining whether the asset which is the subject of the relevant high value disposal is a wasting asset (as defined for the purposes of Chapter 2 of Part 2), ignore the assumption that the asset was acquired on 5 April of the relevant year.
- (3) Sections 41 (restriction of losses by reference to capital allowances and renewals allowances) and 47 (wasting assets subject to capital allowances) apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by P in acquiring or providing the asset as if that allowance were made in respect of the expenditure treated as incurred by P on 5 April of the relevant year.

Computation of balancing gains or losses on the RPI disposal

- 16 (1) The gain or loss on the disposal of land which is neither ATED-related nor a residential property gain or loss (“the balancing gain or loss”) is computed as follows.

Step 1 Determine in accordance with paragraphs 17 and 18 the amount of the gain or loss accruing on each relevant high value disposal which is neither ATED-related nor a residential property gain or loss.

This is the “balancing” gain or loss for each 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).

- (2) If the result is a positive amount, that amount is the balancing gain on the disposal of land.
- (3) If the result is a negative amount, that amount (expressed as a positive number) is the balancing loss on the disposal of land.

Computation of balancing gains or losses on relevant high value disposal not within Case 1, 2 or 3 (or where an election is made)

- 17 (1) In the case of a relevant high value disposal to which paragraph 10 applies, the amount of the balancing gain or loss is determined as follows.
- (2) Determine the number of balancing days in the relevant ownership period.
- (3) “Balancing day” means a day which is neither—
 - (a) a residential property chargeable day, nor
 - (b) an ATED chargeable day (as defined in paragraph 3 of Schedule 4ZZA).
- (4) 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 10(2).
- (5) The “balancing fraction” is—

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

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.

- (6) In this paragraph “relevant ownership period” has the same meaning as in paragraph 10.

Computation of balancing gains or losses on relevant high value disposal within Case 1, 2 or 3 (and no election made)

- 18 (1) The amount of the balancing gain or loss on a relevant high value disposal to which paragraph 11 applies is found by adding—
- (a) the amount of the balancing gain or loss belonging to the notional pre-ATED gain or loss, and
 - (b) the amount of the balancing gain or loss belonging to the notional post-ATED gain or loss,
- (treating any amount which is a loss as a negative amount).
- (2) If the result is a positive amount, that amount is the balancing gain on the relevant high value disposal.
- (3) 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 pre-ATED gain or loss is equal to the balancing fraction of the notional pre-ATED gain or loss.
- (5) The balancing gain or loss belonging to the notional post-ATED gain or loss is equal to the balancing fraction of the notional post-ATED gain or loss.
- (6) The balancing fraction is—

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

where—

“BD” is the number of balancing days in the appropriate ownership period;

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

- (7) “Balancing day” means a day which is neither—
- (a) a residential property chargeable day, nor
 - (b) an ATED chargeable day (as defined in paragraph 3 of Schedule 4ZZA).
- (8) The appropriate ownership period is—

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- (a) for the purpose of computing the balancing gain or loss belonging to the notional pre-ATED gain or loss, the relevant ownership period mentioned in paragraph 13(4);
- (b) for the purpose of computing the balancing gain or loss belonging to the notional post-ATED gain or loss, the relevant ownership period mentioned in paragraph 14(4).

(9) In this paragraph—

“notional pre-ATED gain or loss” means the same as in paragraph 13(2);

“notional post-ATED gain or loss” means the same as in paragraph 14(2).

*Relevant high value disposal and “other”
disposal are comprised in the disposal of land*

- 19 (1) This paragraph applies where the disposals comprised in the disposal of land 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 residential property 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—
- (a) where paragraph 10 applies, the relevant ownership period as defined in paragraph 10(4), or
 - (b) where paragraph 11 applies, the relevant ownership period as defined in paragraphs 13(4) and 14(4).

Interest subsisting under contract for off-plan purchase

- 20 (1) This paragraph applies where the RPI disposal made by P is a disposal of a residential property interest only because of—
- (a) the second condition in paragraph 1 of Schedule B1, or
 - (b) the second condition in paragraph 1 of Schedule BA1,
- (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).
- (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 land.”

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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. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)