

SCHEDULES

SCHEDULE 16

PROPERTY AUTHORISED INVESTMENT FUNDS AND CO-OWNERSHIP AUTHORISED CONTRACTUAL SCHEMES

PART 1

CO-OWNERSHIP AUTHORISED CONTRACTUAL SCHEMES

1 In FA 2003, after section 102 insert—

“102A Co-ownership authorised contractual schemes

- (1) This section has effect for the purposes of this Part.
- (2) This Part, with the exception of Schedule 7 (see subsection (10)), applies in relation to a co-ownership authorised contractual scheme as if—
 - (a) the scheme were a company, and
 - (b) the rights of the participants were shares in the company.
- (3) An “umbrella COACS” means a co-ownership authorised contractual scheme—
 - (a) whose arrangements provide for separate pooling of the contributions of the participants and the profits or income out of which payments are made to them (“pooling arrangements”), and
 - (b) under which the participants are entitled to exchange rights in one pool for rights in another.
- (4) A “sub-scheme”, in relation to an umbrella COACS, means such of the pooling arrangements as relate to a separate pool.
- (5) Each of the sub-schemes of an umbrella COACS is regarded as a separate co-ownership authorised contractual scheme, and the umbrella COACS as a whole is not so regarded.
- (6) In relation to a sub-scheme of an umbrella COACS—
 - (a) references to chargeable interests are references to such of the chargeable interests as under the pooling arrangements form part of the separate pool to which the sub-scheme relates, and
 - (b) references to the scheme documents are references to such parts of the documents as apply to the sub-scheme.
- (7) References to a co-ownership authorised contractual scheme are treated as including a collective investment scheme which—
 - (a) is constituted under the law of an EEA State other than the United Kingdom by a contract,

- (b) is managed by a body corporate incorporated under the law of an EEA State, and
- (c) is authorised under the law of the EEA State mentioned in paragraph (a) in a way which makes it, under that law, the equivalent of a co-ownership authorised contractual scheme as defined in subsection (8),

provided that, apart from this section, no charge to tax is capable of arising to the scheme under this Part.

- (8) Subject to any regulations under subsection (9)—

“co-ownership authorised contractual scheme” means a co-ownership scheme which is authorised for the purposes of FSMA 2000 by an authorisation order in force under section 261D(1) of that Act;

“co-ownership scheme” has the same meaning as in FSMA 2000 (see section 235A of that Act).

- (9) The Treasury may by regulations provide that a scheme of a description specified in the regulations is to be treated as not being a co-ownership authorised contractual scheme for the purposes of this Part.

Any such regulations may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.

- (10) A co-ownership authorised contractual scheme is not to be treated as a company for the purposes of Schedule 7 (group relief, reconstruction relief or acquisition relief).
- (11) In relation to a land transaction in respect of which a co-ownership authorised contractual scheme is treated as the purchaser by virtue of this section, references to the purchaser in the following provisions are to be read as references to the operator of the scheme—
- (a) sections 76, 80, 81, 81A and 108(2) and Schedule 10 (provisions about land transaction returns and further returns, enquiries, assessments and related matters),
 - (b) section 85 (liability for tax), and
 - (c) section 90 (application to defer payment in case of contingent or unascertained consideration).

- (12) In this section—

“collective investment scheme” has the meaning given by section 235 of FSMA 2000;

“FSMA 2000” means the Financial Services and Markets Act 2000;

“operator”—

- (a) in relation to a co-ownership authorised contractual scheme constituted under the law of the United Kingdom, has the meaning given by section 237(2) of FSMA 2000, and
- (b) in relation to a collective investment scheme treated as a co-ownership authorised contractual scheme by virtue of subsection (7) (equivalent EEA schemes), means the corporate body responsible for the management of the scheme (however described);

“participant” is to be read in accordance with section 235 of FSMA 2000.”