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SCHEDULES

SCHEDULE 1

CHARGEABLE GAINS ACCRUING TO NON-RESIDENTS ETC

PART 1

EXTENDING CASES IN WHICH NON-RESIDENTS ARE CHARGED TO TAX ETC

- 1 TCGA 1992 is amended as follows.
- 2 For the sections contained in Part 1 substitute—

“PART 1

CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

CHAPTER 1

CAPITAL GAINS TAX

Charge to capital gains tax

1 Capital gains tax

- (1) Capital gains tax is charged for a tax year on chargeable gains accruing in the year to a person on the disposal of assets.
- (2) As a result of section 4 of CTA 2009, capital gains tax is not charged on gains accruing to a company, but corporation tax is chargeable instead in accordance with—
 - (a) section 2 of CTA 2009,
 - (b) Chapter 2 of this Part, and
 - (c) other relevant provisions of the Corporation Tax Acts.
- (3) Capital gains tax is charged on the total amount of chargeable gains accruing to a person in a tax year after deducting—
 - (a) any allowable losses accruing to the person in the tax year, and
 - (b) so far as not previously deducted under this subsection, any allowable losses accruing to the person in any previous tax year.

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Territorial scope of charge

1A Territorial scope

- (1) A person who is UK resident for a tax year is chargeable to capital gains tax on chargeable gains accruing to the person in the tax year on the disposal of assets wherever situated.
- (2) In the case of individuals who are UK resident for a tax year, see also—
 - (a) Schedule 1 (foreign gains accruing to individuals to whom the remittance basis applies),
 - (b) section 1G (cases where the tax year is a split year),
 - (c) sections 1M and 1N (temporary periods of non-residence),
 - (d) Chapter 3 (gains of non-UK resident close companies attributed to individuals), and
 - (e) sections 86, 87, 87K, 87L and 89(2) (gains of non-UK resident trustees attributed to individuals).
- (3) A person who is not UK resident for a tax year is chargeable to capital gains tax on chargeable gains accruing to the person in the tax year on the disposal of—
 - (a) assets situated in the United Kingdom that have a relevant connection to the person's UK branch or agency and are disposed of at a time when the person has that branch or agency (see section 1B),
 - (b) assets not within paragraph (a) that are interests in UK land (see section 1C), and
 - (c) assets (wherever situated) not within paragraph (a) or (b) that derive at least 75% of their value from UK land where the person has a substantial indirect interest in that land (see section 1D and Schedule 1A).
- (4) For the purposes of this Chapter a person is “UK resident” for a tax year if the person is resident in the United Kingdom during any part of the tax year.
- (5) For the relevant residence rules—
 - (a) in the case of individuals, see Schedule 45 to the Finance Act 2013 (which provides that individuals meeting the applicable tests for a tax year are taken to be resident for the whole of the year),
 - (b) in the case of the personal representatives of deceased individuals, see section 62(3), and
 - (c) in the case of trustees of settlements, see section 69.

1B Non-UK residents: UK branch or agency

- (1) For the purposes of section 1A(3)(a) a person has a UK branch or agency at any time if, at that time, the person carries on a trade, profession or vocation in the United Kingdom through a branch or agency there.
- (2) For the purposes of section 1A(3)(a) an asset has a relevant connection to a person's UK branch or agency if—

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- (a) it is, or was, used in or for the purposes of the trade, profession or vocation at or before the time of the disposal,
 - (b) it is, or was, used or held for the purposes of the branch or agency at or before that time, or
 - (c) it is acquired for use by or for the purposes of the branch or agency.
- (3) Section 1A(3)(a) does not apply to a person who, as a result of Part 2 of TIOPA 2010 (double taxation arrangements), is exempt from income tax for the tax year in respect of the profits or gains of the branch or agency.
- (4) In the case of a profession or vocation carried on by a person, an asset does not have a relevant connection to the person's UK branch or agency if—
- (a) the asset was only used in or for the purposes of the profession or vocation before 14 March 1989, or
 - (b) the asset was only used or held for the purposes of the branch or agency before that date.
- (5) In this Act, unless the context otherwise requires, “branch or agency”—
- (a) means any factorship, agency, receivership, branch or management, but
 - (b) does not include any person within any of the exemptions under sections 835G to 835K of ITA 2007 (persons who are not UK representatives).

1C Non-UK residents: disposing of an “interest in UK land”

- (1) For the purposes of section 1A(3)(b) an “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 an estate, interest, right or power in or over land in the United Kingdom,
- other than an excluded interest.
- (2) The following interests are “excluded interests”—
- (a) any interest or right held for securing the payment of money or the performance of any other obligation,
 - (b) a licence to use or occupy land,
 - (c) in England and Wales or Northern Ireland, a tenancy at will or an advowson, franchise or manor, and
 - (d) such other descriptions of interest or right in relation to land in the United Kingdom as may be specified in regulations made by the Treasury.
- (3) An interest or right is not within subsection (2)(a) if it is—
- (a) a rentcharge, or
 - (b) in Scotland, a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000.
- (4) The grant of an option by a person binding the person to dispose of an interest in UK land is (so far as it would not otherwise be the case) regarded

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as a disposal of an interest in UK land by the person for the purposes of section 1A(3)(b).

- (5) This does not affect the operation of section 144 in relation to the grant of the option (or otherwise).
- (6) In this section—
- “franchise” means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls, and
- “land” includes—
- (a) buildings and structures, and
 - (b) land under the sea or otherwise covered by water.

1D Non-UK residents: assets deriving 75% of value from UK land etc

- (1) For the purposes of section 1A(3)(c) the following questions are determined in accordance with the provision made by Schedule 1A—
- (a) whether the asset being disposed of derives at least 75% of its value from UK land, and
 - (b) whether the person making the disposal has a substantial indirect interest in the UK land at the time of the disposal.
- (2) The provision made by Schedule 1A is not to be taken as affecting the meaning of “substantial” in other contexts.

Deduction of allowable losses

1E Losses deductible only when within scope of tax etc

- (1) A loss is not an allowable loss if it accrues in a tax year at a time when, had a gain accrued instead, the gain would not have been chargeable to capital gains tax under this Act for the tax year (and see also sections 16(2) and 16A).
- (2) In addition, the only allowable losses that qualify for deduction from chargeable gains under section 1A(3) (non-UK residents) are those accruing to the person on disposals of assets within that subsection.
- (3) An allowable loss counts for the purposes of subsection (2) even if it accrues in a tax year in which the person was UK resident.
- (4) No allowable losses may be deducted from chargeable gains treated as accruing to an individual as a result of section 87, 87K, 87L or 89(2) (read, where appropriate, with section 1M).
- (5) If—
- (a) amounts (or elements of amounts) treated as accruing to an individual as a result of section 86 relate to different settlements, and
 - (b) the deduction of allowable losses does not reduce the amounts or elements to nil,
- the deduction applicable to each amount is the proportion that the amount concerned bears to the total of the amounts.

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- (6) The deduction of allowable losses also has effect subject to Schedule 1 (UK resident individuals not domiciled in UK).
- (7) For the only case in which an allowable loss accruing in a tax year may be carried back to an earlier tax year, see section 62 (death).

1F Allowable losses to be used in most beneficial way etc

- (1) Allowable losses may (subject to express provision to the contrary) be deducted from gains in whichever way is most beneficial to a person chargeable to capital gains tax.
- (2) Accordingly, an allowable loss may be deducted from a chargeable gain irrespective of the rate of tax at which the gain would otherwise have been charged.
- (3) Allowable losses that are deducted from gains may not be deducted any further than is necessary to eliminate the gains.
- (4) No part of an allowable loss may be relieved under this Act more than once.
- (5) So far as an amount has been relieved under the Income Tax Acts, it may not be further relieved under this Act.

UK resident individuals with split tax years

1G Gains accruing to UK resident individuals in split years

- (1) If, as respects any individual, a tax year is a split year, sections 1A(1) and 1E have effect subject to the modifications made by this section.
- (2) Gains accruing to the individual in the overseas part of the tax year are chargeable to capital gains tax only if they accrue on the disposal of assets within section 1A(3).
- (3) Losses are deductible from gains accruing to the individual in the overseas part of the tax year on the disposal of assets within section 1A(3)(b) or (c) only if the losses accrue to the individual on the disposal of—
 - (a) assets that are within section 1A(3)(b) or (c), or
 - (b) assets that would be within section 1A(3)(b) or (c) if they did not have a relevant connection to the individual's UK branch or agency.
- (4) But losses accruing in the overseas part of the tax year on disposals of assets within section 1A(3)(b) or (c) are (so far as not deducted as mentioned in subsection (3)) deductible from gains accruing in the UK part of the tax year.

Rates of CGT

1H The main rates of CGT

- (1) This section makes provision about the rates at which capital gains tax is charged but has effect subject to—
 - (a) section 169N (entrepreneurs' relief: rate of 10%), and

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- (b) section 169VC (investors' relief: rate of 10%).
- (2) Chargeable gains accruing in a tax year to an individual that are—
 - (a) residential property gains (see Schedule 1B), or
 - (b) carried interest gains (see subsections (9) to (11)),
 are charged to capital gains tax at a rate of 18% or 28%.
- (3) Other chargeable gains accruing in a tax year to an individual are charged to capital gains tax at a rate of 10% or 20%.
- (4) The question as to which of the rates applies to the gains concerned is determined by section 1I (income taxed at higher rates or gains exceeding unused basic rate band).
- (5) Chargeable gains accruing in a tax year to the personal representatives of a deceased individual that are—
 - (a) residential property gains, or
 - (b) carried interest gains,
 are charged to capital gains tax at a rate of 28%.
- (6) Other chargeable gains accruing in a tax year to the personal representatives of a deceased individual are charged to capital gains tax at a rate of 20%.
- (7) Residential property gains accruing in a tax year to the trustees of a settlement are charged to capital gains tax at a rate of 28%.
- (8) Other chargeable gains accruing in a tax year to the trustees of a settlement are charged to capital gains tax at a rate of 20%.
- (9) For the purposes of this section chargeable gains are “carried interest gains” if they accrue to an individual (“X”)—
 - (a) under section 103KA(2) or (3) (investment management services), or
 - (b) as a result of carried interest arising to X under arrangements not involving a partnership under which X performs investment management services directly or indirectly in respect of an investment scheme.
- (10) A gain is not a carried interest gain under subsection (9)(b) if the carried interest constitutes a co-investment repayment or return.
- (11) Expressions used in subsection (9) or (10) have the same meaning as they have in Chapter 5 of Part 3.

1I Income taxed at higher rates or gains exceeding unused basic rate band

- (1) If any of an individual's income for a tax year is chargeable to income tax at a higher income tax rate, gains accruing to the individual in the tax year are charged—
 - (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
 - (b) at the rate of 20% (if they are other kinds of gains).
- (2) If—

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- (a) none of an individual's income for a tax year is chargeable to income tax at a higher income tax rate, but
 - (b) the individual is chargeable to capital gains tax for the tax year on an amount that exceeds the unused part of the individual's basic rate band,
the excess (“the higher rate excess”) is charged at the rate of 28%(so far as comprising residential property gains or carried interest gains) or at the rate of 20% (so far as comprising other kinds of gains).
- (3) The remainder of this section sets out special rules which apply depending on the nature of the gains within subsection (2)(b).
- (4) If—
- (a) the gains consist of or include gains (“entrepreneur or investor gains”) chargeable at the rate of 10% under section 169N(3) or 169VC(2), and
 - (b) the total amount of the entrepreneur or investor gains exceeds the unused part of the individual's basic rate band,
- that unused part is used fully against those gains.
- (5) The effect of so doing is that other gains comprised in the higher rate excess are then charged—
- (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
 - (b) at the rate of 20% (if they are other kinds of gains).
- (6) If the total amount of the entrepreneur or investor gains does not exceed the unused part of the individual's basic rate band—
- (a) so much of that unused part as is equal to that total amount is used against those gains, and
 - (b) accordingly, the higher rate excess consists only of gains other than entrepreneur or investor gains.
- (7) The individual may allocate so much of the unused part of the individual's basic rate band as then remains to—
- (a) any residential property gains or carried interest gains, or
 - (b) any other gains.
- (8) The effect of the allocation is that the gains to which the allocation is made are charged—
- (a) at the rate of 18%(if they are residential property gains or carried interest gains), or
 - (b) at the rate of 10% (if they are other kinds of gains).
- (9) Any gains to which no allocation is made are charged—
- (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
 - (b) at the rate of 20% (if they are other kinds of gains).

1J Section 1I: definitions and other supplementary provision

- (1) For the purposes of section 1I—

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- a “higher income tax rate” means—
- (a) the higher rate or the default higher rate,
 - (b) the savings higher rate, or
 - (c) the dividend upper rate, and
- “the unused part of the individual's basic rate band” means the amount by which the basic rate limit exceeds the individual's Step 3 income.
- (2) If an individual is entitled to relief for a tax year under section 539 of ITTOIA 2005 (contracts for life insurance) by reference to the amount of a deficiency, the individual's Step 3 income for the tax year is treated for the purposes of this section as reduced by the amount of the deficiency.
 - (3) If, as a result of section 669(1) and (2) of ITTOIA 2005 (inheritance tax on accrued income), there is a reduction in the residuary income of an estate for a tax year that reduces an individual's income by any amount, the individual's Step 3 income for the tax year is treated for the purposes of this section as reduced by the amount of that reduction in the individual's income.
 - (4) If an individual has life insurance gains for a tax year, the individual's Step 3 income for the tax year is treated for the purposes of this section as if the amount of those gains were limited to—
 - (a) the annual equivalent within the meaning of section 536(1) of ITTOIA 2005, or
 - (b) the total annual equivalent within the meaning of section 537 of that Act,
 as the case may be.
 - (5) If—
 - (a) an individual has life insurance gains for a tax year,
 - (b) relief is given under section 535 of ITTOIA 2005 for the tax year, and
 - (c) the calculation under section 536(1) or 537 of that Act for the tax year does not involve the higher rate,
 the individual is treated for the purposes of section 11 as if none of the individual's income were chargeable to income tax at the higher rate, the default higher rate or the dividend upper rate.
 - (6) In the application of section 11 in the case of any individual it is to be assumed that the individual is not a Scottish or Welsh taxpayer.
 - (7) In this section—

“the individual's Step 3 income” means so much of the individual's total income for the tax year as is left after taking Step 3 under section 23 of ITA 2007 (income tax liability calculation), and

“life insurance gains”, in relation to an individual, means the amount or amounts treated as the individual's income as a result of section 465 of ITTOIA 2005 (gains from contracts for life insurance).
 - (8) Expressions used in this section which have a meaning when used in the Income Tax Acts have the same meaning in this section.

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Annual exempt amount

1K Annual exempt amount

- (1) If an individual is (or, apart from this section, would be) chargeable to capital gains tax for a tax year on chargeable gains, the annual exempt amount for the year is to be deducted from those gains (but no further than necessary to eliminate them).
- (2) The annual exempt amount for a tax year is £12,000.
- (3) The annual exempt amount may not be deducted from chargeable gains to which paragraph 2 of Schedule 1 applies (foreign gains of non-UK domiciled individuals accruing in one year and remitted in later year).
- (4) The deduction of the annual exempt amount—
 - (a) is made after the deduction of allowable losses accruing in the tax year, but
 - (b) is made before the deduction of allowable losses accruing in a previous tax year or, if section 62 applies, in a subsequent tax year.
- (5) The annual exempt amount may be deducted from gains in whatever way is most beneficial to a person chargeable to capital gains tax (irrespective of the rate of tax at which the gains would otherwise have been charged).
- (6) An individual is not entitled to an annual exempt amount for a tax year if section 809B of ITA 2007 (claim for remittance basis) applies to the individual for the year.
- (7) For the tax year in which an individual dies and for the next two tax years, this section applies to the individual's personal representatives as if references to the individual were to those personal representatives.
- (8) This section applies in relation to trustees in accordance with the provision made by Schedule 1C.

1L Increasing annual exempt amount to reflect increases in CPI

- (1) If the consumer prices index for the September before the start of a tax year is higher than it was for the previous September—
 - (a) the annual exempt amount is increased by the same percentage as the rise in that index (rounded up to the nearest £100), and
 - (b) section 1K(2) has effect for the tax year (and subsequent tax years) as if it referred to the increased amount.
- (2) If, as a result of this section, the annual exempt amount for a tax year increases, the Treasury must before the start of the tax year make an order showing the increased amount.

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Temporary periods of non-residence

1M Temporary non-residents

(1) If, in the case of the disposal of an asset by an individual who is temporarily non-resident—

- (a) a gain or loss accrues to the individual in the temporary period of non-residence, and
- (b) the asset is not excluded from this subsection by section 1N (certain assets acquired in that period),

the gain or loss is treated instead as accruing to the individual in the period of return.

(2) If—

- (a) a gain is, as a result of subsection (1), treated as accruing to an individual in a tax year for which the remittance basis applies to the individual,
- (b) the tax year consists of or includes the period of return, and
- (c) the gain was remitted to the United Kingdom in the temporary period of non-residence,

the gain is treated instead as remitted to the United Kingdom in the period of return.

(3) If—

- (a) an individual is temporarily non-resident, and
- (b) a gain would, as a result of section 86, have accrued to the individual in a tax year falling wholly or partly in the temporary period of non-residence if the individual had been resident in the United Kingdom for that year,

the gain is treated instead as accruing to the individual in the period of return (but see also section 86A).

(4) Nothing in any double taxation arrangements prevents a charge to capital gains tax arising as a result of this section.

(5) Nothing in this section is to affect a gain or loss which, apart from this section, would be chargeable to capital gains tax or would be an allowable loss.

(6) For the purposes of this section each of the following expressions has the meaning given by Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance)—

- “the period of return”
- “temporarily non-resident”
- “the temporary period of non-residence”.

(7) In this section the reference to “the remittance basis” applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.

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1N Section 1M(1): assets acquired in temporary period of non-residence

- (1) An asset is excluded from section 1M(1) if—
 - (a) it was acquired by the individual in the temporary period of non-residence,
 - (b) the acquisition was otherwise than by means of a disqualifying no gain/no loss disposal,
 - (c) there is no reduction in the consideration for the acquisition under section 23(4)(b) or (5)(b), 152(1)(b), 153(1)(b), 162(3)(b) or 247(2)(b) or (3)(b) by reference to a UK resident disposal, and
 - (d) the asset is not an interest created by or arising under a settlement.
- (2) This exclusion does not apply in the case of an asset (“the new asset”) if—
 - (a) on a disposal of the new asset a gain or loss is treated as a result of 116(10) or (11), 134 or 154(2) or (4) as accruing (ignoring section 1M),
 - (b) the gain or loss is calculated by reference to another asset (“the old asset”), and
 - (c) the new asset is one that meets the conditions for exclusion but the old asset does not.
- (3) For the purposes of this section “a UK resident disposal” means a disposal by a person (“P”) of an asset which was acquired by P at a time when—
 - (a) P was resident in the United Kingdom, and
 - (b) P was not Treaty non-resident.
- (4) For the purposes of this section “a disqualifying no gain/no loss disposal” means a UK resident disposal to which section 58, 73 or 258(4) applies.

Interpretation

1O Definitions used in Chapter

In this Chapter any reference to a person who is, or is not, “UK resident” is to be read in accordance with section 1A(4).

CHAPTER 2

CORPORATION TAX ON CHARGEABLE GAINS

Corporation tax on chargeable gains: the general scheme

2 Corporation tax on chargeable gains

- (1) As a result of section 2(1) and (2) of CTA 2009, corporation tax is charged on chargeable gains accruing to a company on the disposal of assets.
- (2) The charge to corporation tax on chargeable gains has effect in accordance with this Act and all other relevant provisions of the Corporation Tax Acts.

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2A Company's total profits to include chargeable gains

- (1) The amount of chargeable gains to be included in a company's total profits for an accounting period is the total amount of chargeable gains accruing to the company in the period after deducting—
 - (a) any allowable losses accruing to the company in the period, and
 - (b) so far as not previously deducted under this subsection, any allowable losses previously accruing to the company while it was within the charge to corporation tax.
- (2) For the purposes of corporation tax on gains “allowable loss” does not include a loss accruing to a company if, had a gain accrued, the company would not have been chargeable to corporation tax on the gain.

Territorial scope

2B Territorial scope of charge to corporation tax on chargeable gains

- (1) A company which is resident in the United Kingdom in an accounting period is chargeable to corporation tax on chargeable gains accruing to the company in the period on the disposal of assets wherever situated.
- (2) This is subject to Chapter 3A of Part 2 of CTA 2009 (exemption from charge in respect of profits of foreign permanent establishments).
- (3) A company which is not resident in the United Kingdom is chargeable to corporation tax on chargeable gains that—
 - (a) accrue to the company on the disposal of assets situated in the United Kingdom that have a relevant connection to the company's UK permanent establishment (see section 2C),
 - (b) accrue at a time when it has that permanent establishment, and
 - (c) are, in accordance with sections 20 to 32 of CTA 2009, attributable to that permanent establishment.
- (4) In addition, a company which is not resident in the United Kingdom is chargeable to corporation tax on chargeable gains accruing to the company on the disposal of assets not within subsection (3) that are—
 - (a) interests in UK land, or
 - (b) assets (wherever situated) not within paragraph (a) that derive at least 75% of their value from UK land where the company has a substantial indirect interest in that land.
- (5) Section 1C applies for the purposes of subsection (4)(a) as it applies for the purposes of section 1A(3)(b) (disposing of interests in UK land).
- (6) The reference in subsection (4)(b) to assets deriving at least 75% of their value from UK land where the company has a substantial indirect interest in that land is to be read in accordance with Schedule 1A.

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2C Non-UK resident company with UK permanent establishment

- (1) For the purposes of section 2B(3) a company has a UK permanent establishment at any time if, at that time, the company carries on a trade in the United Kingdom through a permanent establishment there.
- (2) For the purposes of section 2B(3) an asset has a relevant connection to a company's UK permanent establishment if—
 - (a) it is, or was, used in or for the purposes of the trade at or before the time of the disposal,
 - (b) it is, or was, used or held for the purposes of the permanent establishment at or before that time, or
 - (c) it is acquired for use by or for the purposes of the permanent establishment.
- (3) Section 2B(3) does not apply to a company which, as a result of Part 2 of TIOPA 2010 (double taxation arrangements), is exempt from corporation tax for the accounting period in respect of the profits of the permanent establishment.
- (4) In the case of the long-term business of an overseas life insurance company, subsection (2) has effect as if for paragraph (b) there were substituted—
 - “(b) it is, or was, used or held for the purposes of the permanent establishment at or before that time (irrespective of where it is situated at that time).”
- (5) In this section references to a trade include an office and references to carrying on a trade include holding an office.

Application of CGT principles etc

2D Application of CGT principles in calculating gains and losses

- (1) The total amount of chargeable gains to be included in a company's total profits for an accounting period is calculated for corporation tax purposes in accordance with capital gains tax principles.
- (2) All of the following questions are determined in accordance with the enactments relating to capital gains tax as if accounting periods were tax years—
 - (a) any question as to the amounts to be, or not to be, taken into account as chargeable gains or allowable losses,
 - (b) any question as to the amounts to be, or not to be, taken into account in calculating gains or losses,
 - (c) any question as to the amounts charged to tax as a company's gains, and
 - (d) any question as to the time when any amount is treated as accruing.
- (3) This section is subject to any provision made elsewhere by the Corporation Tax Acts.

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2019, PART 1. (See end of Document for details)

2E References to income tax or Income Tax Acts in case of companies

- (1) If the CGT enactments contain any reference to—
 - (a) income tax, or
 - (b) the Income Tax Acts,
 the reference is, in relation to a company, to be read as a reference to corporation tax or the Corporation Tax Acts.
- (2) But—
 - (a) this does not affect references to income tax in section 39(2), and
 - (b) so far as the CGT enactments operate by reference to matters of any specified description, account is to be taken for corporation tax purposes of matters of that description confined to companies but not of any confined to individuals.
- (3) In this section “the CGT enactments” means the enactments relating to capital gains tax.

2F Interaction of capital gains tax and corporation tax

- (1) This Act as it has effect in accordance with this Chapter is not to be affected in its operation by the fact that capital gains tax and corporation tax are distinct taxes.
- (2) But this Act is, so far as it is consistent with the Corporation Tax Acts, to apply in relation to capital gains tax and corporation tax on gains as if they were one tax.
- (3) Accordingly, a matter which in a case involving two individuals is relevant to both of them in relation to capital gains tax is in a similar case involving an individual and a company—
 - (a) relevant to the individual in relation to capital gains tax, and
 - (b) relevant to the company in relation to corporation tax.

Supplementary

2G Assets of a company vested in a liquidator

- (1) If assets of a company are vested in a liquidator—
 - (a) this Chapter, and
 - (b) the enactments applied by this Chapter,
 apply as if the assets were vested in the company and as if the acts of the liquidator in relation to the assets were the company's acts.
- (2) Accordingly, acquisitions from or disposals to the liquidator by the company are ignored.
- (3) The assets may be vested in the liquidator under section 145 of the Insolvency Act 1986 or Article 123 of the Insolvency (Northern Ireland) Order 1989 or otherwise.

Status: Point in time view as at 12/02/2019.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2019, PART 1. (See end of Document for details)

CHAPTER 3

ATTRIBUTION OF GAINS OF NON-UK RESIDENT CLOSE COMPANIES

Gains of non-UK resident companies not otherwise chargeable

3 Gains attributed to UK resident individuals etc

- (1) This section applies if—
 - (a) a chargeable gain accrues at any time to a non-UK resident close company,
 - (b) the gain is connected to avoidance (see section 3A),
 - (c) the gain is not connected to a foreign trade or other economically significant foreign activities (see section 3A), and
 - (d) apart from this section, some or all of the gain would not be chargeable to corporation tax on the company.
- (2) So much of the gain as would not otherwise be so chargeable is apportioned among participators, or indirect participators, in the company—
 - (a) who are resident in the United Kingdom at that time, or
 - (b) who are trustees of a settlement and are not resident in the United Kingdom at that time.
- (3) The proportion of the amount of the gain to be apportioned to each person corresponds to the extent of the person's interest in the company as a participator or indirect participator.
- (4) The amount apportioned to each person is treated as a chargeable gain accruing to the person.
- (5) No apportionment of any part of a gain is made to an individual if—
 - (a) the gain accrues in a tax year which, as respects the individual, is a split year, and
 - (b) the gain accrues in the overseas part of the year.
- (6) No apportionment of any part of a gain is made to a person if the total amount that would, apart from this subsection, be apportioned to—
 - (a) the person, and
 - (b) persons connected to the person,is 25% or less of the amount of the gain falling to be apportioned.
- (7) A person (“P”) is an “indirect participator” in a company (“A”) if—
 - (a) another company (“B”) which is a non-UK resident close company is a participator in A, and
 - (b) P is a participator in B or P is a participator in a third non-UK resident close company which is participator in B,and so on through any number of non-UK resident close companies that are participators in other non-UK resident close companies.

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- (8) P's interest as an indirect participator in A in the case of any gain is determined by—
- (a) apportioning the gain among the participators in A according to the extent of their respective interests as participators, and
 - (b) then further apportioning the gain apportioned to B among the participators in B according to the extent of their respective interests as participators, and so on through other companies.
- (9) So far as it would go to reduce or extinguish chargeable gains accruing, as a result of this section, to a person in a chargeable period, this section applies to a loss accruing to the company on the disposal of an asset in that period as it would apply if there had been a gain.
- (10) But—
- (a) this only applies in relation to that person, and
 - (b) this section does not otherwise apply in relation to losses accruing to the company.
- (11) In this section “a non-UK resident close company” means a company—
- (a) which is not resident in the United Kingdom, and
 - (b) which would be a close company if it were resident in the United Kingdom.

3A Gains connected to avoidance or foreign activities etc

- (1) A gain accruing to a company on the disposal of an asset is taken to be “connected to avoidance” unless it is shown that neither—
- (a) the disposal of the asset by the company, nor
 - (b) the acquisition or holding of the asset by the company,
- formed part of a scheme or arrangements of which the main purpose, or one of the main purposes, was avoidance of liability to capital gains tax or corporation tax.
- (2) A gain is “connected to a foreign trade” if it accrues on the disposal of an asset used only—
- (a) for the purposes of a trade carried on by the company wholly outside the United Kingdom, or
 - (b) for the purposes of the foreign part of a trade carried on by the company partly within, and partly outside, the United Kingdom,
- and the reference here to the foreign part of a trade is to the part of the trade carried on outside the United Kingdom.
- (3) For this purpose an asset is to be regarded as used only for the purposes of a trade carried on by the company wholly outside the United Kingdom if—
- (a) the asset is accommodation, or an interest or right in accommodation, situated outside the United Kingdom, and
 - (b) the accommodation has for each relevant period been furnished holiday accommodation of which a person has made a commercial letting.
- (4) Each of the following is a “relevant period”—

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- (a) the period of 12 months ending with the date of the disposal and each of the two preceding periods of 12 months, or
 - (b) if the company has beneficially owned the accommodation (or interest or right) for more than 36 months, the period of 12 months ending with the date of the disposal and each of the preceding periods of 12 months throughout which the company had that beneficial ownership.
- (5) The reference in this section to the commercial letting of furnished holiday accommodation is to be read in accordance with Chapter 6 of Part 4 of CTA 2009, but as if—
 - (a) sections 266, 268 and 268A were omitted, and
 - (b) the reference to an accounting period in section 267(1) were to a relevant period.
- (6) A gain accruing on the disposal of an asset is “connected to other economically significant foreign activities” if—
 - (a) the asset is used only for the purposes of activities carried on by the company wholly or mainly outside the United Kingdom,
 - (b) the activities consist of the provision of goods or services on a commercial basis, and
 - (c) the activities also satisfy the staff, premises and economic value test.
- (7) Activities satisfy the staff, premises and economic value test if they involve—
 - (a) the use of employees, agents or contractors of the company in numbers, and with competence and authority, commensurate with the size and nature of the activities,
 - (b) the use of premises and equipment commensurate with the size and nature of the activities, and
 - (c) the addition of economic value by the company to the persons to whom the goods or services are provided commensurate with the size and nature of the activities.
- (8) This section applies for the purposes of section 3(1)(b) and (c).

3B Participators and their interests

- (1) “Participator” has the meaning given by section 454 of CTA 2010.
- (2) Any reference to a person's interest as a participator in a company is to the interest in it represented by all the factors by reference to which the person is a participator.
- (3) Any reference to the extent of a person's interest as a participator in a company is to such proportion of the interests as participators of all of the company's participators as, on a just and reasonable basis, is represented by that interest.
- (4) If—
 - (a) the interest of a person in a company is wholly or partly represented by an interest under a settlement (“the beneficial interest”), and

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- (b) the beneficial interest is the factor (or one of them) by reference to which the person would, apart from this subsection, have an interest as a participator in the company,
 that interest as a participator is, so far as represented by the beneficial interest, to be treated instead as the interest of the trustees of the settlement.
- (5) If—
- (a) exempt assets of a pension scheme are taken into account in ascertaining a person's interest as a participator in a company, and
- (b) if those assets were ignored, an amount in respect of a gain accruing to the company would not be apportioned to the person as a result of section 3,
- no amount in the respect of the gain is to be apportioned to the person as a result of that section.
- (6) For this purpose—
- (a) “assets of a pension scheme” means assets held for the purposes of a fund or scheme to which section 271(1)(c) or (1A) applies, and
- (b) those assets are “exempt” if, at the time when the gain accrues, a disposal of those assets would be exempt from tax as a result of either of those provisions.
- (7) This section applies for the purposes of section 3.

Prevention of multiple charges

3C Prevention of double UK taxation

- (1) If—
- (a) an amount of tax is paid by a person as a result of section 3 in respect of a gain, and
- (b) there is a distribution of an amount in respect of the gain before the end of the relevant period,
- the amount of tax is applied so as to reduce or extinguish any liability of the person to tax in respect of the distribution.
- (2) For the purposes of subsection (1)—
- (a) the distribution is one made by way of dividend or distribution of capital or on the dissolution of the company,
- (b) the tax in respect of the distribution is income tax, corporation tax or capital gains tax, and
- (c) in determining the liability to tax of any individual in respect of any distribution for a tax year it is to be assumed that the distribution is the highest part of the individual's income for the year.
- (3) For the purposes of subsection (1) “the relevant period” means the period of 3 years from the end of whichever of the following periods is earlier—
- (a) the period of account of the company in which the gain accrued, and
- (b) the period of 12 months beginning with the date on which the gain accrued.

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- (4) The amount of tax paid by a person as a result of section 3 is allowable as a deduction in calculating a chargeable gain accruing on the disposal by the person of any asset representing the person's interest as a participator in the company.
- (5) An amount of tax—
 - (a) is not to be used more than once under this section (whether to reduce or extinguish a liability or as a deduction or a combination of those things), and
 - (b) is not to be applied if it is reimbursed by the company.

Non-UK domiciled individuals and temporary non-residents

3D Non-UK domiciled individuals

- (1) This section applies if, as a result of section 3, an amount in respect of a gain accruing to a company in a tax year is apportioned to an individual who is not domiciled in the United Kingdom in that year.
- (2) The apportioned amount is regarded for the purposes of paragraph 1 of Schedule 1 as accruing on a disposal of a foreign asset if the asset disposed of by the company is a foreign asset (but not otherwise).
- (3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis)—
 - (a) treat any consideration obtained by the company on the disposal of the asset as deriving from the apportioned amount, and
 - (b) if that consideration is less than the market value of the asset, treat the asset as deriving from the apportioned amount.
- (4) The apportioned amount may not be reduced or extinguished by a loss under section 3 if—
 - (a) the apportioned amount is regarded for the purposes of paragraph 1 of Schedule 1 as accruing on a disposal of a foreign asset,
 - (b) the remittance basis applies to the individual for the tax year in question, and
 - (c) any of the apportioned amount is remitted to the United Kingdom in a subsequent tax year.
- (5) Paragraph 5 of Schedule 1 applies for the purposes of this section as it applies for the purposes of that Schedule.

3E Temporary non-residents

- (1) This section applies if—
 - (a) an individual is temporarily non-resident, and
 - (b) a gain or loss accrues to a company in a tax year falling wholly or partly in the temporary period of non-residence.
- (2) So much of the gain as would, as a result of section 3, have been treated as accruing to the individual in the tax year if the residence assumption were made is to be treated as accruing to the individual in the period of return.

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- (3) But if—
- (a) the remittance basis applies to the individual for the tax year that comprises or includes the period of return, and
 - (b) any part of the gain has not been remitted to the United Kingdom before the period of the return,
- subsection (2) has effect subject to the further application of Schedule 1 (as read with section 3D) in relation to that part of the gain.
- (4) Paragraph 5 of Schedule 1 applies for the purposes of subsection (3) as it applies for the purposes of that Schedule.
- (5) So much of the loss accruing in the tax year as would, in accordance with section 3(9), have reduced or extinguished a gain treated as accruing to the individual in that year as a result of section 3 if the residence assumption were made is to be treated as accruing to the individual in the period of return.
- (6) For the purposes of this section the “residence assumption” is—
- (a) that the individual was resident in the United Kingdom for the tax year in which the gain or loss accrued to the company, and
 - (b) that the tax year was not a split year as respects the individual.
- (7) Nothing in any double taxation arrangements prevents a charge to capital gains tax arising as a result of this section.
- (8) For the purposes of this section each of the following expressions has the meaning given by Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance)—
- “the period of return”
 - “temporarily non-resident”
 - “the temporary period of non-residence”.

Application to groups

3F Non-resident groups of companies

- (1) This section applies, for the purposes of section 3, certain provisions of this Act (modified as mentioned below) in relation to non-resident companies which are members of a non-resident group of companies.
- (2) The applied provisions are—
- (a) section 41(8),
 - (b) section 171 but as if subsections (1)(b) and (1A) were omitted,
 - (c) section 173 but as if “to which this section applies” in subsections (1)(a) and (2)(a) were omitted, as if “such” in subsections (1)(c) and (2)(c) were omitted and as if subsection (3) were omitted,
 - (d) section 174(4) but as if “at a time when both were members of the group” were substituted for “ in a transfer to which section 171(1) applied ”,
 - (e) section 175(1) but as if “to which this section applies” were omitted, and

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- (f) section 179 but as if subsections (1)(b) and (1A) were omitted, as if for any reference to a group of companies there were substituted a reference to a non-resident group of companies and as if for any reference to a company there were substituted a reference to a non-resident company.

(3) In this section—

“non-resident company” means a company which is not resident in the United Kingdom,

“non-resident group of companies”—

(a) in the case of a group none of whose members are resident in the United Kingdom, means that group, and

(b) in the case of a group some of whose members are not resident in the United Kingdom, means the members which are not resident in the United Kingdom, and

“group” is to be read in accordance with section 170.

Supplementary

3G Supplementary provisions

(1) If tax payable by a person (“P”) as a result of section 3 is paid by—

(a) the company (“C”) to which the gain accrues, or

(b) a company by reference to which P is regarded as an indirect participator in C,

the amount paid is not a payment to P for tax purposes.

(2) The reference here to tax purposes is to the purposes of income tax, capital gains tax or corporation tax.

(3) For the purposes of section 3 the amount of a gain or loss accruing to a company is calculated as if the company were a company resident in the United Kingdom chargeable to corporation tax on the gain.”

3 Omit sections 16ZB to 16ZD (losses of non-UK domiciled individuals).

4 After section 36 insert—

“Re-basing for non-residents for UK land etc held on 5 April 2019

36A Re-basing in relation to direct or indirect disposals of UK land

Schedule 4AA makes provision for the re-basing of assets where—

(a) the assets are held on 5 April 2019,

(b) there is a disposal after that date, and

(c) the disposal is a direct or indirect disposal of UK land (within the meaning of that Schedule).”

5 Omit Chapter 5 of Part 2 (computation of gains and losses: relevant high value disposals).

6 Omit Chapter 6 of Part 2 (computation of gains and losses: non-resident CGT disposals).

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7 Omit Chapter 7 of Part 2 (computation of gains and losses: disposals of residential property interests).

8 After section 103DA insert—

“103DB UK property rich collective investment vehicles etc

Schedule 5AAA makes provision in relation to collective investment vehicles where the property which is the subject of or held by the vehicles consists of or includes direct or indirect interests in land in the United Kingdom.”

9 After section 271 insert—

“Visiting forces and official agents etc

271ZA Visiting forces and staff of designated allied headquarters

- (1) This section applies for the purposes of capital gains tax if section 833 of ITA 2007 (visiting forces and staff of designated allied headquarters) applies to an individual throughout a period.
- (2) The period is not a period of residence in the United Kingdom.
- (3) The period does not create a change of the individual's residence or domicile.

271ZB Official agents of Commonwealth countries or Republic of Ireland etc

- (1) An individual who is entitled to immunity from income tax as a result of section 841 of ITA 2007 (official agents of Commonwealth countries or Republic of Ireland etc) is entitled to the same immunity from capital gains tax as that to which a member of the staff of a mission is entitled under the Diplomatic Privileges Act 1964.
- (2) The reference here to a member of the staff of a mission is to be read in accordance with the Diplomatic Privileges Act 1964.”

10 Omit Schedule B1 (disposals of UK residential property interests).

11 Omit Schedule BA1 (disposals of non-UK residential property interests).

12 Omit Schedule C1 (section 14F: meaning of “closely-held company” and “widely-marketed scheme”).

13 For Schedule 1 substitute—

“SCHEDULE 1

UK RESIDENT INDIVIDUALS NOT DOMICILED IN UK

Foreign gains treated as accruing when remitted to UK

- 1 (1) This paragraph applies in the case of an individual to whom the remittance basis applies for a tax year if—
 - (a) in that year the individual disposes of foreign assets,

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- (b) chargeable gains accrue to the individual on the disposal of those assets, and
 - (c) the gains are not taken outside the charge to capital gains tax as a result of section 1G (cases where tax year is a split year).
- (2) The gains are treated as accruing to the individual only so far as, and at the time when, they are remitted to the United Kingdom.
- (3) The amount treated as accruing is equal to the full amount remitted to the United Kingdom at that time.

Use of allowable losses against foreign gains remitted in later year

- 2 (1) This paragraph applies if—
- (a) gains are treated as accruing to an individual in a tax year as a result of paragraph 1,
 - (b) the tax year is later than the one (“the actual year of accrual”) in which those gains actually accrued to the individual, and
 - (c) an election under section 16ZA (election for foreign losses to be allowable losses) has effect for both the tax year and the actual year of accrual.
- (2) No allowable losses may be deducted under section 1 from the gains.
- (3) This prohibition—
- (a) applies regardless of whether or not the allowable losses accrue on disposals of foreign assets, but
 - (b) does not prevent the prior application of paragraph 3(3) in relation to the gains (which contains a rule for reducing the amount of the gains by reference to losses).

Matching rules for relieving allowable losses

- 3 (1) This paragraph applies in the case of an individual for a tax year if—
- (a) the remittance basis applies to the individual for the tax year, and
 - (b) an election under section 16ZA has effect for the tax year.
- (2) Allowable losses accruing to the individual must be matched to chargeable gains accruing to the individual in accordance with paragraph 4.
- (3) If allowable losses are matched to chargeable gains accruing on disposals of foreign assets—
- (a) which actually accrue in the tax year, but
 - (b) which are, as a result of paragraph 1, treated as not accruing in the tax year,
- the amount of those gains is reduced by the matched amount (and the allowable losses are reduced accordingly).
- (4) So far as allowable losses are matched to other chargeable gains, they are deducted from chargeable gains accruing to the individual in the tax year.
- (5) This is subject to—

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- (a) paragraph 2 (no use of allowable losses against foreign gains remitted in later year), and
- (b) section 1E(4) (prohibition of deduction of losses from gains treated as accruing under section 87, 87K, 87L or 89(2)).

Rules for matching losses to chargeable gains

- 4 (1) This paragraph explains how, for the purposes of paragraph 3, allowable losses are matched to chargeable gains in the case of an individual to whom that paragraph applies for a tax year.
- (2) The losses are matched to the gains in the following order—
- first*, gains actually accruing to the individual in the tax year on the disposal of foreign assets so far as they are remitted to the United Kingdom in the tax year;
 - second*, gains actually accruing to the individual in the tax year on the disposal of foreign assets so far as they are not remitted to the United Kingdom in the tax year;
 - third*, any other gains accruing to the individual in the tax year.
- (3) If the tax year is a split year, the matching under the first and second steps is to be done by reference to the extent to which the gains are, or are not, remitted in the UK part of the year.
- (4) If there are losses to be matched to gains under the second step but the losses are insufficient to eliminate the gains—
- (a) the losses are to be matched against gains accruing on the most recent day first (and then the next most recent day and so on until none of the losses remain), and
 - (b) if losses cannot be matched fully against gains accruing on a particular day, the appropriate portion of the losses is matched against each of the gains.
- (5) “The appropriate portion” means the amount of each gain accruing on the day divided by the total amount of all of the gains accruing on the day.

Definitions

- 5 (1) For the purposes of this Schedule “foreign asset” means an asset situated outside the United Kingdom.
- (2) For the purposes of this Schedule any reference to “the remittance basis” applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.
- (3) For the purposes of this Schedule any question as to whether, and when, amounts are “remitted to the United Kingdom” is determined in accordance with the rules in Chapter A1 of Part 14 of ITA 2007.”

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“SCHEDULE 1A

ASSETS DERIVING 75% OF VALUE FROM UK LAND ETC

PART 1

INTRODUCTION

- 1 This Schedule makes provision, for the purposes of section 1A(3)(c) or 2B(4)(b), for determining in the case of any disposal of any asset—
 - (a) whether the asset derives at least 75% of its value from UK land (see Part 2 of this Schedule), and
 - (b) whether the person making the disposal has a substantial indirect interest in the UK land (see Part 3 of this Schedule).
- 2 The provision made by this Schedule needs to be read together with—
 - (a) paragraph 5 of Schedule 5AAA (which treats units in a CoACS as shares for the purposes of this Schedule), and
 - (b) paragraph 6 of that Schedule (which treats certain disposals of interests in collective investment vehicles as meeting the conditions in Part 3 of this Schedule).

PART 2

WHETHER ASSET DERIVES AT LEAST 75% OF ITS VALUE FROM UK LAND

The basic rule

- 3 (1) An asset derives at least 75% of its value from UK land if—
 - (a) the asset consists of a right or an interest in a company, and
 - (b) at the time of the disposal, at least 75% of the total market value of the company's qualifying assets derives (directly or indirectly) from interests in UK land.
- (2) Market value may be traced through any number of companies, partnerships, trusts and other entities or arrangements but may not be traced through a normal commercial loan.
- (3) It is irrelevant whether the law under which a company, partnership, trust or other entity or an arrangement is established or has effect is—
 - (a) the law of any part of the United Kingdom, or
 - (b) the law of any territory outside the United Kingdom.
- (4) The assets held by a company, partnership or trust or other entity or arrangement must be attributed to the shareholders, partners, beneficiaries or other participants at each stage in whatever way is appropriate in the circumstances.
- (5) For the purposes of this paragraph—

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“normal commercial loan” means a loan which is a normal commercial loan for the purposes of section 158(1)(b) or 159(4)(b) of CTA 2010, and

“qualifying assets” has the meaning given by paragraph 4.

- (6) The provision made by this paragraph is subject to exceptions provided by—
- (a) paragraph 5 (interests in UK land used for trading purposes), and
 - (b) paragraph 6 (certain disposals of rights or interests in connected companies).

Meaning of “qualifying assets”

- 4 (1) Subject as follows, all of the assets of the company are qualifying assets.
- (2) An asset of the company is not a qualifying asset so far as it is matched to a related party liability.
- (3) But an interest in UK land is a qualifying asset of the company even if it is matched to any extent to a related party liability.
- (4) An asset of the company is matched to a related party liability if—
- (a) the asset consists of a right under a transaction (for example, a right under a loan relationship or derivative contract),
 - (b) the right entitles the company to require another person to meet a liability arising under the transaction, and
 - (c) the other person is relevant to the paragraph 3 tracing exercise or is a related party of the company on the day of the disposal.
- (5) For the purposes of this paragraph a person is relevant to the paragraph 3 tracing exercise if—
- (a) the person has assets that fall to be taken into account in the tracing exercise mentioned in paragraph 3, or
 - (b) the person has obligations (whether as a trustee or otherwise) in relation to the holding of assets comprised in any trust or other arrangement that fall to be taken into account in that exercise.
- (6) Whether, for the purposes of this paragraph, a person is a related party of the company on any day is determined in accordance with the rules in Part 8ZB of CTA 2010 but as if, in section 356OT(4) of that Act, the words “, within the period of 6 months beginning with that day” were omitted.
- (7) In this paragraph a liability includes a contingent liability (such as one arising as a result of the giving of a guarantee, indemnity or other form of financial assistance).

Exception in relation to interests in UK land used for trading purposes

- 5 (1) A disposal of a right or interest in a company is not to be regarded as a disposal of an asset deriving at least 75% of its value from UK land if it is reasonable to conclude that, so far as the market value of the company's qualifying assets derives (directly or indirectly) from interests in UK land—
- (a) all of the interests in UK land are used for trading purposes, or

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- (b) all of the interests in UK land would be used for those purposes if low-value non-trade interests in UK land were left out of account.
- (2) An interest in UK land is “used for trading purposes” for the purposes of this paragraph if (and only if), at the time of the disposal—
 - (a) it is being used in, or for the purposes of, a qualifying trade, or
 - (b) it has been acquired for use in, or for the purposes of, a qualifying trade.
- (3) A trade is a “qualifying” trade for the purposes of this paragraph if—
 - (a) it has been carried on by the company, or by a person connected with the company, throughout the period of one year ending with the time of the disposal on a commercial basis with a view to the realisation of profits, and
 - (b) it is reasonable to conclude that the trade will continue to be carried on (for more than an insignificant period of time) on a commercial basis with a view to the realisation of profits.
- (4) For the purposes of this paragraph, “low-value non-trade interests in UK land” means interests in UK land—
 - (a) which are not used for trading purposes, and
 - (b) the total market value of which is, at the time of the disposal, no more than 10% of the total market value at that time of the interests in UK land that are used for trading purposes.

Exception for certain disposals of rights or interests under same arrangements etc

- 6 (1) This paragraph applies if—
- (a) there are two or more disposals of rights or interests in companies,
 - (b) the disposals are linked with each other,
 - (c) some but not all of the disposals would, apart from this paragraph, be disposals of assets deriving at least 75% of their value from UK land, and
 - (d) if one of the companies included all of the assets of the others, a disposal of a right or interest in it would not be a disposal of an asset deriving at least 75% of its value from UK land.
- (2) None of the disposals are to be regarded as disposals of assets deriving at least 75% of their value from UK land.
- (3) In determining whether the condition in sub-paragraph (1)(d) is met in the case of a disposal of a right or interest in a company, it is to be assumed that, for the purposes of paragraph 4, each of the other companies in which rights or interest are disposed of is (so far as this would not otherwise be the case) a related party of the company on the day of the disposal.
- (4) For the purposes of this paragraph a disposal of a right or interest in a company is linked with a disposal of a right or interest in another company if—
- (a) the disposals are made under the same arrangements,
 - (b) the disposals are made by the same person or by persons connected with each other,

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*Changes to legislation: There are currently no known outstanding effects
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- (c) the disposals are made to the same person or to persons connected with each other, and
 - (d) in the case of each disposal, the person making the disposal is connected with the company in which the right or interest is disposed of.
- (5) For the purposes of this paragraph, the question whether or not a person is connected with another is to be determined immediately before the arrangements are entered into.
- (6) Section 286 (connected persons: interpretation) has effect for the purposes of this paragraph as if, in subsection (4), the words “Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements,” were omitted.

Meaning of “interest in UK land”

- 7 For the purposes of this Part of this Schedule “interest in UK land” has the meaning given by section 1C.

PART 3

WHETHER PERSON HAS SUBSTANTIAL INDIRECT INTEREST IN UK LAND

Basic rule

- 8 (1) If—
- (a) a person disposes of an asset consisting of a right or an interest in a company, and
 - (b) the asset derives at least 75% of its value from UK land,
- the person has a substantial indirect interest in UK land if, at any time in the period of 2 years ending with the time of the disposal, the person has a 25% investment in the company.
- (2) But a person is not to be regarded as having a 25% investment in the company at times falling in the person's qualifying ownership period if, having regard to the length of that period, the times (taken as whole) constitute an insignificant proportion of that period.
- (3) The “person's qualifying ownership period” means the period throughout which the person has held an asset consisting of a right or an interest in the company, but excluding times that fall before the beginning of the 2 year period mentioned in sub-paragraph (1).

Meaning of “25% investment”

- 9 (1) A person (“P”) has a 25% investment in a company (“C”) if—
- (a) P possesses or is entitled to acquire 25% or more of the voting power in C,
 - (b) in the event of a disposal of the whole of the equity in C, P would receive 25% or more of the proceeds,

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- (c) in the event that the income in respect of the equity in C were distributed among the equity holders in C, P would receive 25% or more of the amount so distributed, or
 - (d) in the event of a winding-up of C or in any other circumstances, P would receive 25% or more of C's assets which would then be available for distribution among the equity holders in C in respect of the equity in C.
- (2) In this paragraph references to the equity in C are to—
 - (a) the shares in C other than restricted preference shares, or
 - (b) loans to C other than normal commercial loans.
- (3) For this purpose “shares in C” includes—
 - (a) stock, and
 - (b) any other interests of members in C.
- (4) For the purposes of this paragraph a person is an equity holder in C if the person possesses any of the equity in C.
- (5) For the purposes of this paragraph—
 - “normal commercial loan” means a loan which is a normal commercial loan for the purposes of section 158(1)(b) or 159(4)(b) of CTA 2010, and
 - “restricted preference shares” means shares which are restricted preference shares for the purposes of section 160 of CTA 2010.
- (6) In a case where C is a company which does not have share capital, in applying for the purposes of this paragraph the definitions of “normal commercial loan” and “restricted preference shares”—
 - (a) sections 160(2) to (7) and 161 to 164 of CTA 2010, and
 - (b) any other relevant provisions of that Act,have effect with the necessary modifications.
- (7) In this paragraph references to a person receiving any proceeds, amount or assets include—
 - (a) the direct or indirect receipt of the proceeds, amount or assets, and
 - (b) the direct or indirect application of the proceeds, amount or assets for the person's benefit,and it does not matter whether the receipt or application is at the time of the disposal, distribution, winding-up or other circumstances or at a later time.
- (8) If—
 - (a) there is a direct receipt or direct application of any proceeds, amount or assets by or for the benefit of a person (“A”), and
 - (b) another person (“B”) directly or indirectly owns a percentage of the equity in A,there is, for the purposes of sub-paragraph (7), an indirect receipt or indirect application of that percentage of the proceeds, amount or assets by or for the benefit of B.

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- (9) For this purpose the percentage of the equity in A directly or indirectly owned by B is to be determined by applying the rules in sections 1155 to 1157 of CTA 2010 with such modifications (if any) as may be necessary.
- (10) Sub-paragraph (7) is not to result in a person being regarded as having a 25% investment in another person merely as a result of their being parties to a normal commercial loan.
- (11) Any reference in this paragraph, in the case of a person who is a member of a partnership, to the proceeds, amount or assets of the person includes the person's share of the proceeds, amount or assets of the partnership (apportioning those things between the partners on a just and reasonable basis).

Attribution of rights and interests

- 10 (1) In determining for the purposes of paragraph 9 the investment that a person (“P”) has in a company, P is to be taken to have all of the rights and interests of any person connected with P.
- (2) A person is not to be regarded as connected with another person for the purposes of this paragraph merely as a result of their being parties to a loan that is a normal commercial loan for the purposes of paragraph 9.
- (3) Section 286 (connected persons: interpretation) has effect for the purposes of this paragraph—
 - (a) as if, in subsection (2), for the words from “, or is a relative” to the end there were substituted “ or is a lineal ancestor or lineal descendant of the individual or of the individual's spouse or civil partner ”, and
 - (b) as if subsections (4) and (8) were omitted.

PART 4

ANTI-AVOIDANCE

- 11 (1) This paragraph applies if a person has entered into any arrangements the main purpose, or one of the main purposes, of which is to obtain a tax advantage for the person as a result (wholly or partly) of—
 - (a) a provision of this Schedule applying or not applying, or
 - (b) double taxation arrangements having effect despite a provision of this Schedule in a case where the advantage is contrary to the object and purpose of the double taxation arrangements.
- (2) The tax advantage is to be counteracted by the making of such adjustments as are just and reasonable.
- (3) The adjustments may be made (whether by an officer of Revenue and Customs or the person) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (4) The counteraction has effect in a treaty shopping case regardless of section 6(1) of TIOPA 2010.

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- (5) This paragraph applies by reference to—
- (a) arrangements entered into on or after 22 November 2017 in a treaty shopping case, and
 - (b) arrangements entered into on or after 6 July 2018 in any other case.
- (6) In this paragraph—
- “arrangements” (except in the expression “double taxation arrangements”) includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
- “double taxation arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010,
- “tax” means capital gains tax or corporation tax,
- “tax advantage” includes—
- (a) relief or increased relief from tax,
 - (b) repayment or increased repayment of tax,
 - (c) avoidance or reduction of a charge to tax or an assessment to tax,
 - (d) avoidance of a possible assessment to tax,
 - (e) deferral of a payment of tax or advancement of a repayment of tax, and
 - (f) avoidance of an obligation to deduct or account for tax, and
- “treaty shopping case” means a case where this paragraph applies as a result of sub-paragraph (1)(b).”

15 After Schedule 1A insert—

“SCHEDULE
1B

RESIDENTIAL PROPERTY GAINS

Meaning of “residential property gain”

- 1 (1) For the purposes of Chapter 1 of Part 1 “residential property gain” means so much of a chargeable gain accruing to a person on a disposal of residential property as, in accordance with paragraph 2, is attributable to that property.
- (2) The question whether or not a person disposes of residential property is determined in accordance with paragraphs 3 to 7.

Attribution of gain to residential property

- 2 (1) The proportion of a chargeable gain attributable to residential property is equal to—
- (a) the relevant fraction of the gain, and
 - (b) if there has been mixed use of the land to which the disposal relates on one or more days in the applicable period, the relevant fraction of the gain as adjusted, on a just and reasonable basis, to take account of the mixed use on the day or days.

Status: Point in time view as at 12/02/2019.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2019, PART 1. (See end of Document for details)

- (2) The relevant fraction is A/B where—
 A is the number of days in the applicable period on which the land to which the disposal relates consists of or includes a dwelling, and
 B is the total number of days in the applicable period.
- (3) There is mixed use of land on any day on which the land consists of—
 (a) one or more dwellings, and
 (b) other land.
- (4) If the disposal is of an interest in land subsisting under a contract for the acquisition of land consisting of or including a building that is to be constructed or adapted for use as a dwelling, that land is taken to consist of or include a dwelling throughout the applicable period.
- (5) In this paragraph “the applicable period” means the period—
 (a) beginning with the day on which the person making the disposal acquired the interest in land being disposed of or, if later, the day from which the interest in land became chargeable, and
 (b) ending with the day before the day on which the disposal occurs.
- (6) For the purposes of this paragraph an interest in land became “chargeable”—
 (a) in any case where the disposal is of an interest in land in the United Kingdom—
 (i) by a person in a tax year in which the person is not UK resident, or
 (ii) by a person in the overseas part of a tax year which is, as respects the person, a split year, from 6 April 2015, and
 (b) in any other case, from 31 March 1982.
- (7) If the interest in land disposed of by the person results from interests in land acquired by the person at different times, the person is regarded for the purposes of this paragraph as having acquired the interest disposed of at the time of the first acquisition.

Disposing of residential property

- 3 (1) For the purposes of this Schedule a person “disposes of residential property” if the person disposes of an interest in land in a case where—
 (a) the land consisted of or included a dwelling at any time falling on or after the date on which the applicable period begins,
 (b) the interest in land subsisted for the benefit of land that consisted of or included a dwelling at any time falling on or after that date, or
 (c) the interest in land subsists under a contract for the acquisition of land consisting of or including a building that is to be constructed or adapted for use as a dwelling.
- (2) No account is to be taken for the purposes of this paragraph of any time falling on (or after) the day on which the disposal is made.

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Interest in land

- 4 (1) For the purposes of this Schedule an “interest in land” means—
- (a) an estate, interest, right or power in or over land, or
 - (b) the benefit of an obligation, restriction or condition affecting the value of an estate, interest, right or power in or over land, other than an excluded interest.
- (2) The following interests are “excluded interests”—
- (a) any interest or right held for securing the payment of money or the performance of any other obligation,
 - (b) a licence to use or occupy land,
 - (c) in relation to land in England and Wales or Northern Ireland, a tenancy at will or an advowson, franchise or manor, and
 - (d) such other descriptions of interest or right in relation to land as may be specified in regulations made by the Treasury.
- (3) An interest or right is not within sub-paragraph (2)(a) if it is—
- (a) a rentcharge, or
 - (b) in relation to land in Scotland, a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000.
- (4) The grant of an option by a person binding the person to dispose of an interest in land is (so far as it would not otherwise be the case) regarded as a disposal of an interest in land by the person for the purposes of this Schedule.
- (5) This does not affect the operation of section 144 in relation to the grant of the option (or otherwise).
- (6) In applying the domestic concepts of law mentioned in this paragraph to land outside the United Kingdom, this paragraph is to be read so as to produce the result most closely corresponding with that produced in relation to land in the United Kingdom.
- (7) In this paragraph—
- “franchise” means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls, and
 - “land” includes—
 - (a) buildings and structures, and
 - (b) land under the sea or otherwise covered by water.

Dwelling: basic meaning

- 5 (1) For the purposes of this Schedule a building is 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 use as a dwelling,
- and, in each case, it is not an institutional building.

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- (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) is taken to be part of the dwelling at that time.
- (3) A building is an institutional building if—
- (a) it is used as residential accommodation for school pupils,
 - (b) it is used as residential accommodation for members of the armed forces,
 - (c) it is used as a home or other institution providing residential accommodation for children,
 - (d) it is used as a home or other institution providing residential accommodation with personal care for persons in need of personal care because of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder,
 - (e) it is used as a hospital or hospice,
 - (f) it is used as a prison or similar establishment,
 - (g) it is used as a hotel or inn or similar establishment,
 - (h) it is otherwise used, or suitable for use, as an institution that is the sole or main residence of its residents,
 - (i) it falls within—
 - (i) paragraph 4 of Schedule 14 to the Housing Act 2004 (buildings in England or Wales occupied by students and managed or controlled by educational establishment etc), or
 - (ii) any provision having effect in Scotland or Northern Ireland that is designated by regulations made by the Treasury as provision corresponding to paragraph 4 of that Schedule, or
 - (j) it qualifies in accordance with the next sub-paragraph as student accommodation.
- (4) A building qualifies as student accommodation in accordance with this sub-paragraph at any time if the time falls in a tax year in which—
- (a) the accommodation provided by the building includes at least 15 bedrooms,
 - (b) the accommodation is purpose-built, or is converted, for occupation by students, and
 - (c) the accommodation is occupied by students on at least 165 days.
- (5) Accommodation is to be regarded as occupied by persons as students if they occupy it wholly or mainly for undertaking a course of education (otherwise than as school pupils).

Building temporarily unsuitable for use as a dwelling

- 6 (1) A building is treated for the purposes of paragraph 5 as continuing to be suitable for use as a dwelling at any time when it has become temporarily unsuitable for use as a dwelling.
- (2) There is an exception to this rule if—
- (a) the temporary unsuitability resulted from accidental damage to the building, and

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- (b) the damage resulted in the building becoming unsuitable for use as a dwelling for a period of at least 90 consecutive days (“the 90 day period”).
- (3) This exception does not apply 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 at least 30 consecutive days.
- (4) If the exception applies, work done in the 90 day period to restore the building to suitability for use as a dwelling is not to count for the purposes of paragraph 5 as constructing or adapting the building for use as a dwelling.
- (5) For the purposes of this paragraph—
 - (a) references to accidental damage include damage otherwise caused by events beyond the control of the person disposing of the interest in land,
 - (b) references to alteration of a building include its partial demolition, and
 - (c) the 90 day period does not include the day of the disposal (or later days).
- (6) For the purposes of this paragraph a building's unsuitability for use as a dwelling is not regarded as temporary if paragraph 7 applies (disposal of a building that has undergone works).

Disposal of a building that has undergone works

- 7 (1) If—
- (a) a person disposes of an interest in land on which a building has been suitable for use as a dwelling, and
 - (b) as a result of qualifying works, the building has, at or before the time of completion of the disposal, ceased to exist or become unsuitable for use as a dwelling,
- the building is to be regarded for the purposes of paragraph 5 as unsuitable for use as a dwelling throughout the works period.
- (2) For the purposes of this paragraph works are “qualifying” works if—
 - (a) any planning permission or development consent required for the works, or for any change of use with which they are associated, has been granted (whether before or after completion), and
 - (b) the works have been carried out in accordance with the permission or consent.
 - (3) In this paragraph “the works period” means—
 - (a) the period when the works were in progress, and
 - (b) such period (if any) ending immediately before the start of the works throughout which the building was, for reasons connected with the works, not used as dwelling.
 - (4) If at any time when qualifying works are in progress—

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- (a) the building was undergoing any other work, or put to any other use, in relation to which planning permission or development consent was required but has not (at any time) been granted, or
 - (b) anything else was being done in contravention of a condition or requirement attached to a planning permission or development consent relating to the building,
- the works period does not include that time.
- (5) If sub-paragraph (1) would have applied but for the fact that, at the completion of the disposal, the works are not qualifying works, the works are regarded as not affecting the building's suitability for use as a dwelling at any time before the disposal.

Other definitions

- 8 (1) For the purposes of this Schedule a building is regarded as ceasing to exist from the time when either—
- (a) it has been demolished completely to ground level, or
 - (b) it has been demolished to ground level except for a single facade (or a double facade if it is on a corner site) the retention of which is a condition or requirement of planning permission or development consent.
- (2) For the purposes of this Schedule the completion of the disposal of an interest in land is regarded as occurring—
- (a) at the time of the disposal, or
 - (b) if the disposal is under a contract which is completed by a conveyance, transfer or other instrument, at the time when the instrument takes effect.
- (3) In this Schedule—
- “building” includes a part of a building,
 - “development consent” means—
 - (a) in the case of land in the United Kingdom, development consent under the Planning Act 2008, and
 - (b) in the case of land outside the United Kingdom, consent corresponding to development consent under that Act, and
 - “planning permission”—
 - (a) in the case of land in England or Wales, has the meaning given by section 336(1) of the Town and Country Planning Act 1990,
 - (b) in the case of land in Scotland, has the meaning given by section 227(1) of the Town and Country Planning (Scotland) Act 1997,
 - (c) in the case of land in Northern Ireland, has the meaning given by Article 2(2) of the Planning (Northern Ireland) Order 1991, and
 - (d) in the case of land outside the United Kingdom, means permission corresponding to any planning permission in relation to land anywhere in the United Kingdom.

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Power to modify meaning of “use as a dwelling”

- 9 (1) The Treasury may by regulations amend this Schedule for the purpose of clarifying or changing the cases where a building is, or is not, to be regarded as being used, or suitable for use, as a dwelling.
- (2) The provision that may be made by the regulations includes (for example) provision omitting or adding cases where a building is, or is not, to be regarded as being used, or suitable for use, as a dwelling.

Regulations

- 10 Regulations under any provision of this Schedule may make incidental, consequential, supplementary or transitional provision or savings.”

16 After Schedule 1B insert—

“SCHEDULE
1C

ANNUAL EXEMPT AMOUNT IN CASES INVOLVING SETTLED PROPERTY

Introductory

- 1 (1) This Schedule provides for the application of section 1K (in some cases with modifications) in relation to the trustees of a settlement for a tax year.
- (2) The application of this Schedule depends on (among other things) whether or not—
- (a) a settlement is for the benefit of a disabled person, and
 - (b) a settlement is a qualifying UK settlement.
- (3) For the definitions of those expressions, see paragraphs 3 and 7 respectively.
- (4) In this Schedule any reference to the application of section 1K in relation to an individual for a tax year is to its application in relation to an individual who is resident and domiciled in the United Kingdom for the year.

Settlements for the benefit of disabled persons

- 2 (1) In the case of a settlement for the benefit of a disabled person for a tax year, section 1K applies in relation to the trustees of the settlement for the year as it applies in relation to an individual for the year.
- (2) This paragraph needs to be read with—
- (a) paragraph 6 (cases where settlement is a qualifying UK settlement comprised in a group), and
 - (b) paragraph 8 (sub-fund settlements).
- 3 (1) A settlement is a “settlement for the benefit of a disabled person” for a tax year if, for the whole or part of that year, settled property is held on trusts which secure that, during the lifetime of a disabled person, the property and income tests are met.

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- (2) The property test is met if any of the property which is applied for the benefit of a beneficiary is applied for the disabled person's benefit.
- (3) The income test is met if either—
- (a) the disabled person is entitled to all of the income (if any) arising from any of the property, or
 - (b) if any income arising from any of the property is applied for the benefit of a beneficiary, it is applied for the disabled person's benefit.
- (4) A settlement is not prevented from being a settlement for the benefit of a disabled person for a tax year just because—
- (a) the trustees have power to apply amounts (of any nature) not exceeding the de minimis threshold for that year,
 - (b) the trustees have the powers of advancement conferred by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958,
 - (c) the trustees have those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by—
 - (i) proviso (a) of section 32(1) of the Trustee Act 1925, or
 - (ii) section 33(1)(a) of the Trustee Act (Northern Ireland) 1958,
 or
 - (d) the trustees have powers to the same effect as the powers mentioned in paragraph (b) or (c).
- (5) For the purposes of sub-paragraph (4)(a) “the de minimis threshold” means—
- (a) £3,000, or
 - (b) 3% of the maximum value of the settled property during the tax year, whichever is the lower.
- (6) In this paragraph “disabled person” has the meaning given by Schedule 1A to the Finance Act 2005.
- (7) If the income from settled property is held for the benefit of a disabled person (“D”) on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), the reference in this paragraph to D's lifetime is to be read as a reference to the period during which the income is held on trust for D.
- (8) This paragraph applies for the purposes of this Schedule.
- 4 (1) The Treasury may by order—
- (a) specify circumstances in which paragraph 3(4)(a) is, or is not, to apply, and
 - (b) amend the definition of “the de minimis threshold” in paragraph 3(5).
- (2) The order may—
- (a) make different provision for different purposes, and
 - (b) contain transitional and saving provision.
- (3) A statutory instrument containing an order under this paragraph which reduces the annual exempt amount in any case may not be made unless a

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draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

Other settlements

- 5 (1) This paragraph applies if settlement is not a settlement for the benefit of a disabled person for a tax year.
- (2) Section 1K applies in relation to the trustees of the settlement for the year as it applies in relation to an individual for the year but as if the annual exempt amount for the year were one-half of the amount available for the individual for the year.
- (3) This paragraph needs to be read be with—
- (a) paragraph 6 (cases where settlement is qualifying UK settlement comprised in a group), and
 - (b) paragraph 8 (sub-fund settlements).

Special rules for qualifying UK settlements comprised in groups

- 6 (1) This paragraph reduces the annual exempt amount for trustees of a settlement for a tax year if the settlement is one of two or more qualifying UK settlements comprised in a group.
- (2) In the case of a settlement for the benefit of a disabled person for the year, the annual exempt amount for the year is to be reduced so that it is equal to—
- (a) one-tenth of an individual's amount for that year, or
 - (b) the amount resulting from dividing the individual's amount for that year by the number of settlements in the group,
- whichever is the greater.
- (3) In the case of any other settlement, the annual exempt amount for the year is to be reduced so that it is equal to—
- (a) one-tenth of an individual's amount for that year, or
 - (b) the amount resulting from dividing half of an individual's amount for that year by the number of settlements in the group,
- whichever is the greater.
- (4) In this paragraph “an individual's amount”, in relation to a tax year, means the annual exempt amount applying to an individual for the year under section 1K.
- (5) For the purposes of this paragraph all qualifying UK settlements in relation to which the same person is the settlor constitute a group.
- (6) If—
- (a) two or more persons are settlors in relation to a settlement, and
 - (b) a settlement is consequently comprised in two or more groups comprising different numbers of settlement,
- sub-paragraphs (2)(b) and (3)(b) have effect by reference to the largest group.

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- 7 (1) In this Schedule “qualifying UK settlement”, in relation to a tax year, means any settlement in relation to which both of the following conditions are met—
- (a) the trustees of the settlement are resident in the United Kingdom during any part of the tax year, and
 - (b) the property comprised in the settlement is not held for a charitable or pensions purpose.
- (2) Property comprised in a settlement is held for a charitable purpose if (and only if)—
- (a) it is held for charitable purposes only, and
 - (b) it cannot become applicable for other purposes.
- (3) Property comprised in a settlement is held for a pensions purpose if (and only if) it is held for the purposes of—
- (a) a registered pension scheme,
 - (b) a superannuation fund to which section 615(3) of the Taxes Act applies, or
 - (c) an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004) that is not a registered pension scheme.
- (4) For this purposes of any provision of this Schedule other than paragraph 8 a settlement is not a qualifying UK settlement if—
- (a) in the case of one for the benefit of a disabled person, it was made before 10 March 1981, or
 - (b) in any other case, it was made before 6 June 1978.

Special rules for principal settlements and sub-funds

- 8 (1) This paragraph—
- (a) applies if the trustees of a settlement (“the principal settlement”) have made an election under paragraph 1 of Schedule 4ZA the effect of which is that one or more other settlements (“sub-fund settlements”) are treated as created, and
 - (b) provides for the annual exempt for the trustees of each of the affected settlements to be determined by reference to the assumed annual amount.
- (2) For this purposes of this paragraph—
- (a) the principal settlement and each of the sub-fund settlements is an “affected settlement”, and
 - (b) the “assumed annual amount” means the amount which would be the annual exempt for the trustees of the principal settlement on the assumption that no election had been made under paragraph 1 of Schedule 4ZA.
- (3) The annual exempt amount for the trustees of each of the affected settlements is the assumed annual amount unless there are two or more qualifying UK settlements in the affected settlements.

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- (4) In that case, the annual exempt amount for the trustees of each of the affected settlements is the assumed annual amount divided by the number of qualifying UK settlements in the affected settlements.”

17 After Schedule 4 insert—

“SCHEDULE
4AA

RE-BASING FOR NON-RESIDENTS IN RESPECT
OF UK LAND ETC HELD ON 5 APRIL 2019

PART 1

INTRODUCTION

- 1 (1) Part 2, 3 or 4 of this Schedule applies on the first occasion on which a person disposes of an asset that the person held on 5 April 2019 where—
- (a) the disposal is either a direct or indirect disposal of UK land, and
 - (b) the disposal is made by a non-resident or a UK resident in the overseas part of a tax year.
- (2) See also paragraph 16 (non-UK resident company holding UK land becoming resident in UK after 5 April 2019).
- (3) For the purposes of this Schedule—
- (a) a disposal is a “direct disposal of UK land” if it is a disposal of an interest in UK land, and
 - (b) a disposal by a person is an “indirect disposal of UK land” if it is a disposal of an asset (other than an interest in UK land) deriving at least 75% of its value from UK land where the person has a substantial indirect interest in that land.
- (4) For the purposes of this paragraph, the disposal is made by a non-resident or a UK resident in the overseas part of a tax year if it is—
- (a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection,
 - (b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c),
 - (c) a disposal on which a gain accrues that falls to be dealt with by section 2B(4), or
 - (d) a disposal of an asset on which a gain does not accrue but which, had a gain accrued, would fall to be dealt with as mentioned in any of the preceding paragraphs of this sub-paragraph.

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PART 2

INDIRECT DISPOSALS AND DIRECT DISPOSALS NOT CHARGEABLE BEFORE 6 APRIL 2019

Introduction

- 2 (1) This Part of this Schedule applies to—
- (a) all indirect disposals of UK land,
 - (b) direct disposals of UK land that were not fully residential before 6 April 2019, and
 - (c) direct disposals of UK land by persons who were not chargeable before 6 April 2019.
- (2) For the purposes of this paragraph a direct disposal of UK land made by a person was “not fully residential before 6 April 2019” if in the period—
- (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 6 April 2015, and
 - (b) ending with 5 April 2019,
- there was no day on which the land to which the disposal relates consisted of or included a dwelling.
- (3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time before 6 April 2019, consisted of or included a building to be constructed or adapted for use as a dwelling, the disposal is taken to be fully residential before that date.
- (4) For the purposes of this paragraph, a disposal is made by a person who was not chargeable before 6 April 2019 if, immediately before that date, the person was—
- (a) a company which was not a closely-held company (see sub-paragraph (5)),
 - (b) a widely-marketed scheme (see sub-paragraph (6)), or
 - (c) a company carrying on life assurance business (as defined in section 56 of the Finance Act 2012) where the interest in UK land was, immediately before that date, held for the purpose of providing benefits to policyholders in the course of that business.
- (5) The question as to whether a company is “a closely-held company” is determined in accordance with Part 1 of Schedule C1; but if—
- (a) the company is a divided company within the meaning of section 14G, and
 - (b) the company would not otherwise be regarded as a closely-held company,
- the company is to be so regarded if the conditions in subsection (3) of that section are met.
- (6) A person is a “widely-marketed scheme” if—
- (a) the person is a scheme within the meaning of section 14F, and
 - (b) condition A or B in that section is met,

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reading the reference in subsection (8)(a) of that section to the non-resident CGT disposal as a reference to the disposal mentioned in paragraph 1(1).

- (7) In determining for the purposes of this paragraph whether or not—
- (a) a person is a closely-held company, or
 - (b) a person is a widely-marketed scheme,
- arrangements are to be ignored if the main purpose of, or one of the main purposes of, them is to secure a tax advantage as a result of the person not being a closely-held company or the person being a widely-marketed scheme.
- (8) In this paragraph—
- (a) “arrangements” and “tax advantage” have the same meaning as in section 16A, and
 - (b) any reference to section 14F, 14G or Schedule C1 are to those provisions as they had effect on 5 April 2019 (before their repeal by Schedule 1 to the Finance Act 2019).

Re-basing to 5 April 2019

- 3 (1) In calculating the gain or loss accruing on the disposal it is to be assumed that the asset was on 5 April 2019 sold by the person, and immediately reacquired by the person, at its market value on that date.
- (2) This paragraph has effect subject to any election made by the person under paragraph 4 (retrospective basis of calculation).

Election for retrospective basis of calculation

- 4 (1) The person may make an election under this paragraph for the assumption that the asset is sold and reacquired as mentioned in paragraph 3 not to apply.
- (2) If, in the case of an indirect disposal of UK land—
- (a) a person makes an election under this paragraph, and
 - (b) a loss accrues on the disposal,
- the loss is not an allowable loss.

Calculation of residential property gain if election made under paragraph 4

- 5 (1) This paragraph applies if—
- (a) a person makes an election under paragraph 4 in respect of a disposal on which a gain accrues, and
 - (b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.
- (2) Paragraph 2 of Schedule 1B has effect as if—
- (a) sub-paragraphs (5) and (6) of that paragraph were omitted, and
 - (b) in that paragraph, “the applicable period” had the definition given by the next sub-paragraph.
- (3) “The applicable period” means the period—

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- (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and
- (b) ending with the day before the day on which the disposal is made.

PART 3

DIRECT DISPOSALS OF PRE-APRIL 2015 ASSETS FULLY CHARGEABLE BEFORE 6 APRIL 2019

Introduction

- 6 (1) This Part of this Schedule applies to any direct disposal of UK land if—
- (a) the person held the interest in UK land being disposed of throughout the period beginning with 6 April 2015 and ending with the disposal, and
 - (b) the disposal was fully residential before 6 April 2019.
- (2) For this purpose a direct disposal of UK land made by a person is “fully residential before 6 April 2019” if in the period—
- (a) beginning with 6 April 2015, and
 - (b) ending with 5 April 2019,
- every day on which the land to which the disposal relates consisted of a dwelling.
- (3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time in that period, did not consist of a building to be constructed or adapted for use as a dwelling, the disposal is taken to be not fully residential before 6 April 2019.
- (4) This Part of this Schedule does not apply to a direct disposal of UK land made by a person who was not chargeable before 6 April 2019, as determined for the purposes of paragraph 2.

Re-basing to 5 April 2015

- 7 (1) In calculating the gain or loss accruing on the disposal it is to be assumed that the asset was on 5 April 2015 sold by the person, and immediately reacquired by the person, at its market value on that date.
- (2) This paragraph has effect subject to any election made by the person under either—
- (a) paragraph 8 (retrospective basis of calculation), or
 - (b) paragraph 9 (straight-line time apportionment),
- (and an election may be made under only one of those paragraphs).

Election for retrospective basis of calculation

- 8 The person may make an election under this paragraph for the assumption that the asset is sold and reacquired as mentioned in paragraph 7 not to apply.

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Election for straight-line time apportionment

- 9 (1) The person may make an election under this paragraph—
- (a) for the assumption that the asset is sold and reacquired as mentioned in paragraph 7 not to apply, and
 - (b) for the gain or loss accruing on the disposal to be apportioned so that only the post-5 April 2015 proportion of it is treated as accruing on the disposal.
- (2) The “post-5 April 2015 proportion” is the proportion that the days in the post-5 April 2015 period bear to the days in the ownership period.
- (3) For this purpose—
- “the post-5 April 2015 period” means the day beginning with 6 April 2015 and ending with the day on which the disposal is made, and
 - “the ownership period” means the period beginning with the day on which the person acquired the interest disposed of or, if later, 31 March 1982 and ending with the day on which the disposal is made.

Calculation of residential property gain if election made under paragraph 8 or 9

- 10 (1) This paragraph applies if—
- (a) a person makes an election under paragraph 8 in respect of a disposal on which a gain accrues, and
 - (b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.
- (2) Paragraph 2 of Schedule 1B has effect as if—
- (a) sub-paragraphs (5) and (6) of that paragraph were omitted, and
 - (b) in that paragraph, “the applicable period” had the definition given by the next sub-paragraph.
- (3) “The applicable period” means the period—
- (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and
 - (b) ending with the day before the day on which the disposal is made.
- 11 (1) This paragraph applies if—
- (a) a person makes an election under paragraph 9 in respect of a disposal on which a gain accrues, and
 - (b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.
- (2) Paragraph 2 of Schedule 1B has effect as if—
- (a) sub-paragraphs (5) and (6) of that paragraph were omitted, and
 - (b) in that paragraph, “the applicable period” had the definition given by the next sub-paragraph.
- (3) “The applicable period” means the period—
- (a) beginning with 6 April 2015, and
 - (b) ending with the day before the day on which the disposal is made.

Status: Point in time view as at 12/02/2019.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2019, PART 1. (See end of Document for details)

PART 4

DIRECT DISPOSALS OF ASSETS PARTLY CHARGEABLE BEFORE 6 APRIL 2019

Introduction

- 12 (1) This Part of this Schedule applies to any direct disposal of UK land if—
- (a) neither Part 2 nor Part 3 of this Schedule applies to the disposal, and
 - (b) the interest in UK land being disposed of was not a post-April 2015 asset that was fully residential before 6 April 2019.
- (2) For this purpose—
- (a) the interest in UK land being disposed of is a “post-April 2015 asset” if it was acquired by the person after 5 April 2015, and
 - (b) the asset “was fully residential before 6 April 2019” if, in the period beginning with the day on which it was acquired and ending with 5 April 2019, every day on which the land to which the disposal relates consisted of a dwelling.
- (3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time in that period, did not consist of a building to be constructed or adapted for use as a dwelling, the disposal is taken to be not fully residential before 6 April 2019.

Re-basing to 5 April 2015 and 5 April 2019

- 13 (1) In calculating the gain or loss accruing on the disposal (“the actual disposal”) it is to be assumed that—
- (a) the asset was on 5 April 2015 sold by the person, and immediately reacquired by the person, at its market value on that date (but see sub-paragraph (3)), and
 - (b) in addition, the asset was on 5 April 2019 sold by the person, and immediately reacquired by the person, at its market value on that date.
- (2) In the case of the assumed sale on 5 April 2019, the gain or loss accruing on that sale is treated as accruing on the actual disposal (in addition to the gain or loss that actually accrues on the actual disposal).
- (3) If the asset was acquired by the person after 5 April 2015, the assumption that it is sold, and immediately reacquired, on 5 April 2015 is not to apply.
- (4) This paragraph has effect subject to any election made by the person under paragraph 14 (retrospective basis of calculation).

Election for retrospective basis of calculation

- 14 The person may make an election under this paragraph for the assumptions that the asset is sold and reacquired as mentioned in paragraph 13 not to apply.

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2019, PART 1. (See end of Document for details)

Calculation of residential property gain if election made under paragraph 14

- 15 (1) This paragraph applies if—
- (a) a person makes an election under paragraph 14 in respect of a disposal on which a gain accrues, and
 - (b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.
- (2) Paragraph 2 of Schedule 1B has effect as if—
- (a) sub-paragraphs (5) and (6) of that paragraph were omitted, and
 - (b) in that paragraph, “the applicable period” had the definition given by the next sub-paragraph.
- (3) “The applicable period” means the period—
- (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and
 - (b) ending with the day before the day on which the disposal is made.

PART 5

MISCELLANEOUS

Companies with UK land becoming UK resident after 5 April 2019

- 16 (1) This paragraph applies in any case where—
- (a) a company becomes resident in the United Kingdom after 5 April 2019,
 - (b) the company makes a direct or indirect disposal of UK land after that date, and
 - (c) (ignoring this paragraph) Part 2, 3 or 4 of this Schedule would have applied to the disposal but for the fact that it is made at a time when the company is resident in the United Kingdom.
- (2) In that case, Part 2, 3 or 4 of this Schedule applies in relation to the disposal (regardless of paragraph 1(1)(b)).

Persons with UK land ceasing to be UK resident after 5 April 2019

- 17 (1) This paragraph applies in any case where—
- (a) the trustees of a settlement cease to be resident in the United Kingdom after 5 April 2019,
 - (b) after that date the trustees dispose of an asset held by them on that date, and
 - (c) the disposal is a direct or indirect disposal of UK land.
- (2) Nothing in Part 2, 3 or 4 of this Schedule applies to the disposal.
- (3) The asset that is disposed of is excepted from the application of section 80(2) (deemed disposal of assets on trustees ceasing to be resident in UK).
- 18 (1) This paragraph applies in any case where—

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- (a) a company ceases to be resident in the United Kingdom after 5 April 2019,
 - (b) after that date the company disposes of an asset held by it on that date, and
 - (c) the disposal is a direct or indirect disposal of UK land.
- (2) Nothing in Part 2, 3 or 4 of this Schedule applies to the disposal.
- (3) The asset that is disposed of is excepted from the application of section 185(2) and (3) (deemed disposal of assets on company ceasing to be resident in UK).

Wasting assets

- 19 (1) This paragraph applies if, in calculating a gain or loss accruing to a person in a case where paragraph 3, 7 or 13 is applicable, it is necessary to make a wasting asset determination in relation to the asset disposed of.
- (2) The assumption that the asset was acquired on a date mentioned in paragraph 3, 7 or 13 (as the case may be) is to be ignored in making that determination.
- (3) In this paragraph “a wasting asset determination” means a determination whether or not an asset is a wasting asset, as defined for the purposes of Chapter 2 of Part 2 of this Act.

Capital allowances

- 20 (1) This paragraph applies if, in calculating a gain or loss accruing to a person in a case where paragraph 3, 7 or 13 is applicable, it is to be assumed that the asset disposed of was acquired on a particular date for a consideration equal to its market value on that date.
- (2) For the purposes of that calculation—
- (a) section 41 (restriction of losses by reference to capital allowances and renewals allowances), and
 - (b) section 47 (wasting assets qualifying for capital allowances),
- are to apply in relation to any allowance made in respect of the expenditure actually incurred in acquiring or providing the asset as if it were made in respect of the expenditure assumed to have been incurred.
- (3) In this paragraph “allowance” means any capital allowance or renewals allowance.

Making of elections

- 21 (1) An election under any provision of this Schedule must (regardless of section 42(2) of the Management Act) be made by being included in a relevant return relating to the disposal.
- (2) For the purposes of this paragraph a “relevant return” means—
- (a) an ordinary tax return, or
 - (b) a return under Schedule 2 to the Finance Act 2019.

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- (3) An election under any provision of this Schedule which is made by being included in a return under Schedule 2 to the Finance Act 2019 may be subsequently revoked by provision included in an ordinary tax return which is delivered on or before the filing date for the ordinary tax return.
- (4) Subject to that, an election under any provision of this Schedule is irrevocable.
- (5) 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 any provision of this Schedule.
- (6) For the purposes of this paragraph, in the case of a person other than a company—
 - “ordinary tax return” means a return under section 8 or 8A of the Management Act, and
 - “the filing date”, in relation to that return, has the meaning given by section 9A(6) of that Act.
- (7) For the purposes of this paragraph, in the case of a company—
 - “ordinary tax return” means a company tax return under Schedule 18 to the Finance Act 1998, and
 - “the filing date”, in relation to that return, has the meaning given by paragraph 14 of that Schedule.
- (8) For the purposes of this paragraph—
 - (a) the reference to an election being included in a relevant return includes its being included as a result of an amendment of the return, and
 - (b) the reference to the revocation of an election being included in an ordinary tax return includes its being included as a result of an amendment of the return.

Interpretation

- 22 (1) In this Schedule—
- (a) any reference to an interest in UK land is to be read in accordance with section 1C (and any reference to land is to be read in accordance with that section), and
 - (b) any reference to an asset (other than an interest in UK land) deriving at least 75% of its value from UK land where a person has a substantial indirect interest in that land is to be read in accordance with Schedule 1A.
- (2) If an interest in UK land disposed of by a person results from interests in UK land acquired by the person at different times, the person is regarded for the purposes of this Schedule as having acquired the interest disposed of at the time of the first acquisition.
 - (3) For the purposes of this Schedule, whether a building is a dwelling is determined in accordance with Schedule 1B.”

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- 19 Omit Schedule 4ZZB (non-resident CGT disposals: gains and losses).
20 Omit Schedule 4ZZC (disposals of residential property interests: gains and losses).
21 After Schedule 5A insert—

“SCHEDULE
5AAA

UK PROPERTY RICH COLLECTIVE INVESTMENT VEHICLES ETC

PART 1

INTRODUCTION: KEY EXPRESSIONS

Meaning of “collective investment vehicle”, “participant” and “unit”

- 1 (1) In this Schedule “collective investment vehicle” means—
- (a) a collective investment scheme,
 - (b) an AIF,
 - (c) a company which is a UK REIT, or
 - (d) a company which is resident outside the United Kingdom and meets the property income condition.
- (2) A company meets the property income condition if—
- (a) it is not a close company or is a close company but only because it has a qualifying investor as a direct or indirect participator,
 - (b) at least half of its income is property income from long-term investments,
 - (c) it distributes all, or substantially all, of its property income from long-term investments and does so on an annual basis, and
 - (d) it is not liable to tax on that income under the law of any territory in which it is resident.
- (3) Paragraph 46 (meaning of “close company”, “qualifying investor” and “direct or indirect participator”) applies for the purposes of sub-paragraph (2)(a).
- (4) For the purposes of sub-paragraph (2) “property income from long-term investments” means income deriving from direct or indirect investments in—
- (a) land, or
 - (b) estates, interests or rights in or over land,
- which are made on a long-term basis.
- (5) In this Schedule “participant” means—
- (a) in relation to a collective investment scheme or an AIF, a person who takes part in the arrangements or undertaking constituting the scheme or AIF, whether by becoming the owner of, or of any part of, the property that is the subject of or held by the arrangements or undertaking or otherwise, or

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- (b) in relation to a company within (1)(c) or (d), a shareholder in the company.
- (6) In this Schedule “unit” means—
 - (a) in the case of a collective investment scheme or an AIF, the rights or interests (however described) of the participant in the scheme or AIF, or
 - (b) in the case of a company within (1)(c) or (d), a share in the company.
- (7) In this paragraph—
 - “AIF” has the meaning given by regulation 3 of the Alternative Investment Fund Managers Regulations 2013, and
 - “UK REIT” has the same meaning as in Part 12 of CTA 2010.

Meaning of “offshore collective investment vehicle”

- 2 (1) In this Schedule “offshore collective investment vehicle” means—
 - (a) a collective investment vehicle constituted as a body corporate resident outside the United Kingdom,
 - (b) a collective investment vehicle under which property is held on trust for the participants where the trustees of the property are not resident in the United Kingdom, or
 - (c) a collective investment vehicle constituted by other arrangements that create rights in the nature of co-ownership where the arrangements take effect as a result of the law of a territory outside the United Kingdom.
- (2) In this paragraph—
 - “body corporate” does not include a limited liability partnership, and
 - “co-ownership” is not restricted to the meaning of that term in the law of any part of the United Kingdom.

Meaning of a collective investment vehicle being “UK property rich” etc

- 3 (1) For the purposes of this Schedule the question whether a collective investment vehicle is “UK property rich” at any time is determined by applying the rules in Part 2 of Schedule 1A on the following assumptions.
- (2) The assumptions are—
 - (a) that (so far as this would not otherwise be the case) the vehicle were a company, and
 - (b) that a disposal were made at that time of a right or interest in that company.
- (3) If that disposal would be regarded for the purposes of Schedule 1A as a disposal of an asset deriving at least 75% of its value from UK land, the vehicle is regarded for the purposes of this Schedule as being UK property rich at that time.
- (4) For the purposes of this Schedule the question whether a company is “UK property rich” at any time is determined by applying the rules in Part 2 of

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Schedule 1A on the assumption that a disposal were made at that time of a right or interest in the company.

- (5) If that disposal would be regarded for the purposes of Schedule 1A as a disposal of an asset deriving at least 75% of its value from UK land, the company is regarded for the purposes of this Schedule as being UK property rich at that time.

PART 2

BASIC RULES

Application of Act to offshore CIV

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

Units in a CoACS treated as shares in a company

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

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Disposals by non-UK residents

- 6 (1) This paragraph applies if—
- (a) a person disposes of an asset that derives at least 75% of its value from UK land (as determined in accordance with Part 2 of Schedule 1A), and
 - (b) the disposal has an appropriate connection to a collective investment vehicle (see sub-paragraphs (3) to (6) for the cases in which this test is met).
- (2) For the purposes of section 1A(3)(c) or 2B(4)(b) (disposals by non-UK residents of assets deriving 75% of value from UK land etc), the person is treated as having a substantial indirect interest in the UK land at the time of the disposal.
- (3) A disposal has an appropriate connection to a collective investment vehicle if the asset disposed of consists of a right or interest in—
- (a) a collective investment vehicle, or
 - (b) a company at least half of whose market value derives from its being a direct or indirect participant in one or more collective investment vehicles.
- (4) A disposal has an appropriate connection to a collective investment vehicle if—
- (a) the vehicle is constituted by two or more persons carrying on a trade or business in partnership, and
 - (b) the disposal is made by a person as a participant in the vehicle.
- (5) A disposal has an appropriate connection to a collective investment vehicle if the vehicle is a company and the disposal is made by it.
- (6) A disposal has an appropriate connection to a collective investment vehicle if—
- (a) a company (which is not the vehicle) makes the disposal, and
 - (b) the vehicle, and one or more other collective investment vehicles that are UK property rich, have a 50% investment in the company.
- (7) Collective investment vehicles have a 50% investment in a company if, applying the rule in paragraph 9 (but without regard to paragraph 10) of Schedule 1A as if references to 25% were references to 50%, the vehicles would be regarded as having a 50% investment in the company at the time of the disposal.
- (8) For this purpose the collective investment schemes are to be regarded as if they were a single person.
- (9) This paragraph is subject to paragraph 7 (collective investment vehicles expected to have no more than 40% investments in UK land).
- 7 (1) This paragraph applies to a disposal which would otherwise have an appropriate connection to a collective investment vehicle as a result of paragraph 6(3), (5) or (6).

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- (2) A disposal does not have an appropriate connection to a collective investment vehicle if, at the time of the disposal, the vehicle mentioned in paragraph 6(3)(a) or (5) or (6), or each of the vehicles mentioned in paragraph 6(3)(b), meets—
- (a) the non-UK real estate condition, and
 - (b) the genuine diversity of ownership condition or, if the vehicle is a company, the non-close condition.
- (3) If—
- (a) a disposal is made as mentioned in paragraph 6(6), and
 - (b) the vehicle mentioned there is constituted by two or more persons carrying on a trade or business in partnership,
- the condition in sub-paragraph (2)(b) is taken to be met if the company mentioned in paragraph 6(6) meets the non-close condition.
- (4) A vehicle meets the non-UK real estate condition at any time if, by reference to the prospectus for the vehicle as the prospectus has effect at that time, no more than 40% of the expected market value of the vehicle's investments is intended to derive from investments consisting of—
- (a) interests in UK land, or
 - (b) rights or interests in companies which are UK property rich.
- (5) A vehicle meets the genuine diversity of ownership condition at any time if, at that time—
- (a) it meets conditions A to C of regulation 75 of the Offshore Funds (Tax) Regulations 2009, or
 - (b) it meets the condition in regulation 75(5) of those Regulations,
- and those Regulations apply for the purposes of this sub-paragraph as if any collective investment vehicle which is not an offshore fund were regarded as an offshore fund.
- (6) A company meets the non-close condition at any time if, at that time, it—
- (a) is not a close company, or
 - (b) is a close company but only because it has a qualifying investor as a direct or indirect participator.
- (7) Paragraph 46 (meaning of “close company”, “qualifying investor” and “direct or indirect participator”) applies for the purposes of sub-paragraph (6).

PART 3

ELECTION FOR TRANSPARENCY

Election for collective investment vehicle to be treated as partnership

- 8 (1) This paragraph applies to an offshore collective investment vehicle—
- (a) which is UK property rich, and

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- (b) which is transparent for income tax purposes otherwise than as a result of being constituted by two or more persons carrying on a trade or business in partnership.
- (2) The manager of the vehicle may make an election for the vehicle to be treated for the purposes of—
 - (a) this Act, and
 - (b) the Management Act, and any other provision of the Corporation Tax Acts, so far as relating to the taxation of chargeable gains,as if, in relation to all times on and after its constitution, it were to be regarded as a partnership.
 - (3) Accordingly, as a result of sub-paragraph (2)(b), it follows that, in applying rules such as section 1154 of CTA 2010 (meaning of “75% subsidiary” etc) for the purposes of Part 12 of that Act (Real Estate Investment Trusts) so far as relating to the taxation of chargeable gains, the vehicle is to be regarded as a partnership.
 - (4) In the case of section 12AA of the Management Act as it applies as a result of sub-paragraph (2), a notice under subsection (2) or (3) of that section may be given to the manager of the vehicle.
 - (5) The election has effect whether or not the vehicle would, but for the making of the election, be regarded as a person chargeable to capital gains tax or corporation tax on chargeable gains.
 - (6) For the purposes of this paragraph whether or not an offshore collective investment vehicle is regarded as being UK property rich may be determined by reference to the prospectus for the vehicle on the assumption that investments are made by the vehicle in accordance with the prospectus.
 - (7) For the purposes of this paragraph a collective investment vehicle is “transparent for income tax purposes” if, on the assumption that there are participants who are individuals resident in the United Kingdom, any sums which form part of the income of the vehicle—
 - (a) would be chargeable to income tax on those assumed participants under a provision specified in section 830(2) of ITTOIA 2005 in respect of such of those sums as would be referable to their interests, or
 - (b) if any of that income is derived from assets within the United Kingdom, would be so chargeable had the assets been outside the United Kingdom.
 - (8) If an election is made under this paragraph in relation to a collective investment vehicle—
 - (a) section 99 (application of Act to unit trust schemes) does not apply in relation to the vehicle, and
 - (b) section 103D (tax transparent funds) does not apply in relation to the vehicle.

Further provision about election

- 9 (1) An election under paragraph 8 in relation to an offshore collective investment vehicle—

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- (a) has effect only if the participants in the vehicle at the time at which it is made have consented to the making of the election,
 - (b) must be made by notice given to an officer of Revenue and Customs, and
 - (c) must be made before the end of the period of 12 months beginning with the relevant acquisition date.
- (2) For this purpose “the relevant acquisition date” means the earliest date on which—
- (a) an interest in UK land, or
 - (b) a right or interest in a company that is UK property rich,
- forms part of the property that is the subject of or held by the vehicle.
- (3) An election under paragraph 8 is irrevocable.

Units in CIVs held by life insurance companies

- 10 (1) This paragraph applies if an election under paragraph 8 has effect in relation to an offshore collective investment vehicle.
- (2) The election is treated as having no effect for the purposes of this Act in relation to any units in the vehicle which are held by an insurance company for the purposes of its long-term business.

Relationship to re-basing rules under Schedule 4AA for non-UK residents

- 11 (1) This paragraph applies if—
- (a) an election under paragraph 8 has effect in relation to an offshore collective investment vehicle, and
 - (b) as a result of the election, Part 3 or 4 of Schedule 4AA would (but for this paragraph) apply in relation to a disposal made by a participant in the vehicle.
- (2) The disposal is to be regarded for the purposes of Schedule 4AA as if it were one to which Part 2 of that Schedule applies.

PART 4

EXEMPTION

Exemption for qualifying offshore CIV that is UK property rich etc

- 12 (1) An election may be made for a collective investment vehicle, or a company which is not a collective investment vehicle, to be exempt from corporation tax on chargeable gains accruing to it on—
- (a) all direct disposals of UK land, and
 - (b) all indirect disposals of UK land.
- (2) An election may be made in respect of a collective investment vehicle if each of the following entitlement conditions is met—
- (a) the vehicle is offshore,

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- (b) the vehicle is a company (whether as a result of paragraph 4 or otherwise),
 - (c) the vehicle is UK property rich,
 - (d) the vehicle meets all of the qualifying conditions set out in paragraph 13, and
 - (e) if the vehicle is an AIF, it would also meet the definition of a collective investment vehicle for another reason.
- (3) An election may be made in respect of a company which is not a collective investment vehicle if each of the following entitlement conditions is met—
 - (a) the company is wholly (or almost wholly) owned by a collective investment scheme which is constituted by two or more persons carrying on a trade or business in partnership or is constituted by a CoACS,
 - (b) the appropriate entity is UK property rich, and
 - (c) the company meets all of the qualifying conditions set out in paragraph 13,and it does not matter where the company is resident.
- (4) In sub-paragraph (3)(b) the “appropriate entity” means—
 - (a) in a case where the collective investment scheme is constituted by two or more persons carrying on a trade or business in partnership, the company, and
 - (b) in a case where the collective investment scheme is constituted by a CoACS, the CoACS.
- (5) If an election is made under this paragraph in respect of a collective investment vehicle—
 - (a) the vehicle is referred to in this Part of this Schedule as “a qualifying fund”, and
 - (b) any reference in this Part of this Schedule to a qualifying fund, in relation to any time after the election is made (including any time after the election ceases to have effect), is to be read as a reference to the arrangements, undertaking or company which met the definition of collective investment vehicle when the election was made.
- (6) If an election is made under this paragraph in respect of a company which is not a collective investment vehicle—
 - (a) the company is referred to in this Part of this Schedule as “a qualifying company”, and
 - (b) any reference in this Part of this Schedule to a qualifying company, in relation to any time after the election is made (including any time after the election ceases to have effect), is to be read as a reference to the company.
- (7) Section 103D (application of Act to tax transparent funds) does not apply for the purpose of determining whether sub-paragraph (3)(a) applies.
- (8) In this paragraph—
 - “AIF” has the meaning given by regulation 3 of the Alternative Investment Fund Managers Regulations 2013, and

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“CoACS” means an authorised contractual scheme which is a co-ownership scheme.

Qualifying conditions and information provided to HMRC

- 13 (1) For the purposes of paragraph 12(2), a collective investment vehicle meets the qualifying conditions in this paragraph at any time if, at that time—
- (a) it is a collective investment scheme and it meets the genuine diversity of ownership condition,
 - (b) it is a company (otherwise than as a result of paragraph 4) and it meets the recognised stock exchange condition and the non-close condition, or
 - (c) it is a collective investment vehicle (of any kind) and it meets the UK tax condition and the non-close condition.
- (2) For the purposes of paragraph 12(3), a company which is not a collective investment vehicle meets the qualifying conditions in this paragraph at any time if, at that time, either—
- (a) the company meets the UK tax condition and the non-close condition, or
 - (b) the collective investment scheme which wholly (or almost wholly) owns the company meets the genuine diversity of ownership condition.
- (3) For the purposes of this paragraph a collective investment scheme meets the genuine diversity of ownership condition at any time if, at that time—
- (a) it meets conditions A to C of regulation 75 of the Offshore Funds (Tax) Regulations 2009, or
 - (b) it meets the condition in regulation 75(5) of those Regulations, and those Regulations apply for the purposes of this sub-paragraph as if any collective investment scheme which is not an offshore fund were regarded as an offshore fund.
- (4) For the purposes of this paragraph a company meets the recognised stock exchange condition at any time if, at that time—
- (a) it has ordinary share capital, and
 - (b) the shares forming part of its ordinary share capital are regularly traded on a recognised stock exchange.
- (5) For the purposes of this paragraph a company meets the non-close condition at any time if, at that time, it—
- (a) is not a close company, or
 - (b) is a close company but only because it has a qualifying investor as a direct or indirect participator.
- (6) Paragraph 46 (meaning of “close company”, “qualifying investor” and “direct or indirect participator”) applies for the purposes of sub-paragraph (5).
- (7) For the purposes of this paragraph a company meets the UK tax condition at any time if, on the assumption that all of the shares in it were disposed of for their market value at that time, the person making the election reasonably considers at that time that, as a result solely of double taxation arrangements,

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- no more than 25% of the total proceeds would fall to be left out of account for the purposes of this Act.
- 14 (1) An election under paragraph 12 has effect only if it is accompanied by information of such description as may be specified by an officer of Revenue and Customs about disposals made by participants in the relevant fund at any time in—
- (a) the period of two years ending with the day before the day on which the election is made, or
 - (b) if shorter, the period beginning with the constitution of the relevant fund and ending with the day before the day on which the election is made.
- (2) Information is not required by sub-paragraph (1) to accompany the election so far as—
- (a) it has already been provided to an officer of Revenue and Customs in a form and manner, and at times, specified by an officer of Revenue and Customs, and
 - (b) the election sets out those occasions on which the information has been so provided.
- 15 (1) An election under paragraph 12 has effect subject to such conditions as to the provision of information or documents to an officer of Revenue and Customs as may be specified by an officer of Revenue and Customs.
- (2) The information or documents must be provided to an officer of Revenue and Customs in respect of every period of account of the relevant fund which ends at a time when the election has effect.
- (3) The information or documents must be provided to an officer of Revenue and Customs within the period of 12 months from the end of the period of account.
- (4) The conditions as to the provision of information or documents may include—
- (a) conditions relating to the participants in the relevant fund, and
 - (b) conditions requiring information or documents in respect of the operation of any provision of this Schedule (or any provision of this Act relevant to this Schedule).
- (5) In the case of an election under paragraph 12—
- (a) a designated HMRC officer may revoke the election if, in the officer's opinion, there has been, without reasonable excuse, a breach of any provision made by or under this paragraph, but
 - (b) an officer of Revenue and Customs (whether or not designated) may waive a breach of any provision made by or under this paragraph if, in the officer's opinion, there is no reasonable excuse for the breach but, having regard to all the circumstances, the breach is nonetheless insignificant.
- (6) The circumstances to which the officer may have regard in determining whether a breach is insignificant include the number and seriousness of previous breaches.

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- (7) In this paragraph “period of account”, in relation to the relevant fund, means any period for which accounts of the relevant fund are drawn up.
- (8) If the period of account would otherwise be longer than 12 months, the period of account is to be treated for the purposes of this paragraph as split into more than one period of account, and—
- (a) the first deemed period of account is to be 12 months long, and
 - (b) any subsequent deemed period of account is to start when the previous deemed period of account ends and is to end 12 months later or, if earlier, when the actual period of account ends.

*Exemption for direct or indirect disposals
of UK land by persons in which fund invests*

- 16 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company (“Q”),
 - (b) Q is UK property rich by reference (wholly or partly) to particular interests in UK land (“the relevant UK property”), and
 - (c) a person other than Q makes a disposal at a time when the election has effect.
- (2) If—
- (a) the disposal is a direct disposal of any of the relevant UK property by a person, and
 - (b) immediately before the disposal, Q has a 40% investment in the person,
- the appropriate proportion of any gain accruing to the person on the disposal is not a chargeable gain.
- (3) If the disposal is an indirect disposal of UK land in a case where—
- (a) the interests in UK land in question consist of or include any of the relevant UK property, and
 - (b) immediately before the disposal, Q has a 40% investment in the company in question,
- the appropriate proportion of any gain accruing to the person on the disposal is not a chargeable gain.
- (4) For the purposes of this paragraph the “appropriate proportion” means the proportion that so much of the consideration for the disposal as forms part (directly or indirectly) of the assets of Q bears to the total consideration for the disposal.
- (5) For the purposes of this paragraph a person has a 40% investment in a company if, applying the rule in paragraph 9 (but without regard to paragraph 10) of Schedule 1A as if references to 25% were references to 40%, the person would be regarded as having a 40% investment in the company immediately before the disposal.
- (6) In this paragraph—

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“the interests in UK land in question” means the interests in UK land taken into account in determining whether the disposal is an indirect disposal of UK land, and

“the company in question”, in relation to a disposal of a right or interest in a company by the person, means that company.

- (7) If an officer of Revenue and Customs considers that the operation of this paragraph would otherwise result in the total proportion of a gain that is not a chargeable gain exceeding the whole of the gain, the officer may make such adjustments to the appropriate proportion of a gain accruing to any person as the officer considers just and reasonable to prevent that result.

Making of election and period for which it has effect

- 17 (1) An election under paragraph 12—
- (a) must be made by the relevant fund manager, and
 - (b) must be made by notice given to an officer of Revenue and Customs.
- (2) An election under paragraph 12 must specify the day from which it is to have effect.
- (3) The election has effect in relation to disposals on or after the day specified in the election.
- (4) A day may be specified in the election even if it falls before the day on which the election is made.
- (5) But a day that falls more than 12 months before the day on which the election is made may be specified only if an officer of Revenue and Customs consents.
- (6) For this purpose—
- (a) consent may be given generally (for example, by describing, in a notice published by an officer of Revenue and Customs, cases in which consent is deemed to be given), or
 - (b) consent may be given in relation to particular cases.

Revocation of election

- 18 (1) In addition to the case set out in paragraph 15(5)(a), a designated HMRC officer may revoke an election under paragraph 12 if, in order to safeguard the public revenue, the officer considers it is appropriate to revoke the election.
- (2) In the case of an election under paragraph 12 which is revoked by a designated HMRC officer (whether under this paragraph or paragraph 15), the revocation must be made by notice given by a designated HMRC officer to the relevant fund manager.
- (3) The relevant fund manager may revoke an election under paragraph 12 by giving notice of the revocation to an officer of Revenue and Customs.
- (4) A notice of revocation of an election under paragraph 12 must specify the day from which the election is to cease to have effect.

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- (5) The election ceases to have effect in relation to disposals made on or after the day specified in the notice of revocation.
 - (6) The relevant fund manager may specify a day in a notice of revocation even if the day falls before the day on which the notice is given but only if an officer of Revenue and Customs consent.
 - (7) For this purpose—
 - (a) consent may be given generally (for example, by describing, in a notice published by an officer of Revenue and Customs, cases in which consent is deemed to be given), or
 - (b) consent may be given in relation to particular cases.
- 19 (1) A notice of revocation given by a designated HMRC officer under paragraph 15 or 18 must state the grounds for revoking the election under paragraph 12.
- (2) The relevant fund manager may bring an appeal against the revocation of the election.
 - (3) The appeal must be made by notice given to the designated HMRC officer during the period of 30 days beginning with the day on which the notice of revocation is given.
 - (4) In the case of an appeal which is notified to the tribunal (see Part 5 of the Management Act), the tribunal must not allow the appeal unless it considers that a designated HMRC officer could not reasonably have been satisfied that there were grounds for revoking the election.

Qualifying fund or company ceasing to meet applicable exemption conditions

- 20 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made at any time in respect of a qualifying fund or qualifying company, and
 - (b) at any subsequent time, the qualifying fund or qualifying company ceases to meet the applicable exemption conditions.
- (2) The election ceases to have effect from that subsequent time in relation to disposals made at or after that time.
- (3) This paragraph needs to be read with—
- (a) paragraph 27 (temporary period of no more than 30 days during which certain of applicable exemption conditions not met),
 - (b) paragraph 28 (temporary period of no more than 9 months during which applicable exemption conditions not met), and
 - (c) paragraph 30 (steps taken by relevant fund manager to wind up relevant fund).

Deemed disposal: payments not otherwise taxable where value derived from direct or indirect disposals of UK land

- 21 (1) This paragraph applies if—
- (a) an election under paragraph 12 that has been made in respect of a qualifying fund or qualifying company has effect at any time,

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- (b) a participant in the relevant fund is entitled to receive an amount at that time (“the relevant time”) which represents, in substance, value derived (directly or indirectly) from a direct disposal of UK land or from the UK land component of an indirect disposal of UK land, and
 - (c) the amount is regarded as being of a revenue nature and does not fall to be taken into account for the purposes of income tax or corporation tax on income.
- (2) In the case of an election made in respect of a qualifying fund, the participant in the relevant fund is deemed for the purposes of this Act—
- (a) to have sold its units in the relevant fund immediately before the relevant time at their market value immediately before that time, and
 - (b) to have reacquired those units immediately after the relevant time at their market value immediately after that time.
- (3) In the case of an election made in respect of a qualifying company, the participant in the relevant fund is deemed for the purposes of this Act—
- (a) to have sold its rights and interests in the company immediately before the relevant time at their market value immediately before that time, and
 - (b) to have reacquired those rights and interests immediately after the relevant time at their market value immediately after that time.
- (4) In this paragraph “the UK land component” of an indirect disposal of UK land means the interests in UK land taken into account in determining whether the disposal is an indirect disposal of UK land.

Deemed disposal if election ceases to have effect

- 22 (1) This paragraph applies if at any time an election which has been made under paragraph 12 in respect of a qualifying fund or qualifying company ceases to have effect.
- (2) In the case of an election made in respect of a qualifying fund, each participant in the relevant fund is deemed for the purposes of this Act—
- (a) to have sold its units in the relevant fund immediately before that time, and
 - (b) to have immediately reacquired those rights and interests, at their market value immediately before that time.
- (3) In the case of an election made in respect of a qualifying company, each participant in the relevant fund is deemed for the purposes of this Act—
- (a) to have sold its rights and interests in the company immediately before that time, and
 - (b) to have immediately reacquired those rights and interests, at their market value immediately before that time.

Gains accruing on disposals under paragraph 21 or 22

- 23 (1) This paragraph applies if a disposal of an asset is deemed to have been made by a person at any time under—
- (a) paragraph 21, or

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- (b) paragraph 22 but only as a result of paragraph 20 (qualifying fund or qualifying company ceasing to meet the applicable exemption conditions).
- (2) Any gain (“the deemed gain”) accruing to the person on the disposal is treated as accruing to the person in accordance with the rules set out in the remainder of this paragraph.
- (3) If, at the time of the deemed disposal or a subsequent time—
 - (a) the person actually disposes of a unit in the relevant fund, or
 - (b) the person receives an amount of a kind mentioned in paragraph 21(1),
 the appropriate portion of the deemed gain is treated as accruing to the person at the time of the actual disposal or the time of the receipt.
- (4) For this purpose “the appropriate portion” means the proportion which—
 - (a) the consideration for the actual disposal, or
 - (b) the amount of the receipt,
 bears to the amount of the deemed gain.
- (5) If some of the deemed gain has accrued on one or more previous occasions, the appropriate portion is restricted so that, when added to the appropriate portion or portions on the previous occasion or occasions, it does not exceed 100%.
- (6) In determining the appropriate proportion, so much (if any) of the consideration for the actual disposal or the amount of the receipt as exceeds the amount of the deemed gain is to be ignored.
- (7) In the case of a disposal under paragraph 21, the remainder of the deemed gain is treated as accruing to the person (unless the whole amount has already accrued) when the relevant fund is wound up.
- (8) In the case of a disposal under paragraph 22, the remainder of the deemed gain is treated as accruing to the person (unless the whole amount has already accrued) at—
 - (a) the end of the period of three years beginning with the time of the deemed disposal, or
 - (b) if earlier, when the relevant fund is wound up.

Relief for expenses in the case of deemed disposals under paragraph 21 or 22

- 24 (1) This paragraph applies if a disposal is deemed to have been made by a person as a result of paragraph 21 or 22.
- (2) The person is treated for the purposes of section 38(1)(c) as having incurred incidental costs of making the deemed disposal equal to the notional costs.
 - (3) The reference here to the notional costs is to the incidental costs —
 - (a) which the person would reasonably have expected to have incurred if the deemed sale under paragraph 21 or 22 had been an actual sale, and
 - (b) which would have been allowable under section 38(1)(c) if there had been an actual sale.

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*Notification to participants in relation to
deemed disposals under paragraph 21 or 22*

- 25 (1) This paragraph applies if—
- (a) a disposal is deemed to have been made by a person under paragraph 21,
 - (b) a disposal is deemed to have been made by a person under paragraph 22 as a result of the revocation of an election, or
 - (c) an amount is treated as accruing to a person under paragraph 23(7) or (8).
- (2) The relevant fund manager must notify the person of the matters mentioned in sub-paragraph (1)(a), (b) or (c).
- (3) The notification—
- (a) must be in writing, and
 - (b) must be given within the period of 30 days beginning with the relevant time.
- (4) If this paragraph applies as result of sub-paragraph (1)(a) or (b), “the relevant time” means the time at which the deemed disposal is made.
- (5) If this paragraph applies as result of sub-paragraph (1)(c), “the relevant time” is the time at which the amount is treated as accruing.
- 26 (1) A person who fails to comply with paragraph 25 is liable to a penalty not exceeding £3,000.
- (2) If—
- (a) there is a failure to comply with that paragraph, and
 - (b) there are two or more persons who are the relevant fund managers each of whom is subject to the duty to notify under that paragraph,
- the total amount of the penalties to which those managers (taken together) are liable is not to exceed £3,000.
- (3) If a person becomes liable to a penalty under this paragraph, an officer of Revenue and Customs must—
- (a) assess the penalty, and
 - (b) notify the person.
- (4) The assessment must be made within the period of 12 months beginning with the day on which an officer of Revenue and Customs first becomes aware that the person has failed to comply with paragraph 25.
- (5) A person may, by notice, appeal against a decision of an officer of Revenue and Customs that a penalty is payable under this paragraph.
- (6) Notice of appeal under this paragraph must specify the grounds of appeal.
- (7) Notice of appeal under this paragraph must be given—
- (a) within 30 days after the penalty was notified to the person,
 - (b) to the officer of Revenue and Customs who notified the person.

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- (8) A penalty under this paragraph must be paid before the end of the period of 30 days beginning with—
- (a) the day on which the person was notified of the penalty, or
 - (b) if notice of appeal against the penalty is given, the day on which the appeal is finally determined or withdrawn.

Temporary period during which applicable exemption conditions not met

- 27 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company (“Q”),
 - (b) Q ceases at any time (“the relevant time”) to meet the applicable exemption conditions otherwise than as a result of the vehicle or appropriate entity ceasing to be UK property rich (see paragraph 12(2)(c) or (3)(b)),
 - (c) the election would (but for this paragraph) have, accordingly, ceased to have had effect under paragraph 20 from the relevant time,
 - (d) the relevant fund manager expects Q to meet the applicable exemption conditions within 30 days, and
 - (e) Q does meet those conditions within 30 days.
- (2) The failure by Q to meet the applicable exemption conditions is to be ignored for the purposes of this Part of this Schedule.
- (3) In this paragraph any reference to Q meeting the applicable exemption conditions within 30 days is to Q meeting those conditions before the end of the period of 30 days beginning with the day on which the relevant time falls.
- (4) This paragraph does not apply on more than four occasions in any period of 12 months.
- 28 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company,
 - (b) but for this paragraph, the election would, as a result of paragraph 20, have ceased to have effect from a particular time for all purposes of this Part of this Schedule (“the relevant time”),
 - (c) the relevant fund manager expects the failure to meet the applicable exemption conditions to last for a temporary period, and
 - (d) at the end of the temporary period, the qualifying fund or qualifying company does meet those conditions.
- (2) It is to be assumed that, for the purposes of any provision of this Part of this Schedule other than paragraph 22, the qualifying fund or qualifying company continues to meet the applicable exemption conditions during the temporary period.
- (3) Accordingly—
- (a) a deemed disposal occurs under paragraph 22 by reference to the failure to meet the applicable exemption conditions, but
 - (b) subject to that, the election continues to have effect during the temporary period.

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- (4) A period is not to be regarded as a temporary period for the purposes of this paragraph if it is longer than a period of 9 months beginning with the relevant time.
- (5) This paragraph does not apply if paragraph 27 applies.
- 29 (1) This paragraph applies if paragraph 28 has applied in relation to a qualifying fund or qualifying company on one or more occasions.
- (2) Paragraph 23(8) has effect as if, for the words from “at—” to the end, there were substituted “ when the relevant fund is wound up. ”

Steps taken by relevant fund manager to wind up relevant fund

- 30 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company,
 - (b) but for this paragraph, the election would, as a result of paragraph 20, have ceased to have effect from a particular time (“the relevant time”) for all purposes of this Part of this Schedule, and
 - (c) the relevant time occurs at a time when the relevant fund manager is taking steps with a view to the disposal of all of the assets of the relevant fund so that it can be wound up.
- (2) It is to be assumed that, for the purposes of any provision of this Part of this Schedule other than paragraph 22, the qualifying fund or qualifying company continues to meet the applicable exemption conditions until the relevant fund is wound up.
- (3) Accordingly—
- (a) a deemed disposal occurs under paragraph 22 by reference to the failure to meet the applicable exemption conditions, but
 - (b) subject to that, the election continues to have effect until the relevant fund is wound up.

Deemed disposals of UK land by companies previously owned by fund

- 31 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company (“Q”),
 - (b) Q, or a company covered by the election, disposes of all of its rights and interests in another company (“C”) which is UK property rich, and
 - (c) C is covered by the election.
- (2) C is deemed for the purposes of this Act—
- (a) to have sold, at the relevant time, the appropriate proportion of every qualifying asset the actual disposal of which by C would be a direct or indirect disposal of UK land, and
 - (b) to have reacquired the appropriate proportion of the asset immediately after the relevant time,
- at its market value at the relevant time.

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- (3) In the case of a disposal, a company is “covered by the election” for the purposes of this paragraph if the disposal is one to which paragraph 16 applies where the election concerned is the one referred to in this paragraph.
- (4) For the purposes of this paragraph “the appropriate proportion” of an asset is equal to whatever would be, for the purposes of paragraph 16, the appropriate portion of any gain if it is assumed—
 - (a) that C had sold the asset at the relevant time, and
 - (b) that the total consideration for that sale was such that it results in a gain of £100 accruing to C.
- (5) For the purposes of this paragraph, an asset is a “qualifying asset” if, throughout the period of one year ending with the day on which the disposal of the asset is made, the asset has been held by C or any other company covered by the election or by Q.
- (6) In this paragraph “the relevant time” means the time immediately before the disposal of all the rights and interests in C.

Deemed disposals of UK land by company or fund ceasing to be qualifying etc

- 32 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company (“Q”),
 - (b) the election has had effect for a continuous period of at least five years, and
 - (c) either the election ceases to have effect (otherwise than in disqualifying circumstances) or the relevant fund manager starts to take steps with a view to the disposal of all of the assets of the relevant fund so that it can be wound up.
- (2) Q is deemed for the purposes of this Act—
- (a) to have sold, at the relevant time, every asset the actual disposal of which by Q would be a direct or indirect disposal of UK land, and
 - (b) to have reacquired the asset immediately after the relevant time, at its market value at the relevant time.
- (3) In the case of any asset covered by the election for 12 months and held by a company at the relevant time, the company is deemed for the purposes of this Act—
- (a) to have sold, at the relevant time, the appropriate proportion of the asset, and
 - (b) to have reacquired the appropriate proportion of the asset immediately after the relevant time, at its market value at the relevant time.
- (4) For the purposes of sub-paragraph (3) an asset held by a company at the relevant time has been “covered by the election for 12 months” if, assuming the asset were disposed of at the relevant time, the disposal would have been one to which paragraph 16 applied by reference to the election.

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- (5) For the purposes of sub-paragraph (3) “the appropriate proportion” of an asset is equal to whatever would be, for the purposes of paragraph 16, the appropriate portion of any gain if it is assumed—
- (a) that the company had sold the asset at the relevant time, and
 - (b) that the total consideration for that sale was such that it results in a gain of £100 accruing to it.
- (6) For the purposes of this paragraph the election ceases to have effect in “disqualifying circumstances” if—
- (a) it ceases to have effect as a result of a notice of revocation under paragraph 15(5)(a) in a case where a designated officer of Revenue and Customs is of the opinion that there have been at least three serious breaches of provision made by or under paragraph 15 during the period for which the election has had effect, or
 - (b) it ceases to have effect as a result of a notice of revocation under paragraph 18(1).
- (7) In this paragraph “the relevant time” means the time immediately before—
- (a) the election ceases to have effect, or
 - (b) the relevant fund manager starts to take steps with a view to the disposal of all or the assets of the relevant fund so that it can be wound up.
- (8) For the purposes of this paragraph an election made under paragraph 12 in respect of Q is taken to be the same election as one made at a subsequent time in respect of another qualifying fund or qualifying company (“A”) if, at the subsequent time, Q is wholly owned by A.

Exemption for disposals by companies wholly owned by certain investors

- 33 (1) This paragraph applies if an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company.
- (2) If—
- (a) a participant in the relevant fund disposes of a unit in the relevant fund,
 - (b) the participant is a company which is wholly owned by one or more investors to which this paragraph applies, and
 - (c) the participant is not a collective investment vehicle,
- any gain accruing on the disposal is not a chargeable gain.
- (3) Nothing in paragraph 21 is to result in a deemed disposal of an asset held by any investor to which this paragraph applies other than an insurance company.
- (4) Each of the following is an investor to which this paragraph applies—
- (a) any person who is a qualifying institutional investor within the meaning of Schedule 7AC (substantial shareholding exemption),
 - (b) a company carrying on life assurance business where, immediately before the disposal, its right or interest in the participant is an asset which, applying the rules in section 138 of the Finance Act 2012,

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is wholly matched to a liability of its life assurance business that is not BLAGAB,

- (c) a company carrying on long-term business none of which is BLAGAB where, immediately before the disposal, its right or interest in the participant is an asset held for the purposes of its long-term business, and
 - (d) a qualifying fund or qualifying company in respect of which an election under paragraph 12 has effect.
- (5) In this paragraph “BLAGAB” means basic life assurance and general annuity business.

Disapplication of paragraph 3A of Schedule 7AC: qualifying institutional investors

- 34 (1) This paragraph applies if—
- (a) a gain or loss accrues to a company (“the investing company”) which has ordinary share capital owned by one or more qualifying institutional investors,
 - (b) some of the gain or loss is not chargeable or allowable as a result of paragraph 16(3), and
 - (c) some or all of the ownership of the qualifying institutional investors in the investing company is through the company which is Q for the purposes of paragraph 16(3).
- (2) The ownership of the qualifying institutional investors in the investing company is to be ignored for the purpose of applying the exemption conferred by paragraph 3A of Schedule 7AC so far as the ownership is through Q.
- (3) In this paragraph “qualifying institutional investors” has the same meaning as in Schedule 7AC.
- (4) Paragraph 3B of Schedule 7AC (meaning of “ownership”) applies for the purposes of this paragraph as it applies for the purposes of paragraph 3A of that Schedule.

Relationship between rules in this Part and REIT rules in Part 12 of CTA 2010

- 35 (1) Nothing in this Part of this Schedule is to exempt so much of any qualifying REIT gain as accrues on a disposal made by a company which is, or is a member of, a UK REIT.
- (2) A chargeable gain is a “qualifying REIT gain” so far as—
- (a) the gain is not a chargeable gain as a result of section 535 or 535A of CTA 2010, and
 - (b) the gain is not one falling to be exempted as a result of the application of either of those sections following a notice given under section 586(1) or 587(1) of that Act (venturing group).
- (3) In this paragraph “UK REIT” has the same meaning as in Part 12 of CTA 2010.
- 36 (1) This paragraph applies if—

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- (a) a gain accrues on a disposal made by a company (“the JV company”) which is a member of a group UK REIT,
 - (b) the gain is one falling to be exempted as a result of the application of section 535 or 535A of CTA 2010 following a notice given under section 586(1) or 587(1) of that Act (venturing group),
 - (c) the principal company of the group UK REIT that gave the notice is covered by an election made under paragraph 12 in respect of a qualifying fund, and
 - (d) the JV company is also covered by the election.
- (2) The amount of the gain accruing to the JV company which is not a chargeable gain as a result of the operation, by reference to the election, of the rules in this Part of this Schedule—
 - (a) is found by first taking the two steps mentioned below (which require the application of each of the exemption rules without regard to the other), and
 - (b) once those two steps are taken, is so much of the amount found by the first step as exceeds the amount found by the second step.
- (3) The first step is, ignoring the effect of Part 12 of CTA 2010, to apply the rules in this Part of this Schedule that operate by reference to the election to identify the amount of the gain which (but for this paragraph) would not be chargeable.
- (4) The second step is, ignoring the effect of this Part of this Schedule, to apply the rules in Part 12 of CTA 2010 that operate in relation to the group UK REIT to identify the amount of the gain accruing to the JV company which falls to be exempted as mentioned in sub-paragraph (1)(b).
- (5) In the case of a disposal, a company is “covered by an election made under paragraph 12” for the purposes of this paragraph if the disposal is one to which paragraph 16 applies where the election concerned is the one referred to in this paragraph.
- (6) In this paragraph “group UK REIT” has the same meaning as in Part 12 of CTA 2010.

Separate application of exemptions under this Schedule and elsewhere

- 37 (1) If—
- (a) a person disposes of a right or interest in a company on which a gain or loss accrues, and
 - (b) proportions of the gain or loss are not chargeable or allowable as a result of the operation of any relevant exemption provision,
- each relevant exemption provision is to work separately (without regard to the other) in relation to each proportion of the gain or loss to which the relevant exemption provision applies.
- (2) Accordingly—
- (a) each relevant exemption provision is to operate by reference to the whole of the gain or loss (ignoring the effect of the other relevant exemption provision), and

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- (b) the total proportion of the gain or loss which is not chargeable or allowable is the total of the proportions separately found (but not so as to exceed the whole amount of the gain or loss).
- (3) Each of the following is a “relevant exemption provision” for the purposes of this paragraph—
 - (a) any provision made by this Part of this Schedule,
 - (b) any provision made by paragraph 3A of Schedule 7AC, and
 - (c) any provision made by Part 12 of CTA 2010.
- (4) This paragraph is subject to paragraphs 34 to 36.

Meaning of meeting “the applicable exemption conditions”

- 38 (1) For the purposes of Part of this Schedule a qualifying fund “meets the applicable exemption conditions” at any time if, at that time—
 - (a) it is a collective investment vehicle, and
 - (b) it meets the entitlement conditions set out in paragraph 12(2).
- (2) For the purposes of Part of this Schedule a qualifying company “meets the applicable exemption conditions” at any time if, at that time, it meets the entitlement conditions set out in paragraph 12(3).

Meaning of “the relevant fund” and “the relevant fund manager”

- 39 (1) In this Part of this Schedule “the relevant fund”—
 - (a) in the case of an election in respect of a qualifying fund under paragraph 12, means the collective investment vehicle concerned, and
 - (b) in the case of an election in respect of a qualifying company under paragraph 12, means the collective investment scheme which wholly (or almost wholly) owns that company.
- (2) In this Part of this Schedule “the relevant fund manager”, in the case of an election in respect of a qualifying fund or qualifying company under paragraph 12, means the manager of the relevant fund.

Meaning of “wholly owned” or “wholly (or almost wholly) owned”

- 40 (1) For the purposes of this Part of this Schedule a collective investment scheme, or a person or persons together, wholly owns or own a company at any time if the scheme, or person or persons together, has or have a 100% investment in the company at that time.
- (2) Whether a scheme, or person or persons together, have a 100% investment in a company at any time is determined—
 - (a) by applying a modified version of the rule in paragraph 9 of Schedule 1A, and,
 - (b) in the case of a collective investment scheme, on the assumption that it is a person.
- (3) The reference here to a modified version of the rule in paragraph 9 of Schedule 1A is to the rule in that paragraph as it has effect without regard

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to paragraph 10 and as if in sub-paragraph (1) of paragraph 9 the following modifications were made—

- (a) for the opening words substitute “A person or persons together (“ P ”) has or have a 100% investment in a company (“C”) if all of the following conditions are met—”,
 - (b) omit paragraph (a),
 - (c) in each of paragraphs (b), (c) and (d), for “25% or more” substitute “ 100% ”, and
 - (d) for the “or” at the end of paragraph (c) substitute “ and ”.
- 41 (1) For the purposes of this Part of this Schedule a collective investment scheme or person wholly (or almost wholly) owns a company at any time if—
- (a) the scheme or person wholly owns the company at that time, or
 - (b) the scheme or person has a 99% investment in the company at that time.
- (2) Whether a scheme or person has a 99% investment in a company at any time is determined—
- (a) by applying a modified version of the rule in paragraph 9 of Schedule 1A, and,
 - (b) in the case of a collective investment scheme, on the assumption that it is a person.
- (3) The reference here to a modified version of the rule in paragraph 9 of Schedule 1A is to the rule in that paragraph as it has effect without regard to paragraph 10 and as if in sub-paragraph (1) of paragraph 9 the following modifications were made—
- (a) omit paragraph (a),
 - (b) for “25%”, in each place, substitute “ 99% ”, and
 - (c) for the “or” at the end of paragraph (c) substitute “ and ”.

Meaning of “designated HMRC officer”

- 42 In this Part of this Schedule “designated HMRC officer” means an officer of Revenue and Customs who has been designated by the Commissioners for Her Majesty's Revenue and Customs for the purpose of revoking elections under paragraph 12.

PART 5

REPORTING AND PAYMENT

Reporting by collective investment vehicles

- 43 (1) The Treasury may by regulations make provision for managers of collective investment vehicles to elect to provide information to an officer of Revenue and Customs in respect of any participant in the vehicle who holds units the disposal of which would constitute an indirect disposal of UK land.
- (2) The regulations may specify circumstances in which the provision of information or documents in accordance with the regulations is taken to

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satisfy obligations of the participant (or anyone else) to provide information or documents to an officer of Revenue and Customs.

- (3) The regulations may be framed so as to apply to obligations of a description specified in the regulations.

Withholding of amounts on account of capital gains tax

- 44 (1) The Treasury may by regulations make provision for managers of collective investment vehicles to elect to meet the liability to capital gains tax or corporation tax in respect of indirect disposals of UK land made by any participant in the vehicle.
- (2) The regulations may make provision for a simplified calculation of the tax liability of the participant in respect of those disposals.
- (3) The regulations may make provision authorising the manager of a collective investment vehicle (or anyone else of a description specified in the regulations) to deduct an amount on account of capital gains tax from amounts that would otherwise be receivable by the participant.
- (4) The regulations—
- (a) may provide for the times at which amounts deducted on account of capital gains tax are to be paid to Her Majesty's Revenue and Customs, and
 - (b) may set out the extent to which those payments meet the liability of the participant to capital gains tax or corporation tax in respect of any indirect disposal of UK land.

General

- 45 (1) Regulations under this Part of this Schedule—
- (a) may make different provision for different purposes, and
 - (b) may make supplementary, incidental, consequential or transitional or saving provision.
- (2) Regulations under this Part of this Schedule may make provision having effect in relation to times before the regulations are made.

PART 6

GENERAL

Meaning of “close company”, “qualifying investor” and “direct or indirect participator”

- 46 (1) This paragraph has effect for the purposes of the provisions of this Schedule which apply this paragraph (or to which this paragraph is applied).
- (2) Whether a company is “a close company” is determined in accordance with the rules in Chapter 2 of Part 10 of CTA 2010 but subject to the following modifications—

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- (a) section 442(a) (non-UK resident companies) is to be treated as omitted,
 - (b) section 444 (companies involved with non-close companies) is to be treated as omitted,
 - (c) section 447(1)(a) (shares in quoted companies beneficially held by non-close companies) is to be treated as omitted, and
 - (d) for the purposes of any attribution under section 451(4) (rights of a person's associates to be attributed to the person etc in determining “control”) the rights and powers of a person (“A”) are not to be attributed to another person (“P”) merely because A is a partner of P.
- (3) A “qualifying investor” means—
- (a) a person who is within any of section 528(4A)(a), (b), (c), (i) or (j) of CTA 2010 where, if the collective investment vehicle mentioned in the provision concerned is a company, it meets the non-close condition or, if not, the vehicle meets the genuine diversity of ownership condition,
 - (b) a person who is within any other provision of section 528(4A) of that Act, or
 - (c) a qualifying fund or qualifying company in respect of which an election under paragraph 12 has effect.
- (4) For the purposes of sub-paragraph (3)(a) a collective investment vehicle meets the genuine diversity of ownership condition at any time if, at that time—
- (a) it meets conditions A to C of regulation 75 of the Offshore Funds (Tax) Regulations 2009, or
 - (b) it meets the condition in regulation 75(5) of those Regulations, and those Regulations apply for the purposes of this sub-paragraph as if any collective investment vehicle which is not an offshore fund were regarded as an offshore fund.
- (5) For the purposes of sub-paragraph (3)(a) a company meets the non-close condition at any time if, at that time, it—
- (a) is not a close company, or
 - (b) is a close company but only because it has a qualifying investor as a direct or indirect participator,
- applying the provisions of this paragraph for the purposes of this sub-paragraph.
- (6) A person is a “direct participator” if the person is a participator for the purposes of Part 10 of CTA 2010 (see section 454).
- (7) A person is an “indirect” participator in a company if the person has a share or interest in the capital or income of the company through another body corporate or other bodies corporate.
- (8) The reference here to having a share or interest in the capital or income of a company through a body corporate is to be read as follows.
- (9) Suppose that 3 or more bodies corporate are ordered in a series such that each body in the series (other than the last) has a share or interest in the capital or income of the body immediately below it in the series.

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- (10) If B is a body that is below, but not immediately below, A in the series, A is said to own a share or interest in the capital or income of B through each body corporate that is between A and B in the series.
- (11) A person is regarded for the purposes of sub-paragraphs (7) to (10) as having a share or interest in the capital or income of a company if the person would be a participator in the company as a result of section 454(2) of CTA 2010.

Other definitions

- 47 (1) In this Schedule—
- “double taxation arrangements” means arrangements having effect under section 2(1) of TIOPA 2010,
- “interest in UK land” is to be read in accordance with section 1C,
- “the manager”, in relation to a collective investment vehicle, means—
- (a) any person who is the manager of the property that is the subject of or held by the vehicle, or
- (b) any other person who has, or is expected to have, day-to-day control of that property, and
- “prospectus”, in relation to a collective investment vehicle, means any document (however described) which is made available to investors and which sets out descriptions of the investments to be made, or intended to be made, by the vehicle.
- (2) For the purposes of this Schedule—
- (a) a reference to a direct disposal of UK land is to a disposal of an interest in UK land, and
- (b) a reference to an indirect disposal of UK land is to a disposal of an asset deriving at least 75% of its value from UK land.
- (3) For this purpose the reference to a disposal of an asset deriving at least 75% of its value from UK land is to be read in accordance with Part 2 of Schedule 1A.

*Power to make provision in relation to UK
 property rich collective investment vehicles etc*

- 48 (1) The Treasury may by regulations make provision for the purposes of any provision of this Act in relation to—
- (a) collective investment vehicles that are UK property rich, or
- (b) investments made (directly or indirectly) by collective investment vehicles in companies that are UK property rich.
- (2) Among other things, the regulations—
- (a) may amend any provision made by this Schedule, or
- (b) may disapply any provision made by or under this Act or provide for any provision made by or under this Act to have effect with modifications specified in the regulations.
- (3) The regulations may make provision having effect in relation to times before the regulations are made.

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- (4) The regulations—
- (a) may make different provision for different purposes, and
 - (b) may make supplementary, incidental, consequential or transitional or saving provision.

PART 7

TRANSITIONAL PROVISION

Elections for transparency under paragraph 8

- 49 (1) This paragraph applies in the case of an offshore collective investment vehicle to which paragraph 8 applies which was constituted before 6 April 2019.
- (2) Paragraph 9(1)(c) has effect as if it permitted the election under paragraph 8 to be made before 6 April 2020.
- (3) The election is to have effect in relation to disposals made on or after 6 April 2019 (so that paragraph 8(2) has effect subject to this sub-paragraph).
- (4) If a person is a participant in the vehicle on 6 April 2019—
- (a) the making of an election under paragraph 8 is not to be regarded as being a disposal of the person's units in the vehicle, and
 - (b) any question arising for the purposes of this Act, in relation to a disposal on or after 6 April 2019 of the person's units in the vehicle, is to be determined as if the election under paragraph 8 had had effect in relation to all times on or after the vehicle's constitution.

Elections under paragraph 12 and information about disposals by participants

- 50 Nothing in paragraph 14 requires information about disposals made before 6 April 2019.”

Status:

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Changes to legislation:

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