

Status: Point in time view as at 12/02/2019.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, Cross Heading: CTA 2010. (See end of Document for details)

SCHEDULES

SCHEDULE 1

CHARGEABLE GAINS ACCRUING TO NON-RESIDENTS ETC

PART 2

CONSEQUENTIAL AMENDMENTS

CTA 2010

- 113 CTA 2010 is amended as follows.
- 114 In section 533 (financial statements: supplementary), after subsection (1) insert—
- “(1A) The profits and gains of the UK property rental business of a non-UK member of the group are to be treated as if they were profits and gains of a UK resident member of the group for the purposes of a financial statement under section 532(2)(a).”
- 115 After section 535 insert—

“535A Gains: disposals of rights or interests in UK property rich companies

- (1) This section applies if—
- (a) a company (“A”) which is, or is a member of, a UK REIT disposes of an asset, and
 - (b) the asset consists of a right or an interest in a company (“B”) which is UK property rich.
- (2) The appropriate proportion of a gain accruing to A on the disposal is not a chargeable gain.
- (3) The asset disposed of is regarded for the purposes of section 550 as used for the purposes of A’s property rental business to an extent equal to the appropriate proportion.
- (4) In the case of a non-UK member of a group UK REIT, this section has effect as if any reference to property rental business of the member were to its UK property rental business.
- (5) In relation to a disposal of a right or interest in B—
- (a) B is “UK property rich” for the purposes of this section if the disposal would be regarded for the purposes of Schedule 1A to TCGA 1992 as a disposal of an asset deriving at least 75% of its value from UK land, and
 - (b) any reference in this section to “the appropriate proportion” is to the proportion that, at the beginning of the accounting period in which

Status: Point in time view as at 12/02/2019.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, Cross Heading: CTA 2010. (See end of Document for details)

the disposal is made, the value of B's relevant PRB assets bears to the total value of B's assets.

- (6) For the purposes of subsection (5)(b)—
- (a) “the value of B's relevant PRB assets” means the value of B's assets deriving (directly or indirectly) from assets used for the purposes of UK property rental business,
 - (b) B's assets are to be valued in accordance with section 533(1)(d), and
 - (c) if the asset disposed of was acquired after the beginning of the accounting period, it is to be assumed that an accounting period began on the day on which the disposal is made.
- (7) Any reference in this section to the disposal of a right or interest in B includes the disposal of a right or interest in an offshore collective investment vehicle (a “relevant fund”)—
- (a) to which paragraph 8 of Schedule 5AAA to TCGA 1992 applies, but
 - (b) in relation to which an election under that paragraph has not been made.
- (8) In the case of a disposal which is, as a result of subsection (7), a disposal of a right or interest in B, the value of B's relevant PRB assets for the purposes of subsection (5)(b) is taken to be—
- (a) the value of B's assets that are used for the purposes of UK property rental business, plus
 - (b) the value of B's assets deriving indirectly from assets held by a relevant fund that are used for the purposes of UK property rental business.
- (9) This section is to be read as if it were contained in TCGA 1992.
- (10) Apart from subsection (7) of section 535, nothing else in that section applies in relation to a disposal to which this section applies.
- (11) This section does not apply to a gain—
- (a) if sub-paragraph (3) of paragraph 3A of Schedule 7AC to TCGA 1992 applies in relation to the gain (no chargeable gain accruing on disposals of certain shares by qualifying institutional investors), or
 - (b) so far as sub-paragraph (4) of that paragraph applies to reduce the amount of the gain.

535B Section 535A: use of pre-April 2019 residual business losses or deficits

- (1) In determining the amount of a gain accruing to a company which is not to be a chargeable gain as a result of section 535A, any pre-April 2019 residual business losses or deficits which—
- (a) have not been deducted from (or taken into account in calculating) other profits or gains (of any kind) of the company or any other person, and
 - (b) have not previously been deducted under this subsection,
- may be deducted from the gain.
- (2) For this purpose “pre-April 2019 residual business losses or deficits” means—

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, Cross Heading: CTA 2010. (See end of Document for details)

- (a) allowable losses accruing on disposals made before 6 April 2019, or
- (b) deficits or other losses for accounting periods ending before that date,

which would otherwise have been deducted from (or taken into account in calculating) profits or gains (of any kind) accruing to residual business of the company.

- (3) If an accounting period (a “straddling period”) begins before and ends on or after 6 April 2019—
 - (a) so much of the straddling period as falls before that date, and so much of it as falls on or after that date, are to be treated as separate accounting periods, and
 - (b) if it is necessary to apportion an amount for the straddling period to the two separate accounting periods, it is to be apportioned—
 - (i) on a time basis according to the respective length of the separate accounting periods, or
 - (ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.”

116 In section 547 (funds awaiting reinvestment), at the end insert—

“(6) This section also applies to proceeds held in cash by a company on a disposal of an asset so far as section 535A secures that the appropriate proportion of a gain or loss accruing on the disposal is not a chargeable gain or allowable loss.”

117 In section 550(3) (attribution of distributions), after “section 535” insert “ or 535A ”.

118 (1) Section 556 (disposal of assets) is amended as follows.

(2) After subsection (3) insert—

“(3A) Subsection (3B) applies in the case of a company (“C”) which is, or is a member of, a UK REIT if—

- (a) one or more properties acquired (directly or indirectly) by a relevant UK property rich company have been developed since acquisition,
- (b) the cost of the development exceeds 30% of the fair value of the property (determined in accordance with international accounting standards) at entry or at acquisition, whichever is later,
- (c) C disposes of any of its rights or interests in the relevant UK property rich company,
- (d) the disposal is made within the period of 3 years beginning with the completion of the development, and
- (e) if C is a member of a UK REIT, the disposal is not to another member of the UK REIT.

(3B) If this subsection applies, section 535A is not to apply in relation to so much of the amount of a gain accruing on the disposal as relates to the property which has been developed.

(3C) For the purposes of subsection (3A)—

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, Cross Heading: CTA 2010. (See end of Document for details)

- (a) a company is a “relevant UK property rich company” if, as a result of section 535A, any part of a gain accruing to C on a disposal of a right or interest in the company would not be a chargeable gain, and
 - (b) a relevant UK property rich company acquires property “indirectly” if property is acquired by someone other than the relevant UK property rich company and the property is taken into account in determining the value of the assets of the relevant UK property rich company.”
- (3) In subsection (7), for “Section 535 is” substitute “ Sections 535 and 535A are ”.
- 119 In section 582 (early exit), in subsection (3)(b), for “or 535(1)” substitute “ , 535(1) or 535A ”.

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, Cross Heading: CTA 2010.