

SCHEDULES

SCHEDULE 2

RETURNS FOR DISPOSALS OF UK LAND ETC

PART 1

RETURNS AND PAYMENTS ON ACCOUNT: DISPOSALS OF UK LAND ETC

Disposals to which Schedule applies

- 1 (1) This Schedule applies for the purposes of capital gains tax to—
 - (a) any direct or indirect disposal of UK land which meets the non-residence condition (whether or not a gain accrues) and which is made on or after 6 April 2019, and
 - (b) any other direct disposal of UK land on which a residential property gain accrues and which is made on or after 6 April 2020,but this Schedule does not apply to excluded disposals.
- (2) A disposal is an excluded disposal if—
 - (a) it is a disposal on which, as a result of any of the no gain/no loss provisions, neither a gain nor a loss accrues,
 - (b) it is the grant of a lease for no premium to a person not connected with the grantor under a bargain made at arm's length,
 - (c) it is a disposal made by a charity, or
 - (d) it is a disposal of any pension scheme investments.
- (3) The Treasury may by regulations amend sub-paragraph (2).
- (4) See also paragraph 9 for a case where a disposal which would have been within sub-paragraph (1)(b) if a gain had accrued is treated, for certain purposes, as if it were a disposal to which this Schedule applies.
- 2 (1) A disposal is a “direct or indirect disposal of UK land which meets the non-residence condition” if it is—
 - (a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) of TCGA 1992 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) of that Act in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c), or
 - (c) 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 either of the preceding paragraphs of this sub-paragraph.

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- (2) A disposal is “any other direct disposal of UK land on which a residential property gain accrues” if the disposal is a disposal on which a residential property gain accrues where—
- (a) the land in question is in the United Kingdom, and
 - (b) the gain falls to be dealt with by section 1A(1) or (3)(a) of TCGA 1992, and the disposal does not fall within sub-paragraph (1).
- (3) This paragraph applies for the purposes of this Part of this Schedule.

Obligation to deliver a return to officer of Revenue and Customs

- 3 (1) If a person makes a disposal to which this Schedule applies, the person—
- (a) must make a return in respect of the disposal, and
 - (b) must deliver the return to an officer of Revenue and Customs on or before the 30th day following the day of the completion of the disposal.
- (2) If—
- (a) a person makes two or more disposals to which this Schedule applies, and
 - (b) the disposals are made in the same tax year with the same completion date, the person must make and deliver a single return with respect to the disposals.
- (3) This paragraph is subject to—
- (a) paragraph 4 (residential property gain accruing but no payment on account required),
 - (b) paragraph 5 (ordinary tax return already delivered etc), and
 - (c) paragraph 10 (disposal in case of a collective investment scheme).
- 4 (1) If—
- (a) a person makes a disposal to which this Schedule applies as a result of paragraph 1(1)(b), and
 - (b) the person would not be liable under paragraph 6 to pay an amount on account of the person’s liability to capital gains tax for the tax year concerned,
- the person is not required to make or deliver a return under this Schedule in respect of the disposal.
- (2) In determining whether sub-paragraph (1)(b) applies, it is to be assumed that the person is required to make a return under this Schedule in respect of the disposal.
- 5 (1) A person is not required to make or deliver a return under this Schedule in respect of a disposal if the filing date for the return would otherwise fall on or after—
- (a) the date on which the person has delivered to an officer of Revenue and Customs the person’s ordinary tax return containing a self-assessment that takes account of the disposal, or
 - (b) the date on or before which the person has (by notice) been required to deliver to an officer of Revenue and Customs the person’s ordinary tax return for the tax year concerned.
- (2) For the purposes of sub-paragraph (1)(a), a self-assessment does not take account of the disposal if the amount of capital gains tax that is self-assessed is less than the amount that would be payable under paragraph 6 if the person were required to make and deliver a return under this Schedule in respect of the disposal.

Obligation to make a payment on account of capital gains tax

- 6 (1) This paragraph applies if—
- (a) a person is required to make a return under this Schedule in respect of any disposal, and
 - (b) as at the filing date for the return, an amount of capital gains tax is notionally chargeable on the person (as determined in accordance with paragraph 7).
- (2) The person is liable to pay that amount on account of the person's liability to capital gains tax for the tax year concerned so far as that amount has not already become payable as a result of any previous return under this Schedule in respect of a disposal in that period.
- (3) The amount is payable on the filing date for the return.
- (4) For cases where there are repayments of amounts previously paid on account of capital gains tax, see paragraphs 8 and 9.

Calculation of an amount of capital gains tax notionally chargeable

- 7 (1) This paragraph applies for determining the amount of capital gains tax (if any) which is notionally chargeable on a person as at the filing date for a return.
- (2) The amount of capital gains tax notionally chargeable on the person as at that date is the amount of that tax for which the person would be liable for the tax year concerned, ignoring, for this purpose, the following disposals—
- (a) disposals which have a completion date later than the completion date of the disposal in respect of which the return is made (but see sub-paragraph (3)), and
 - (b) disposals on which gains accrue but which are not disposals to which this Schedule applies.
- (3) A disposal on which a loss accrues is not to be ignored under sub-paragraph (2)(a) if the time at which the disposal is made (as determined under section 28 of TCGA 1992) falls on or before the completion date of the disposal in respect of which the return is made.
- (4) For provision relevant to the operation of this paragraph, see paragraphs 14 and 15 (making of assumptions, reasonable estimates etc).

Repayments of amounts previously paid on account of capital gains tax

- 8 (1) This paragraph applies if—
- (a) a person makes and delivers a return under this Schedule in respect of a disposal,
 - (b) the person has previously paid amounts on account of the person's liability to capital gains tax for the tax year concerned, and
 - (c) the amounts exceed the amount of capital gains tax notionally chargeable on the person as at the filing date for the return.
- (2) The excess is repayable to the person on the filing date for the return.
- (3) In determining the total amount of payments that have, at any time, been made on account of a person's liability to capital gains tax for a tax year, account must be taken of amounts already repaid under this paragraph.

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- 9 (1) If—
- (a) a person makes a disposal on which an allowable loss accrues, and
 - (b) had a gain accrued instead, the disposal would have been one to which this Schedule applies as a result of paragraph 1(1)(b),
- the person may make and deliver a return under this Schedule in respect of the disposal for the purpose of securing the application of paragraph 8.
- (2) Accordingly, the disposal is treated for that purpose as if it were a disposal to which this Schedule applies.
- (3) This paragraph does not apply in respect of a disposal if the filing date for the return which the person would otherwise be entitled to make and deliver falls on or after the date mentioned in paragraph 5(1)(a) or (b).

Collective investment schemes to which Sch.5AAA to TCGA 1992 applies

- 10 (1) A person is not required to make or deliver a return under this Schedule in respect of a disposal if—
- (a) the disposal has an appropriate connection to a collective investment scheme for the purposes of paragraph 6 of Schedule 5AAA to TCGA 1992, and
 - (b) the person would not be liable under paragraph 6 of this Schedule to pay an amount on account of the person's liability to capital gains tax for the tax year concerned.
- (2) In determining whether sub-paragraph (1)(b) applies, it is to be assumed that the person is required to make a return under this Schedule in respect of the disposal.
- 11 (1) This paragraph applies if—
- (a) an election under paragraph 8 of Schedule 5AAA to TCGA 1992 (election for CIS to be treated as partnership for purposes of Act) has effect in respect of an offshore collective investment scheme (within the meaning of that Schedule),
 - (b) a disposal is made of property that is the subject of the scheme,
 - (c) the disposal is made before the day on which this election is made, and
 - (d) a person is required to make a return under this Schedule in respect of the disposal.
- (2) The disposal is treated for the purposes of this Part of this Schedule as if it completed on the day on which the election is made.
- 12 (1) This paragraph applies if—
- (a) a disposal is deemed to have been made by a person as a result of paragraph 21 or 22 of Schedule 5AAA to TCGA 1992 (qualifying offshore CIS etc), and
 - (b) the person is required to make a return under this Schedule in respect of the disposal.
- (2) If the disposal is one to which paragraph 23 of that Schedule applies (gains treated as accruing when value received)—
- (a) a disposal to which this Schedule applies is treated as being made by the person on each occasion on which any part of the gain is treated as accruing to the person under that paragraph, and

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- (b) the time at which that disposal is treated as completing is the time at which the part of the gain is treated as so accruing to the person or, if later, the time at which the required notification is given to the person.
- (3) If the disposal is not one to which paragraph 23 of Schedule 5AAA to TCGA 1992 applies, it is treated for the purposes of this Part of this Schedule as if it completed on the day on which the required notification is given to the person.
- (4) In this paragraph “the required notification” means notification under paragraph 25 of Schedule 5AAA to TCGA 1992 in relation to the disposal deemed to have been made as a result of paragraph 21 or 22 of that Schedule.
- (5) In determining for the purposes of sub-paragraph (1)(b) whether a person is required to make a return under this Schedule in respect of the disposal the effect of paragraphs 4, 5 and 10 is ignored.

Effect of s.144(2) or 144A(2)(b) of TCGA 1992 when asset sold on exercise of option

- 13 (1) This paragraph applies if—
- (a) an option is granted binding the grantor to sell an asset and the grant of the option is a disposal to which this Schedule applies, and
 - (b) the option is then exercised so that, as a result of section 144(2) or 144A(2)(b) of TCGA 1992, the grant of the option is treated as the same transaction as the sale.
- (2) Despite section 144(2) or 144A(2)(b) of TCGA 1992, the grantor remains subject to the obligations under this Schedule in relation to the grant of the option.
- (3) In this paragraph references to sale are to be read in accordance with section 144(6) of TCGA 1992.

Making of assumptions, reasonable estimates etc

- 14 (1) If, in determining whether a disposal is one to which this Schedule applies—
- (a) a question arises as to whether a provision of TCGA 1992 applies, and
 - (b) the determination of the question requires account to be taken of times after the completion of the disposal,
- it is to be assumed that the provision does apply if, at the time of the completion of the disposal, it is reasonable to expect that it will apply.
- (2) For the purposes of this Schedule it is to be assumed that a person has made a claim or election or given a notice if, at the time of the completion of the disposal in respect of which a return is required to be made under this Schedule, it is reasonable to expect that one will be made or given.
- (3) Nothing in sub-paragraph (2) is to be read as affecting—
- (a) any requirement imposed by or under any Act for a claim, election or notice to be made or given in a particular way or by a particular time, or
 - (b) any other provision made by or under any Act that is concerned with the making or giving of the claim, election or notice.
- (4) If—
- (a) a person is required to make and deliver a return under this Schedule, and

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- (b) having regard to the person’s knowledge and all other relevant circumstances, it is reasonable to make an estimate of a qualifying matter, the person may make a reasonable estimate of that matter in the return.
- (5) For this purpose “qualifying matter” means—
 - (a) anything that is relevant to the application of section 11 of TCGA 1992,
 - (b) the value of anything, or
 - (c) the value of amounts to be apportioned to anything.
- 15 (1) This paragraph applies if a person is required to make and deliver a return under this Schedule in respect of a disposal and, at any time after the completion of the disposal—
 - (a) it becomes reasonable to expect that, by reference to the person’s residence, a provision of TCGA 1992 will apply,
 - (b) it becomes reasonable to conclude that a provision of TCGA 1992 conferring a relief applies in relation to the disposal,
 - (c) matters relevant to the application of section 11 of TCGA 1992 become known, or it becomes reasonable to make a different estimate of those matters, where an estimate of those matters was used in the return, or
 - (d) the value of anything, or of any amount to be apportioned to anything, becomes known where an estimate was used in the return.
- (2) The person may (but need not) assume, for the purposes of this Schedule—
 - (a) that there is an additional disposal to which this Schedule applies,
 - (b) that the additional disposal completed at the later time by reference to which this paragraph applies, and
 - (c) that the additional disposal is in all other respects a replication of the actual disposal.
- (3) In determining the amount of capital gains tax notionally chargeable as at the filing date for a return in respect of the additional disposal, the actual disposal is ignored.

Contents of return

- 16 A return under this Schedule—
 - (a) must contain information of a description specified by an officer of Revenue and Customs (and different descriptions of information may be specified for different cases), and
 - (b) must include a declaration by the person making it that the return is, to the best of the person’s knowledge, correct and complete.

Interpretation

- 17 (1) In this Part of this Schedule—
 - “the filing date”, in relation to a return in respect of a disposal, means the date on or before which the return in respect of the disposal must be delivered to an officer of Revenue and Customs,
 - “lease” has the meaning given by paragraph 10 of Schedule 8 to TCGA 1992,
 - “ordinary tax return” means a return under section 8 or 8A of TMA 1970,

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“pension scheme investments” means investments held for the purposes of a registered pension scheme or an overseas pension scheme (and expressions used in this definition have the same meaning as they have in section 271(1A) of TCGA 1992),

“premium” has the meaning given by paragraph 10 of Schedule 8 to TCGA 1992,

“residential property gain” has the meaning given by Schedule 1B to TCGA 1992, and

“the tax year concerned”, in relation to a disposal, means the tax year in which the disposal is made.

- (2) In this Part of this Schedule the “completion” of a disposal 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 later than the time of the disposal, at the time when the instrument takes effect.
- (3) This Part of this Schedule has effect as if it were included in TCGA 1992.