

Draft Explanatory Note

Clause 1: Residential Property Developer Tax: Introduction

Summary

1. This clause introduces a new tax, to be known as the residential property developer tax (RPDT) to be charged on the profits of companies carrying out residential property development. The tax applies to profits arising in accounting periods ending on or after 1 April 2022, with profits from periods straddling that date being apportioned (see Clause 7).

Details of the clause

2. Clause 1 introduces the residential property developer tax and confirms that it will be charged on profits from the development of residential property by a residential property developer company for an accounting period in which it is within the charge to the tax.

Background note

3. This is Clause 1 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
4. This clause provides an introduction to the residential property developer tax.
5. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 2: RP developers

Summary

1. This Clause sets the basic conditions to be satisfied for a company to be a residential property developer (RP developer) and potentially within the charge to the residential property developer tax (RPDT).

Details of the clause

2. Subsection 1 defines an 'RP developer', confirming that it is a company that is within the charge to corporation tax and undertakes residential property development activities. It provides an exclusion for non-profit housing companies, as defined in the following subsection.
3. Subsection 2 defines non-profit housing companies by reference to social housing legislation in various parts of the United Kingdom. Wholly owned subsidiary companies of a non-profit housing company are also excluded from being treated as residential property developers for the purpose of the tax.
4. Subsections 3 and 4 allow the Treasury to amend the definition of a non-profit housing company by regulation, and make any consequential changes to this part of the legislation. This allows the definition to be updated in line with any changes to the regulatory frameworks for registered social housing providers.

Background note

5. This is Clause 2 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
6. This clause sets out the conditions that make a company fall within the charge to the residential property developer tax as an RP developer.
7. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 3: RPD activities

Summary

1. This clause defines activities that are residential property development activities (RPD activities) for the purposes of the residential property developer tax (RPDT) if they are carried out by an RP developer. It also sets the scope of the tax to include profits from activities on or in connection with land in the United Kingdom. It is profits from all of the RPD activities of an RP developer company that form the base for the tax.

Details of the clause

2. Subsection 1 provides a wide definition of RPD activities, to include anything that is done by the RP developer on or in connection with land in the United Kingdom for the purposes of the development of residential property. A developer must have an interest in the land at some point for activity there to be RPD activities for the purposes of the tax. This means that profits from similar activities undertaken by companies acting purely as third-party contractors who are not the RP developer do not come within the charge to the tax.
3. Subsection 2 provides a non-exhaustive list of activities that are typically carried out during residential property development, confirming that profits from these are all included within the RP developer's base for the tax. This is particularly relevant where companies within a group carry out distinct operations during a development in which one or more members of the group has or had an interest in the land being developed.

Background note

4. This is Clause 3 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
5. This clause sets out the activities that are within the scope of the residential property developer tax.
6. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 4: RPD activities: interest in land

Summary

1. This clause sets out what is regarded as an interest in land for an RP developer for the purposes of the residential property developer tax (RPDT). That 'interest in land' is applicable to the developer or any company related to the developer company. This ensures that where a developer company has or had an interest in land, the base for the tax includes RPD profits from any related company involved in the development of the land.

Details of the clause

2. Subsection 1 provides a widely drawn definition of what amounts to an interest in land for the purposes of the tax. This includes all those circumstances where a developer has or had a beneficial interest in the land, and that interest is held as stock for its trade. A company is deemed to hold an interest in land if an interest in it is held by any related company.
3. Subsection 2 explains that companies are related to the RP developer if they are members of the same group or are connected by virtue of common interests in a joint venture (JV) company. JV companies are taken into account where the RP developer, or a member of the same group as the RP developer holds a 10% or greater interest in the JV company.
4. Subsection 3 excludes certain interests in land from those that are considered relevant for the purposes of the tax. A mortgagor, or a person who merely holds a license to occupy or use the land are excluded and are not treated as holding an interest in land.
5. Subsection 4 defines 'land' for this purpose to include buildings or structures on the land.
6. Subsections 5 and 6 define trading stock to include an estate, interest, right or power in or over land which will be disposed of in the ordinary course of the trade.

Background note

7. This is Clause 4 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
8. This clause defines what is meant by an interest in land for the purposes of the residential property developer tax.
9. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 5: RPD activities: residential property

Summary

1. This clause sets out the types of property that will or will not be regarded as residential property for the purposes of the residential property developer tax (RPDT). It provides a general definition of residential property then provides some specific exclusions for specialised institutions or accommodation that are restricted in how and by whom they will be occupied.

Details of the clause

2. Subsection 1 provides a wide-ranging definition of residential property for the purposes of the tax. The definition covers buildings designed or adapted for use as a dwelling and is extended to include land that is intended for development where planning permission is being sought or has been granted for residential property development, and land where residential properties are in the course of construction. Any land that is intended to be provided along with a residential property, or general amenity land developed alongside the residential property, falls within the definition of residential property for the purposes of the tax. The main relevance here is to ensure that all the costs that are incurred by the developer in a residential property development are accounted for when calculating the profits subject to the tax.
3. Subsection 2 excludes certain types of buildings from the definition of residential property, so that any profits or losses from their development are not taken into account when computing profits that are subject to the tax. These are typically either specialised institutions that provide temporary or longer-term accommodation for a specific class of residents, and buildings that are occupied purely under licence to occupants that do not hold any lasting rights over the property.
4. Subsection 3 sets out the qualifying criteria to be met in relation to buildings that are excluded under subsection 2(j) as student accommodation.

Background note

5. This is Clause 5 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
6. This clause provides the definition of residential property for the purposes of the residential property developer tax.
7. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 6: RPD profits or losses

Summary

1. This clause sets out the formula used to calculate the profits or losses of an RP developer that form the base for the purposes of the residential property developer tax (RPDT) for an accounting period. Clauses 9 to 12 give further details of the elements included in the formula. The amount on which tax will be charged is also subject to an allowance to be calculated in accordance with Clause 13.

Details of the clause

2. Clause 6 provides a formula to calculate the RPD profits or losses of an RP developer for an accounting period. The starting point is the company's adjusted trading profits or losses of the accounting period. This amount is updated first for any RPD profits or losses from joint ventures that are attributable to the company in accordance with Clause 10. Certain losses and other reliefs can then be deducted, calculated in accordance with Schedule 1 Parts 1, 2 and 3 where available to give the RPD profits or losses for the accounting period.

Background note

3. This is Clause 6 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
4. This clause defines profits or losses for the purposes of the residential property developer tax.
5. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 7: Chargeable accounting periods

Summary

1. This Clause sets out which accounting periods of an RP developer are potentially subject to the residential property developer tax (RPDT), and how accounting periods that straddle the commencement date of 1 April 2022 are treated.

Details of the clause

2. Subsection 1 applies the tax for accounting periods for corporation tax purposes of an RP developer that end on or after 1 April 2022.
3. Subsections 2 to 4 set out the treatment of accounting periods of an RP developer that straddle the commencement date of 1 April 2022. The period before 1 April 2022 is treated as a separate accounting period to the period from 1 April 2022 to the end of the accounting period. The tax is chargeable only in respect of profits calculated for the later period, with an apportionment being made of the profits for the whole accounting period on a time basis.

Background note

4. This is Clause 7 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
5. This clause provides the commencement date for the residential property developer tax as 1 April 2022 and sets out the treatment of accounting periods that straddle the commencement date.
6. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 8: Charge to tax

Summary

1. This Clause sets the rate of the residential property developer tax (RPDT) at [x%], applied to so much of an RP developer's RPD profits that exceed its allowance for the period. The tax so computed is charged as if it were an amount of corporation tax chargeable on the developer.

Details of the clause

2. Subsection 1 sets the rate of the tax at [x%], applied to so much of an RP developer's RPD profits that exceed its allowance for the period. The tax so computed is charged as if it were an amount of corporation tax chargeable on the developer.
3. Subsection 2 sets out that amount of an RP developer's allowance for the year is to be determined in accordance with Clause 13.

Background note

4. This is Clause 8 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
5. This clause sets the rate of the residential property developer tax, and that it is charged as if it were an amount of corporation tax.
6. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 9: Adjusted trading profits and losses

Summary

1. The Clause sets out how a company's trading profits and losses are to be adjusted to arrive at the amounts that are the adjusted trading profits or losses for clause 6 and within the charge to the residential property developer tax (RPDT).

Details of the clause

2. Subsection 1 provides that the amounts of a company's adjusted trading profits or losses to be taken into account for RPDT purposes [under section 6] are its trading profits or losses for corporation tax purposes but ignoring the amounts set out in subsection 2.
3. Subsection 2 sets out the amounts that are to be ignored in determining adjusted profits or losses. These are those profits, losses and capital allowances that do not relate to residential property development activity; loss relief and group relief; and amounts that are taken into account in calculating trading income by the operation of the loan relationship and derivative contracts rules. Also, any trading profits from residential property development activities that are carried out by a charitable company and applied for the purposes for the purposes of the charitable company are ignored.
4. Subsection 3 provides that any apportionment of profits, losses and capital allowances between a company's residential property development activity and any other of its activities is to be made on a just and reasonable basis.

Background note

5. This is Clause 9 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
6. This clause provides for the calculation of adjusted profits or losses for the purposes of the residential property developer tax.
7. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 10: Attributable joint venture profits and losses

Summary

1. This clause sets out how an amount of joint venture (JV) profits or losses attributable to a developer is determined for the purposes of calculating RPD profits or losses under clause 6 for the purposes of the residential property developer tax (RPDT). The clause confirms the criteria for a relevant JV company to fall within the charge to RPDT and how the JV profits or losses will be attributed to the RP developer.

Details of the clause

2. Subsection 1 introduces the clause which determines the amount of JV profits or losses attributable to a developer.
3. Subsection 2 defines JV profits as the RPD profits of a JV company that fall below the JV company's annual allowance. This is where an RP developer has benefited from profits not being taxed in their JV due to the JV having their own allowance.
4. Subsection 3 defines JV losses as the RPD losses that accrue in the JV company. The purpose of this clause is to make clear that the JV losses only relate to losses arising from residential property development activity and no other losses in that JV.
5. Subsection 4 sets out that a relevant JV company for the purposes of this clause is an RP developer that is not a 75% subsidiary of another company, and there are, at most, five persons who between them own at least a 75% shareholding. Where a JV company does not have ordinary share capital then the assessment is instead based on entitlement to the profits available for distribution from the JV company.
6. Subsection 5 confirms that for the purposes of determining whether there are five or fewer persons who between them own at least a 75% shareholding, members of a group are treated as a single person.
7. Subsection 6 confirms that the profits of a JV are to be attributed to an RP developer where the developer holds a 10% or greater interest in the JV company.
8. Subsection 7 additionally requires that for losses to be attributable to a developer, the developer and JV company must notify HMRC within 2 years of the developer's accounting period end date for which those losses are to be attributed.
9. Subsection 8 sets out that the amount of RPD profits or losses attributable to a developer is an amount equal to the percentage of the JV company's profits that would be available for distribution to the developer.
10. Subsection 9 confirms that where the accounting periods of the JV company and developer have a different end date the profits, losses and allowance are to be apportioned on a time basis according to the accounting period of the developer.

11. Subsection 10 sets out when the following subsection 11 will apply. This is where losses in a JV company are attributed to a developer.
12. Subsection 11 confirms that the amount of losses in the JV company that can be carried forward to future accounting periods or surrendered to a group company under Schedule 1 is reduced by the amount that is attributed to the JV member.

Background note

13. This is Clause 10 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs. This clause makes provision for joint venture companies for the purposes of the residential property developer tax.
14. This clause sets out how profits and losses arising to a joint venture should be dealt with for the purposes of determining RPD profits.
15. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 11 and Schedule 1: Reliefs

Summary

1. This Clause introduces Schedule 1, which makes provision for loss relief and group relief for the purposes of the residential property developer tax (RPDT).

Details of the clause

2. Clause 11 introduces Schedule 1 Parts 1 to 4, which makes provision for loss relief and group relief for the purposes of RPDT

Details of the Schedule

Schedule 1: Reliefs - *Part 1 Loss Relief*

1. Part 1 of Schedule 1 sets out the provisions applying relief for carried forward losses for the purposes of RPDT.
2. Paragraph 1 introduces the Schedule.
3. Paragraph 2 explains that an unrelieved RPDT loss is to be carried forward against RPDT profits in the next accounting period but its use is subject to the restriction to setting off against 50% of the profits of any future accounting periods as provided for in [section 12].
4. Paragraph 3 provides that a loss that is not made use of in accordance with paragraph 2 is to be carried forward to a later accounting period.

Schedule 1: Reliefs - *Part 2 Group Relief*

5. Part 2 of Schedule 1 sets out the provisions applying group relief for the purposes of RPDT. The provisions largely replicate the rules for corporation tax group relief but apply solely for the purposes of RPDT.
6. Paragraph 4 provides for the surrender of an unrelieved RPDT loss from one company in a group to another.
7. Paragraph 5 sets out the terms used to define time periods and amounts for the purposes of the Part.
8. Paragraph 6 provides for a body corporate to be treated as a company.
9. Paragraph 7 provides that where a company has an amount of RPDT loss for a period that has not otherwise been relieved, it may surrender that loss to another company in the same group. It also provides for the rules for corporation tax group relief to apply to the surrender of RPDT group relief.

10. Paragraph 8 provides for claiming RPDT group relief that has been surrendered, mirroring the corporation tax rules.
11. Paragraph 9 provides for the giving of RPDT group relief, again mirroring the corporation tax rules.
12. Paragraph 10 provides a limit on the amount of RPDT group relief that may be given, again mirroring the corporation tax rules.
13. Paragraph 11 applies, for RPDT group relief purposes, the corporation tax group relief rules, which restrict relief in circumstances where there are arrangements for the transfer of a company to another group.

Schedule 1: Reliefs - Part 3 Group Relief for Carried-forward Losses

14. Part 3 of Schedule 1 sets out the provisions applying group relief for carried forward losses for the purposes of RPDT. The provisions largely replicate the rules for corporation tax group relief but apply solely for the purposes of RPDT.
15. Paragraph 12 provides for the surrender of an unrelieved carried forward RPDT loss from one company in a group to another.
16. Paragraph 13 sets out the terms used to define time periods and amounts for the purposes of the Part.
17. Paragraph 14 provides for a body corporate to be treated as a company.
18. Paragraph 15 provides that where a company has an amount of RPDT loss that has been carried forward to a period and that has not otherwise been relieved, it may surrender that loss to another company in the same group. It also provides for the rules for corporation tax group relief to apply to the surrender of RPDT group relief.
19. Paragraph 16 provides for claiming RPDT group relief for carried forward losses that has been surrendered, mirroring the corporation tax rules.
20. Paragraph 17 provides for the giving of RPDT group relief for carried forward losses, again mirroring the corporation tax rules.
21. Paragraph 18 provides a limit on the amount of RPDT group relief for carried forward losses that may be given, again mirroring the corporation tax rules.

Schedule 1: Reliefs - Part 4 Parts 2 and 3: Supplementary Provision

22. Part 4 of Schedule 1 sets out supplementary rules for the purpose of RPDT group relief and RPDT group relief for carried forward losses.
23. Paragraph 19 provides that payments made for the giving of relief are not to be taken into account in calculating RPDT profits and losses unless they exceed the amount of the loss surrendered.
24. Paragraph 20 applies the corporation tax rules that restrict the use of losses for group relief purposes where there are arrangements for the transfer of a company to another group.

Background note

25. This is Clause 11 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
26. This clause introduces Schedule 1 that makes provision for loss relief and group relief for the purposes of the residential property developer tax.
27. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 12: Reliefs: restrictions

Summary

1. This Clause provides a restriction on the amount of a carried forward loss that can be set against profits of a later period for the purposes of the residential property developer tax (RPDT). This ensures that carried forward losses do not reduce profits above the annual allowance that are chargeable to RPDT by more than 50%. This corresponds to the treatment of carried forward losses for the purposes of corporation tax on trading profits.

Details of the clause

2. Subsection 1 provides that there is a limit on the amount of RPD losses that are carried forward under the rules in [Schedule 1] that can be set against RPD profits of a later period.
3. Subsections 2 and 3 set out the maximum amount of a carried forward loss that can be relieved.
4. Subsection 2 provides that where a company's RPD profits are below its available annual allowance the maximum is the amount that will reduce the profits to nil.
5. Subsection 3 provides that where a company's RPD profits exceed its available annual allowance, the maximum is the amount that will reduce the profits that are chargeable to RPDT by 50%. This is achieved through the operation of the formula set out in the subsection.
6. Subsections 4 and 5 together provide that where subsection 3 has applied an amount to reduce the profits chargeable to RPDT then the losses remaining to carry further forward is reduced by the sum of that amount plus the annual allowance available to the company for the period.

Background note

7. This is Clause 12 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
8. This clause imposes a restriction on the use of carried forward losses for the purposes of the residential property developer tax.
9. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 13: Allowance

Summary

1. This Clause provides for the operation of the allowance that is deducted from profits chargeable to the residential property developer tax (RPDT). RPDT is charged on the profits that exceed a company's allowance as provided for by section 8.

Details of the clause

2. Subsection 1 provides that where an RP developer is the allocating member of a group of companies it has an annual allowance of £x in respect of its accounting period. This allowance is reduced on a pro rata basis where an accounting period is less than one year. [The allocating member's accounting period is referred to as "period A".]
3. Subsection 2 provides that where an RP developer is a receiving member of a group of companies it has an annual allowance in respect of its accounting period of the amount allocated to it by the allocating member [The receiving member's accounting period is referred to as "period B".]
4. Subsection 3 provides for an amount of allowance to be available to an RP developer that is a member of a group which has no allocating member in accordance with subsection 4.
5. Subsection 4 provides that the allowance available to an RP developer in a group that has no allocating member is £x divided by the number of companies that are members of the group at the end of the accounting period of the ultimate parent of the group. The meaning of ultimate parent is provided for in section 19. The allowance is reduced on a pro rata basis where that accounting period is less than one year.
6. Subsection 5 provides that an RP developer that is not a member of a group has an annual allowance of £x in respect of its accounting period. This allowance is reduced on a pro rata basis where an accounting period is less than one year.
7. Subsection 6 provides that the RP developer is the allocating member of a group if it has been nominated as such in accordance with the relevant regulations.
8. Subsection 7 provides that an RP developer can receive an allowance from the allocating company where its accounting period ends at the same time or during the accounting period of the allocating company.
9. Subsection 8 provides that a receiving member can only claim an allocation of allowance in the amount set out in an allowance allocation statement made in accordance with the relevant regulations.
10. Subsection 9 allows the Commissioners of HM Revenue and Customs a power to make regulations providing for and about the nomination of an RP developer to be the allocating member in a group, changing the allocation member of a group, and the submission of an allowance allocation statement.
11. Subsection 10 sets out the matters that may be included in the relevant regulations.

12. Subsection 11 adapts the operation of the section for certain of the RPDT provisions dealing with joint venture companies.

Background note

13. This is Clause 13 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
14. This clause provides for the operation of the annual allowance for the purposes of the residential property developer tax.
15. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 14: Allowance: joint venture companies

Summary

1. This clause provides for the calculation of the annual allowance for the residential property developer tax (RPDT) where the profits of a member of a joint venture (JV) company are not chargeable to corporation tax. It provides for the allowance of a JV company to be reduced and for the exempt member to instead have an annual allowance that can be allocated to its JV interests.

Details of the clause

2. Subsection 1 applies the provisions which follow where a body (a JV member) that is not liable to the RPDT, other than by virtue of it being a non-profit housing company, holds at least a 10% shareholding in the JV company's ordinary share capital. If the JV company doesn't have ordinary share capital then the criteria will instead be 10% of the profits available for distribution in the JV company. A body (B) may not be liable to RPDT if it is, for example an institutional investor, a sovereign immune entity that is outside the scope of corporation tax or an offshore entity which the UK cannot tax in the absence of a permanent establishment) or are UK tax exempt (e.g. pension funds).
3. Subsection 2 confirms that where subsection 1 applies, the JV company's allowance is reduced by the relevant percentage in part a. Then in part b. the body (B), that is defined under subsection 1, will be able to allocate their notional annual allowance to increase their JV company allowance up to the amount reduced in part a.
4. Subsection 3 defines how the relevant percentage is determined, based on the JV member's shareholding or profit entitlement in the JV company. It also sets out the amount of an exempt member's notional allowance, which will be reduced by reference to the number of days in the accounting period that do not fall into the financial year.
5. Subsection 4 sets out how the JV company's allowance is calculated where it has a JV member that falls under the criteria of subsection 1 and therefore has submitted the allocation statement under subsection 7 and the allowance claimed in that statement is in accordance with the amount calculated under subsection 2b.
6. Subsection 5 provides that the details of how the notional allowance statement would operate may be provided for by the regulations. This includes details about the allocation of a company's notional allowance where it has interests in several JV companies. The regulations may also state the circumstances in which such a statement is not required from a JV member.
7. Subsection 6 confirms the details of what will be included in the allocation statement that will be introduced via regulations. This included what the statement will contain, the timings of its submission to HMRC including any amendments made by the taxpayer to it, how HMRC can amend this statement and their timelines to do so as well as details on how to amend the corporate tax return due to this statement.
8. Subsection 7 confirms expressions used in this section and in section 13 have the same meaning.

Background note

9. This is Clause 14 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
10. This clause provides for the operation of the annual allowance where a member of a joint venture company is exempt from corporation tax.
11. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 15 and Schedule 2: Collection, management and payment of tax

Summary

1. This clause provides for the residential property developer tax (RPDT) to be treated for administrative purposes as an amount of corporation tax. This clause and schedule 2 outline the framework within which RPDT will operate and makes necessary amendments to existing administrative legislation to accommodate RPDT.

Details of the clause and schedule

2. Subsection 1 provides that HMRC will be responsible for the collection and management of RPDT.
3. Subsection 2 ensures that a range of administrative provisions which apply generally to corporation tax will equally apply to RPDT.
4. Subsection 3 explains that subsection 2 is to be interpreted as subject to both the provisions of the Taxes Acts and any necessary modifications.
5. Subsection 4 introduces Schedule 2, which makes further provision about the management, administration and payment of RPDT.

Schedule 2: Collection and management

6. Paragraph 1 makes amendments to the Taxes Management Act 1970, so that RPDT is included within the provisions for quarterly instalment payments and group payment arrangements.
7. Paragraph 2(1) makes amendments to schedule 18 to the Finance Act 1998, so that returns are made of RPDT amounts on the basis that it is an amount of corporation tax.
8. Paragraph 2(2) includes RPDT within the meaning of 'tax' as defined by paragraph 1 of schedule 18 to the Finance Act 1998.
9. Paragraph 2(3) inserts new paragraph 7A of schedule 18 to the Finance Act 1998, which sets out the information a residential property developer must include on its company tax return in respect of RPDT. This requirement does not apply where, in the circumstances, it is reasonable to assume that the residential property developer will not have an RPDT liability, in the absence of any loss relief, group relief or carried forward group relief.
10. Paragraph 2(4) inserts a reference to RPDT in paragraph 8(1) of schedule 18 to the Finance Act 1998, ensuring that RPDT is included within the calculation of the amount of tax payable by a company.

11. Paragraph 3 introduces a transitional provision, concerning quarterly instalment payments falling due before 1 April 2022 (the commencement of RPDT). The effect of this provision is that any RPDT which was to have been included within any quarterly instalment payments becoming due and payable before 1 April 2022, is treated as being due and payable on the first instalment date on or after 1 April 2022.

Background note

12. This is Clause 15 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
13. This clause and Schedule 2 provide for the collection, management and payment of the residential property developer tax.
14. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 16: Requirement to provide information about payments

Summary

1. This clause introduces a requirement for companies making a payment of residential property developer tax (RPDT) to provide information about that payment to HMRC, so that receipts from the tax can be monitored.

Details of the clause

2. Subsection 1 provides that the requirement applies where an RP developer, which has an RPDT liability under section 8, makes a payment, or has a payment made on their behalf that is wholly or partly in respect of that liability.
3. Subsection 2 requires that a 'responsible company' must notify an officer of HMRC in writing, on or before the date the payment is made, of the amount of the payment that is RPDT.
4. Subsection 3 defines a 'responsible company' for the purposes of subsection 2 as being either the company making payment on behalf of the RP developer under relevant group payment arrangements or, in any other case, the RP developer itself.
5. Subsection 4 defines 'relevant group payment arrangements' for the purposes of subsection 3 as being arrangements under section 59F(1) of the Taxes Management Act 1970.
6. Subsection 5 ensures that the penalty regime for HMRC's information and inspection powers applies to a failure to comply with subsection 2.
7. Subsection 6 provides that this requirement to notify is subject to any provision to the contrary in the regulations under section 59E of the Taxes Management Act 1970, which sets out rules for when Corporation Tax is due and payable.

Background note

8. This is Clause 16 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
9. This clause provides for the provision of information about payments for the purposes of the residential property developer tax.
10. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 17: Non-profit housing companies: exit charge

Summary

1. The Clause provides for an “exit charge” where a non-profit housing company ceases to meet the conditions to be exempt from the residential property developer tax (RPDT). The conditions for the exemption are provided for in section 2. The charge may also apply where a non-profit housing company ceases to be owned by another such company and is acquired by another company under the same control as that other company. This clause is aimed at preventing for-profit entities from benefitting from the exemption

Details of the clause

2. Subsection 1 provides for the exit charge to apply where a company ceases to be a non-profit housing company without having distributed all of its assets to another non-profit housing company.
3. Subsection 2 provides that the distribution of assets mentioned in subsection is to be made by the first anniversary of the accounting period in which the company ceased to be a non-profit company or by such later time as an officer of HMRC may allow.
4. Subsection 3 also provides for the exit charge where a non-profit housing company ceases to be wholly owned by another but remains controlled by a company that is under the same control as its former parent company.
5. Subsection 4 sets out the operation of the exit charge. The company will not be treated as a non-profit company for the accounting period in which the charge applies. In that period its RPDT profits will be the profits attributable to its residential property development activity, together with those of its wholly owned subsidiaries, during the four year period ending on the day it either ceases to be a non-profit company or the day that it ceases to be a wholly owned subsidiary of such a company in the circumstances provided for in subsection 3. No allowance may be set against those profits.
6. Subsection 5 allows for an adjustment of the exit charge to the extent that the profits of a wholly owned subsidiary have been subject to such a charge within the four-year period mentioned in subsection 4.
7. Subsections 6 to 8 provide for an apportionment of profits where the four-year period mentioned in subsection 4 begins during the accounting period of an affected company.
8. Subsection 9 defines the meaning of “wholly owned subsidiary” in accordance with section 1159 of the Companies Act 2006.

Background note

1. This is Clause 17 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
2. This clause provides for an additional charge to apply where a non-profit housing company that has previously benefitted from an exemption from the tax ceases to qualify as a non-profit housing company for the purposes of the residential property developer tax.
3. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 18: Anti-forestalling: accelerated profits

Summary

1. This clause is an anti-avoidance provision which prevents taxpayers from adjusting their profits arising in an accounting period in order to obtain a tax advantage for the purposes of the residential property developer tax (RPDT).

Details of the clause

2. Subsection 1 sets out the criteria for the clause to apply as being where trading profits derived from RPD activities arise in accounting period ending before the commencement of RPDT, which only arose because of arrangements made on or after 29 April 2021.
3. Subsection 2 confirms the effect of the clause is to treat the profits as arising in the accounting period after the RPDT has commenced. Therefore, bringing those profits now into scope of the charge.
4. Subsection 3 defines the terms 'arrangements' and 'tax advantage' for the purposes of the clause.

Background note

5. This is Clause 18 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
6. This clause provides for anti-avoidance provisions for the purposes of the residential property developer tax.
7. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 19: Groups

Summary

1. This Clause provides the definition of a group of companies for most purposes of the residential property developer tax (RPDT) including the allocation of the allowance under section 13. The meaning of a group for the purposes of RPDT group relief and RPDT group relief for carried forward losses is separately provided for in Schedule 1.

Details of the clause

2. Subsection 1 confirms that for the purposes of RPDT other than for the rules for group relief in Schedule 1 a group means two or more companies which together meet a condition as set out in subsection 2.
3. Subsection 2 provides that the condition is that one of the companies is the ultimate parent of each of the other companies and is not the ultimate parent of any other company.
4. Subsection 3 explains that a company is the ultimate parent of another if it its parent and no other company is the parent of both of them.
5. Subsection 4 explains that a company is the parent of another, if the other company is its 75% subsidiary, or it is entitled to at least 75% of the other company's distributable profits or would be entitled to 75% of its assets in a winding up.

Background note

6. This is Clause 19 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
7. This clause provides for the definition of a group of companies for the purposes of the residential property developer tax.
8. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 20 and Schedule 3: Miscellaneous provision

Summary

1. This clause introduces Schedule 3 which makes miscellaneous provisions in relation to the residential property developer tax (RPDT).

Details of the clause and schedule

2. Clause 20 introduces Schedule 3.

Schedule 3: Miscellaneous Provision

3. Paragraph 1 introduces a rule preventing a company that is liable to pay the RPDT obtaining any deduction for the tax when calculating any profits or losses for income tax or corporation tax purposes.
4. Paragraph 2 applies the arm's length principle included in the transfer pricing rules in Part 4 of the Taxation (International and Other Provisions) Act 2010 (TIOPA) to an RP developer's RPD activities and its other activities. The provisions in TIOPA are to be interpreted as if these activities were carried on by separate persons under common control.
5. Paragraph 3 applies the arm's length principle included in the transfer pricing rules in Part 4 of TIOPA to transactions or provisions between companies under common control where the provision or transaction would be taken into account in computing the RPD profits or losses of only one of those companies.

Background note

6. This is Clause 20 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
7. This clause provides for miscellaneous provisions in relation to the tax in Schedule 3. These include excluding a deduction for the tax when calculating profits or losses for other tax purposes and the application of transfer pricing principles for the purposes of the residential property developer tax.
8. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 21: Interpretation etc.

Summary

1. This clause sets out where the meaning of various terms used in the residential property developer tax (RPDT) legislation can be found.

Details of the clause

2. Subsection 1 lists various terms that are defined in the RPDT legislation and where their meanings can be found.
3. Subsection 2 applies the rules in Chapter 6 of Part 5 of the Corporation Tax Act 2010 to matters concerning the entitlement to profits or assets of a company available for distribution for RPDT purposes.
4. Subsections 3 and 4 ensure that the Corporation Tax Act 2010 rules mentioned in subsection 2 apply to companies without shares and similar situations
5. Subsections 5 and 6 apply the Corporation Tax Act 2010 definition of a subsidiary for RPDT purposes, modifying it in the case of registered societies and where shares are held as trading stock.

Background note

6. This is Clause 21 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
7. This clause provides definitions for the purposes of the residential property developer tax.
8. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk

Clause 22: Regulations

Summary

1. This clause provides for regulations to be made in respect of the residential property developer tax (RPDT) and sets out general provisions about the regulations.

Details of the clause

2. Subsection 1 confirms that the regulations will be made by a statutory instrument.
3. Subsection 2 provides that statutory instruments in relation to RPDT are subject to annulment by the House of Commons.
4. Subsection 3 provides that any power of HMRC to make regulations may also be exercised by HM Treasury.

Background note

5. This is Clause 22 of 22 that introduce a corporation tax charge on residential property developers. The Government has introduced the charge to ensure that the largest developers make a fair contribution to help fund the government's cladding remediation costs.
6. This clause sets out procedural matters relating to the making of regulations for the purposes of the residential property developer tax.
7. If you have any questions about this change, or comments on the legislation, please contact RPDT.mailbox@hmrc.gsi.gov.uk