HM Revenue & Customs

HM Treasury

Taxing gains made by non-residents on UK immovable property

Consultation document

Publication date: 22 November 2017
Closing date for comments: 16 February 2018

This Consultation Document should be read alongside the Technical Note on the related anti-forestalling rule coming into effect from Budget Day, 22 November 2017

Subject of this consultation:	The tax treatment of gains accruing on disposals of interests in UK immovable property by non-residents. This document also explains that an anti-forestalling rule will come into effect from 22 November 2017. There is a separate Technical Note available on this subject.
Scope of this consultation:	This consultation describes the government's proposals for the intended scope of new rules to charge non-residents to tax on gains realised from disposal of interests in UK property; and invites comments and feedback on particular issues and impacts of the policy as described. This consultation also looks at the future of the rules applying to ATED-related gains, which will predominantly affect non-residents.
Who should read this:	The government welcomes comments from anyone involved in UK property ownership, advisers, and representative bodies.
Duration:	This consultation runs for 12 weeks from 22 November 2017 to 16 February 2018.
Lead official:	James Konya, HM Revenue and Customs
How to respond or enquire about this consultation:	Responses, request for hard copies, and general queries about the content or scope of consultation can be sent by email to NRCG.Consultation@hmrc.gsi.gov.uk, or by post to: NRCG Consultation, HM Revenue & Customs, Room 3C/04, 100 Parliament Street, London, SW1A 2BQ. For queries over the phone, please call 03000 544 525.
Additional ways to be involved:	HMRC will be happy to hold or attend meetings with interested parties to discuss these proposals.
After the consultation:	The government will publish its response, along with draft clauses, in late summer 2018. Legislation will be introduced in the 2018 to 2019 Finance Bill and will take effect from April 2019.
Getting to this stage:	This is a new consultation.
Previous engagement:	This is a new engagement with stakeholders on this subject.

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Contents

Chapter	Content	Page
1	Introduction	4
2	Scope of the measure	7
3	Direct disposals	9
4	Indirect disposals	11
5	Disposals of residential property	17
6	Collective investment vehicles	19
7	Reporting and compliance	22
8	Summary of consultation questions	25
9	The consultation process: how to respond	27
	Table of impacts	29
Annex A	Relevant current UK legislation	31

Introduction

Background

1.1. The government announced at Autumn Budget 2017 that from April 2019 tax will be charged on gains made by non-residents on disposals of all types of UK immovable property, extending existing rules that apply only to residential property.

1.2. Land is a national resource. Consistent with this, international tax rules give the primary taxing rights over income and gains to the state in which land and other immoveable property is located.

1.3. Unlike most other major jurisdictions, the UK does not currently exercise its full taxing rights where non-residents dispose of non-residential property such as offices, factories, warehouses, shops, hotels, leisure facilities, and agricultural land located in the UK. This puts non-residents at an advantage over UK residents. It also drives the creation of complex offshore structures to hold property, which can facilitate avoidance.

1.4. The UK also does not currently tax widely-held[1], non-resident companies on disposals of interests in residential land, nor exert its right under international agreements to tax disposals of entities that derive their value predominantly from UK land. Changes to address this are detailed in this document.

1.5. These changes will more closely align the tax treatment of non-UK resident owners of UK immovable property with that of UK residents, and reduce the incentive for multinational groups to hold UK property through offshore structures, often in low tax or no tax jurisdictions.

1.6. The proposals represent a significant change to the rules for taxing chargeable gains on immovable property. Whilst some aspects of the reforms are fixed, such as who is in scope, commencement date, and core features of the direct and indirect disposal provisions, the government is keen to consult to ensure that the legislation is effectively targeted and does not place unnecessary burdens on affected taxpayers.

Overview

1.7. The measure will expand the tax base of both the corporation tax and capital gains tax regimes. With some exceptions as explained in this document, the intention is that the usual rules for those regimes will be followed for the assets brought into scope.

1.8. The rules will create a single regime for disposals of interests in both residential and non-residential property (also called ‘commercial property’ in this document), introducing a new charge for gains on disposals of commercial property and extending the rules for residential property to indirect sales and disposals made by widely-held companies.

[1] A widely-held company is one that is not close. Broadly, a close company is one where five or fewer of the participators control the company, or participators who are directors control the company.

1.9. Indirect disposal rules will apply where an entity is ‘property rich’, which is broadly where 75% or more of its gross asset value at disposal is represented by UK immovable property, as described in Chapter 4. Such disposals will trigger the charge only where the person holds, or has held at some point within the five years prior to the disposal, a 25% or greater interest in the entity.

1.10. For indirect disposals there will be a reporting requirement on certain third-party advisors who have sufficient knowledge of the transaction.

Existing rules for non-residents and immovable property

1.11. There are currently two capital gains regimes applying to non-residents specifically in respect of UK immovable property: capital gains tax on ATED-related[2] gains, and Non-Resident Capital Gains Tax (NRCGT). Both of these apply to residential property, and both are in the capital gains tax rather than corporation tax regime. Neither applies to indirect transactions in property.

1.12. In March 2017 the government published a consultation on ‘Non-resident companies chargeable to Income Tax and Non-Resident CGT’[3], which amongst other issues sought views on bringing closely-held companies that are liable to NRCGT into Corporation Tax. The government’s responses to that consultation will be published shortly after Autumn Budget, and is consistent with the changes outlined in this document.

1.13. The government also sees the changes outlined in this document as an opportunity to rationalise the existing regimes into a unified approach to taxing non-residents’ gains on disposals of interests in UK immovable property. It will be necessary to retain some of the distinctions regarding the treatment of residential and non-residential property, but as far as possible the aim is to create a cohesive framework.

1.14. There was strong feedback to the March 2017 consultation that the regime for ATED-related gains is extremely complex. Given the expansion of the rules to cover all non-resident companies and indirect disposals, the government wishes to explore the case for harmonising ATED-related gains with the wider regime as proposed in this consultation.

1.15. An overview of the existing rules is in Annex A to this document.

Content of this document

1.16. Chapter 2 describes the scope of the measure in terms of chargeable assets and persons.

1.17. Chapter 3 outlines how the new charge on direct disposals of interests in non-residential property by non-residents will operate.

1.18. Chapter 4 describes in detail how the new charge on indirect disposals of property rich entities will operate.

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[2] Annual Tax on Enveloped Dwellings - an annual tax payable mainly by companies that own UK residential property valued at more than £500,000.

[3] The consultation can be found on Gov.uk at https://www.gov.uk/government/consultations/non-resident-companies-chargeable-to-income-tax-and-non-resident-capital-gains-tax

1.19. Chapter 5 describes how this measure expands the scope of the rules relating to disposals of interests in residential property, and raises questions about harmonising ATED-related CGT.

1.20. Chapters 6 highlights some specific aspects of investment through funds, and invites input on what special treatment might be needed.

1.21. Chapter 7 sets out some of the administrative framework within which the new rules will operate.

1.22. Chapter 8 summarises the consultation questions.

1.23. Annex A sets out the current tax rules for charging non-residents on gains from disposals of interests in UK residential property.

Commencement of anti-forestalling rule

1.24. An anti-forestalling rule will apply to certain arrangements entered into on or after the publication of this document on 22 November 2017.

1.25. The rule will counteract arrangements that seek to avoid the new charge on new residents described in this document by exploiting provisions in some Tax Treaties in a way that is contrary to the object and purpose of those provisions, particularly with respect to arrangements designed to frustrate the operation of the indirect charge described in Chapter 4.

1.26. The sorts of arrangements, which will be in scope, are in general called 'treaty shopping', whereby a person structures or restructures their investments in such a way as to deliberately put profits or gains beyond the taxation rights of one or more territories.

1.27. The anti-forestalling rule will remain in force as an anti-avoidance rule after the charge is introduced, until such time as relevant treaties are amended to prevent any risk of abuse.

1.28. Details of the application of the anti-forestalling rule are set out in a Technical Note published alongside the consultation.

Targeted anti-avoidance rule (TAAR)

1.29. The rules described here will, from commencement in April 2019, be protected by a TAAR. This will apply to all arrangements entered into the main or one of the main purposes of which is to secure that gains are not subject to the new rules – it is likely to be modelled on section 356OK of the Corporation Tax Act 2010.

1.30. This is likely to apply to all aspects of the indirect charge, and any provisions in the new direct charge that are not subject to existing anti-avoidance provisions under the rules for chargeable gains.

2. Scope of the measure

Direct disposals by non-residents

2.1. As set out in Chapter 3, the government intends that all gains accruing on disposals of interests in UK land and buildings will become chargeable to UK tax, regardless of the residence of the person making the disposal.

2.2. The two key changes are that non-residents will, for the first time, become chargeable on their gains which accrue on disposals of interests in non-residential property, and the current charge on residential property will be extended to disposals by non-resident widely-held companies.

2.3. Where a non-resident person is a body corporate or would otherwise be in scope for corporation tax were they UK resident, then any gain will be chargeable to corporation tax. This will apply equally to both closely- and widely-held companies.

2.4. For other persons the charge will be to capital gains tax, using the normal UK rules.

2.5. Those who are exempt from all UK capital gains[4], or otherwise not in the scope of UK tax for reasons other than being non-resident, will continue to be exempt or out of scope. Chapter 5 explains how specific exemptions from NRCGT will no longer apply.

Indirect disposals by non-residents

2.6. Chapter 4 describes the circumstances in which a non-resident will be chargeable in respect of a disposal of an entity that substantially derives its value from UK immovable property. Again, this will apply to all UK land and buildings –whether commercial or residential.

2.7. Any chargeable gain will be computed by reference to the gain on the interest in the entity that derives its value from land, rather than by reference to any increase in value of the land itself; and using (so far as possible) normal capital gains rules and giving effect to any exemptions, exclusions, etc. that are conferred other than by reason of not being UK resident.

Rebasing

2.8. With respect to non-residential property, only the gains attributable to changes in value from 1 April 2019 (for companies) or 6 April 2019 (for other persons) will be chargeable, which will be achieved by rebasing property values at April 2019.

2.9. April 2019 will also be the rebasing point for widely-held, non-resident companies on all disposals of interests in UK immovable property, and for all persons on all indirect disposals.

[4] A relevant example is the exemption for overseas pension schemes in section 271(1A) in the Taxation of Chargeable Gains Act 1992

2.10. To recognise that rebasing may produce an unfair result, where the non-resident has made a loss on the disposal over their ownership of the asset, but a gain would accrue under rebasing, there will also be the option (for direct disposals only) to compute the loss or gain on disposal using the acquisition cost as the base cost of the property.

2.11. Rebasing will be the only acceptable method of computation for indirect disposals.

2.12. The NRCGT residential property rules allow a third option to calculate the proportionate gain or loss attributable to the period post-commencement. This option proportionately reduces the gain on a disposal (and is unlikely to be chosen to reduce a loss). The government believes that post-commencement gains on current investment in the UK commercial property market should be recognised in full, so this option will not be available for this measure[5].

2.13. April 2015 will remain the rebasing point for direct disposals of interests in residential property for those already in the NRCGT regime[6]. For mixed-use property (one that consists partly, but not exclusively, of one or more dwellings), a different rebasing point will be needed for the residential and non-residential elements.

2.14. Similarly, where a property has changed use between residential and non-residential over the ownership period since April 2015, the calculations for the apportioned elements of the gain for the different periods will use different rebasing points.

Questions for Chapter 2

Question 1) **Are there any issues specific to non-residents when considering how they fit into the UK definitions of persons chargeable to UK tax (CGT or CT)?**

Question 2) **Do you see any issues or complications arising with respect to rebasing which need to be addressed?**

[5] It will remain an option for residential disposals.

[6] The government announced at Autumn Budget 2017 that non-resident close companies disposing of residential property will become chargeable to corporation tax on that gain instead of capital gains tax as at present. The details will be published in the response document to the March 2017 consultation 'Non-resident companies chargeable to Income Tax and Non-resident CGT', but in brief: such companies will continue to use 2015 rebasing for residential disposals.

3. Direct disposals by non-residents

Overview of direct disposals

3.1. A direct disposal within this measure includes situations where a non-resident disposes of an interest in UK immovable property (see Chapter 2) from their own ownership.

3.2. The rate of tax will be the same as for an equivalent disposal by a UK resident. For corporate bodies this will be the UK CT rate, and for individuals, trusts, and personal representatives the same as the appropriate CGT rates and including any personal allowances.

3.3. The existing NRCGT charge on residential property excludes disposals by non-resident companies that would, if they were UK resident, not be close companies. This measure, as noted earlier, will remove that exclusion.

3.4. The Government intends that disposals of both residential and commercial property should be subject to a single regime that largely follows the existing rules for residential property disposals by non-residents.

Computation of gains

3.5. In general, the normal computational rules in Part 2 of the Taxation of Chargeable Gains Act 1992 will apply to the calculation of any gain, subject to a number of modifications set out below. The government welcomes views on whether, in addition to the specific modifications identified, other changes are needed to ensure the rules apply effectively to non-residents.

3.6. There are specific issues that arise in connection with ownership and disposal of UK immovable property by collective investment schemes. These are considered in Chapter 6.

Allowable losses within corporation tax

3.7. The government proposes that losses and gains arising to non-resident companies will be treated in the same way as other capital losses and gains for corporation tax in terms of available relief.

3.8. Hence capital losses arising to a non-resident company on disposals of chargeable assets will be available to offset against that company's gains, and where the relevant conditions are met the rules for electing to reallocate gains and losses within the group will apply as normal.

3.9. Similarly, should the company have any other UK losses that would be available against a chargeable gain, those losses can be used as normal against a gain under the new rules.

Allowable losses within Capital Gains Tax

3.10. The government proposes that losses and gains arising to non-residents within charge to capital gains tax on disposal of interests in non-residential property will be treated in the same way as losses and gains arising in the existing NRCGT regime for residential property.

3.11. There will, however, be no distinction between gains and losses arising on residential and non-residential property, so that for example existing losses under the NRCGT regime for residential property will be available against a gain on disposal of interests in non-residential property.

Roll-over relief for business assets

3.12. The rules for roll-over relief for business assets allow businesses to defer gains on the disposal of certain business assets used for trade purposes ("the old assets"), by rolling over the gain into the base cost of other assets ("the new assets") used for the trade[7]. These rules are subject to various requirements relating to the nature of the new asset and time limits.

3.13. The government proposes to allow gains under these new rules to benefit from roll-over relief, subject to the normal rules and requirements for relief.

Anti-avoidance

3.14. Existing anti-avoidance rules in the capital gains code will apply as normal to non-residents.

Questions for Chapter 3

Question 3) **Do you agree with the basic principle that gains on direct disposals within these new rules, should be computed using the same rules as other chargeable gains?**

Question 4) **Further to the specific modifications identified, are any other changes needed to recognise differences in how the tax system applies to non-residents?**

Question 5) **For businesses: Will the proposals for direct disposals mean that your company will now be required to register for UK CT?**

Question 6) **For businesses: Will the proposals for direct disposals lead to an increase in your administrative burdens or costs? Please provide details of the expected one-off and ongoing costs.**

Question 7) **For individuals: Will the proposals for direct disposals mean that you will be required to pay Capital Gains tax for the first time?**

[7] Chapter I of Part V of the Taxation of Chargeable Gains Act 1992

4. Indirect disposals

Meaning of indirect disposal

4.1. A direct disposal of an interest in immovable property by a person who is not UK resident will either already be in scope, or be brought within the scope of UK taxation by the changes described in Chapter 3.

4.2. This Chapter considers the position where the disposal is not a direct disposal of the interest in the immovable property itself, but is a disposal of interests in an entity that holds the immovable property. This is referred to in this Chapter as an indirect disposal.

4.3. For corporate groups, this form of ownership of UK commercial property is very common, with property holding companies often set up for purely commercial reasons.

4.4. The economic effect of disposing of such a company may be the same as a direct disposal of the property. If indirect disposals were not included in the scope of these changes there would be an inconsistency in tax treatment between two transactions which, in economic terms, are the same or very similar.

4.5. The government will therefore apply the extended charge to certain disposals by non-residents of interests that derive their value from property.

Conditions

4.6. The following two tests must be performed at the date of disposal to establish whether a disposal is in scope:

4.6.1. Is the entity being disposed of "property rich"?; and

4.6.2. Does the non-resident hold a 25% or greater interest in the entity, or have they held 25% or more at some point in the five years ending on that date?

4.7. If the conditions are met then the disposal will be in scope.

4.8. Any interests held by related parties to the non-resident at the date of disposal or within the prior five years will also be taken into account when calculating whether the 25% test is met.

4.9. These tests are discussed in more detail below.

The property richness test

4.10. The rules will apply only where, at the time of disposal, directly or indirectly, 75% or more of the value of the asset disposed of derives from UK land. This limits the scope to those cases where the land substantially represents the value of the entity in question.

4.11. The test will be made on the gross-asset value of the entity, so not including liabilities such as loan finance. The test will use the market value of the assets at the time of disposal.

4.12. For the purposes of establishing whether this 75% test is met all UK land held in the envelope entity will be taken into account –that is both residential and non-residential property. Non-UK land will not count toward the 75%.

4.13. The concept of property that derives its value from land already appears in the UK Taxes Acts, and the new rules will be modelled on section 356OR of Corporation Tax Act 2010, where it is defined as including:

4.13.1. Any shareholding in a company deriving its value directly or indirectly from land

4.13.2. Any partnership interest deriving its value directly or indirectly from land

4.13.3. Any interest in settled property deriving its value directly or indirectly from land

4.13.4. Any option, consent or embargo affecting the disposition of land

4.14. The disposal may be directly of the interest in the property rich entity, or of a holding company or similar with a structure of entities beneath it which, taken together, meet the property richness test. Whether a disposal of multiple entities constitutes one transaction will be based on the facts and circumstance of the disposal.

4.15. Where it is necessary to trace value, the rules will allow this to be done through layers of ownership, through entities, trusts or other arrangements to arrive at a just and reasonable attribution of value. This approach will be modelled on the rules in section 356OM of Corporation Tax Act 2010.

The ownership test

4.16. The 25% ownership test is to exclude from scope smaller investors, who may in some situations not be aware of the assets and investments involved in the entity they own an interest in, and are unlikely to have control or influence over the entity's activities.

4.17. The ownership test will look at the proportion of interest a non-resident (and related parties) have in a property rich entity at the point of disposal. It will also require that the non-resident making the disposal look back for five years prior to that disposal to see if the test was met at any point in that period.

4.18. Although the new charge will apply only to disposals after April 2019, this test will take into account ownership before that time to determine if the 25% test is met (although any charge would of course be limited by rebasing to the gain realised after commencement).

4.19. Aggregating interests of related parties and taking into account past holdings is necessary in order to prevent fragmentation of holdings and ensure that staggered disposals cannot be used so as first to reduce the overall holding to less than 25% and then make a final disposal which is no longer subject to charge. The rule will be mechanical, without any motive test.

4.20. To determine whether the 25% ownership test is met, it is proposed to use the connected party test (within the meaning in section 1122 of Corporation Tax Act 2010), supplementing this with the 'acting together' rules modelled on those in the corporate interest restriction rules (section 465(3) of TIOPA 2010) to include situations where persons come together as a group with a common object in relation to the envelope entity.

Indirect disposals of groups of entities

4.21. There will be situations where the transaction includes a disposal of a group of companies or trusts, or a structure of both companies and trusts. When considering the property richness test this would be applied to the totality of entities being disposed of in the transaction. So were a non-resident to dispose of shares in a holding company which was itself not property rich, but owned companies that were, this would be in scope if taken together the entities being disposed meet the 75% property richness test.

4.22. As explained above, the property richness test looks at the gross asset value of the entity whose interests are being disposed of. The gross assets will include any shares, units, partnership or other interests the entity has, and in considering the proportion of UK property, the test will look through the interests the entity holds to the underlying assets.

4.23. The principle would be the same if one of the subsidiaries were instead a trust with the same assets, or the disposal was of a trust that held shares or interests in other entities.

Calculation of the gain or loss on an indirect disposal

4.24. The amount of the gain or loss will be calculated on the basis of the interest being disposed of in the transaction. The normal rules for disposal of shares or other interests will apply as appropriate, including those aimed at preventing depreciatory transactions and similar anti-abuse rules.

Example disposals

4.25. The following examples demonstrate the calculation. The Substantial Shareholdings Exemption rules are assumed not to apply for the purposes of this demonstration, and all of the actions occur after commencement.

4.26. NRC SARL holds 100% of the share capital in Corporation 1, and 25% of the shares in Corporation 2.

4.27. <u>Corporation 1:</u>

4.27.1. NRC paid £3m to acquire the shares in Corporation 1. At this point, Corporation 1 has no UK immovable property and is not property rich.

4.27.2. Corporation 1 borrows £1.5m from a third party, and then purchased offices in the UK for £2m and land investments outside the UK for £2.5m. The company is still not property rich, as the UK immovable property does not represent 75% or more of its gross asset value.

4.27.3. NRC disposes of the shares. At disposal the shares are worth £8.5m, corresponding to asset values of £8m for the UK offices and £2m for the property outside the UK, minus the loan liability of £1.5m.

4.27.4. The property-richness test is met, as 80% of the gross value of Corporation 1 is represented by UK immovable property. This test is based solely on the assets of the company and is not reduced by liabilities.

4.27.5. The gain will be calculated on the basis of the shares, so will be the disposal proceeds of £8.5m less the purchase price of £3m: £5.5m.

4.28. Corporation 2:

4.28.1. NRC originally paid £3m to acquire 25% of the shares in Corporation 2, which had a property portfolio at acquisition which included £10m of UK commercial property, and £2m of other assets. The company is property rich.

4.28.2. NRC disposes of 5% of their shares in Corporation 2. At that disposal, the company is worth £15m, corresponding to asset values of £12m for the UK commercial property, and £3m for other assets.

4.28.3. The property-richness test is met, as again 80% of the value of Corporation 2 is represented by UK immovable property.

4.28.4. NRC will receive £0.75m for their disposal of their 5% share of the £15m company, with a gain calculated using a base cost of £0.6m of the 5% shareholding disposed of.

4.28.5. Two years later, NRC disposes of their other 20% shareholding in Corporation 2. Although NRC does not meet the 25% ownership test at the point of this disposal, they have done within a period of five years before this disposal, and so if Corporation 2 remains property rich at that point any gain will be chargeable.

4.29. The same principles apply if the non-resident were disposing of units, rather than shares, in a property rich entity; with necessary modifications as under the existing UK chargeable gains rules.

Rebasing as the only method of computation for indirect disposals

4.30. As explained in Chapter 2, for direct disposals the measure will include options for calculating the gain or loss on non-residential UK immovable property held prior to commencement.

4.31. As demonstrated in the examples above, an entity may be property rich at acquisition, or may become property rich later. It may acquire and dispose of interests in UK immovable property directly or as interests in other property envelopes over the course of the period of a non-resident's ownership. After commencement, such disposals will themselves be chargeable, but any made prior to commencement will in most cases not have been.

4.32. In order to create a reasonable point from which both taxpayers and HMRC can ensure compliance based on reliable information, rebasing to April 2019 will be the only calculation method for disposals of interests in property rich entities held prior to commencement.

Interaction with the Substantial Shareholdings Exemption

4.33. The second Finance Act of 2017 introduced changes[8] to the Substantial Shareholdings Exemption (SSE) rules[9] to expand the coverage of the exemption to Qualifying Institutional Investors. Under the expanded SSE rules it is possible, subject to strict conditions, for the SSE to apply to disposals of property rich companies or groups of companies.

Impact of Double Tax Treaties

4.34. The UK has a wide network of Tax Treaties[10]. The principal functions of these treaties is to allocate taxing rights between the two contracting states.

4.35. Most of the UK's Tax Treaties include a provision similar to that in Article 13.4 of the OECD Model Convention, 2014 version ("the securitised land provision"), and allocate taxing rights to the UK on gains on disposals of shares in UK-property rich companies.

4.36. Where the UK has a treaty with a particular state with provisions allocating rights to capital gains, and the securitised land provision is not included in the treaty, the general rule is that the state of residence of the person disposing of the interest in the entity, and not the UK, will have taxing rights over the gain.

4.37. Where the UK does not have a Tax Treaty with a territory, or the Treaty does not contain any provisions allocating taxing rights over capital gains, the UK domestic law operates without constraint, and the rules described in this chapter will therefore apply to residents of that territory.

4.38. In the UK's treaties, the provision usually applies to gains from the alienation of "shares or comparable interests". There are some treaties in which the reference to "comparable interests" is omitted; in those cases, the provision would apply to gains on the disposal of shares in property rich companies, but would not apply to gains on the disposal of interests in property rich partnerships or trusts.

4.39. In some of the Treaties that do include the securitised land provision, it only applies to 'direct', and not 'indirect' disposals. This means that the rules only apply to the immediate interests being disposed of by the non-resident.

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[8] Amendments in the Finance (No 2) Act 2017

[9] The SSE is in Schedule 7AC to the Taxation of Chargeable Gains Act 1992

[10] For a full list see https://www.gov.uk/government/collections/tax-treaties

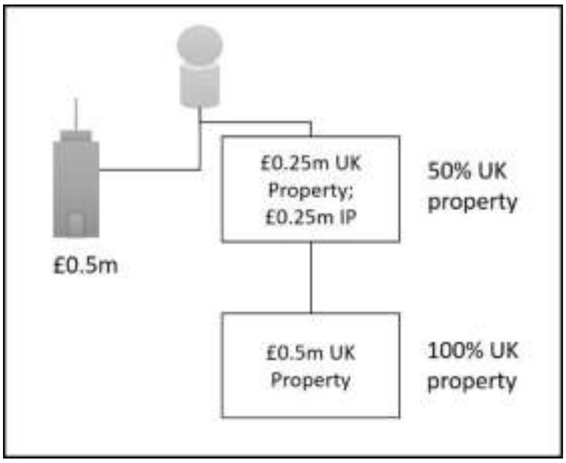

Figure 4.2

4.40. Where the securitised land provision only refers to interests directly disposed of, the property richness test would be applied to the entity whose interests are directly disposed of, and would not look through to the assets of its subsidiaries or other entities it has an interest in.

4.41. So in Figure 4.2 the disposal of the holding company and its subsidiary would not fall within the scope of these rules in a territory with a provision of this formulation, because even though the holding company is indirectly property rich, it is not so when considered on its own.

Questions for Chapter 4

Question 8) **Do you consider that the rules for indirect transactions are fair and effective?**

Question 9) **Are any other conditions necessary to ensure the policy is robust in meeting the objective of taxing non-residents on gains on indirect disposals?**

Question 10) **For businesses: Will the proposals for indirect disposals mean that your company will now be required to register for UK CT?**

Question 11) **For businesses: Will the proposals for indirect disposals lead to an increase in your administrative burdens or costs? Please provide details of the expected one-off and ongoing costs.**

Question 12) **For individuals: Will the proposals for indirect disposals mean that you will be required to pay Capital Gains tax for the first time?**

5. Disposals of residential property

Expansion of NRCGT rules for residential property

5.1. The current NRCGT rules for disposals of interests in UK residential property by non-residents apply to individuals, trusts, personal representatives, and closely-held companies; and they apply only when there is a direct disposal.

5.2. This measure will bring widely-held companies into charge to corporation tax with respect to disposals of UK residential property, and also brings indirect disposals into scope.

5.3. The exemption in NRCGT for gains of life assurance companies on disposals of interests in residential properties held as part of their portfolio of investments[11] will also no longer apply within the new regime.

5.4. The government announced at Autumn Budget 2017 that non-resident close companies disposing of residential property will become chargeable to corporation tax on that gain instead of capital gains tax as at present. The details will be in the response document to the March 2017 consultation 'Non-resident companies chargeable to Income Tax and Non-Resident CGT'.

5.5. Widely-held companies will use April 2019 for rebasing on all disposals –both residential and non-residential property.

5.6. Closely-held companies will retain the April 2015 rebasing point for residential property.

5.7. All indirect disposals will use April 2019 for rebasing.

ATED-related CGT

5.8. The government intends to structure the new rules in such a way that as far as possible one regime applies for all disposals of interests in UK immovable property by non-residents, and that the regime is robust and cohesive.

5.9. In response to the March 2017 consultation on bringing non-resident companies into charge to CT, many respondents highlighted the complexity of the ATED-related CGT rules.

5.10. As this measure will bring into charge all non-resident companies disposing of UK residential property, and will include robust rules to ensure that gains on indirect disposals of property rich companies will also be chargeable on non-residents, the government wishes to consider the case for harmonising the existing regime for ATED-related gains with the wider regime for taxing non-residents' gains on UK immovable property, and how to meet the objective of simplification in doing so.

5.11. This could happen alongside the other changes in this document, in April 2019, and any gains arising from that point onward would be within the non-resident

[11] Section 14F(6) of the Taxation of Chargeable Gains Act 1992

immovable property taxation regime as described here, instead of being ATED-related gains.

5.12. From April 2019, ATED-related gains accruing to companies could become chargeable to corporation tax and would not be distinguished from other gains on disposals of residential property. This would enable associated computations to be simplified, so that broadly for gains accruing to non-resident closely-held companies

5.12.1. For pre-2015 periods ATED-related gains would remain to be computed as at present

5.12.2. For periods between April 2015 and April 2019 ATED-related gains and NRCGT gains would be merged into a single computation based purely on the NRCGT rules

5.12.3. For periods from April 2019 all immovable property gains become chargeable

5.13. For widely-held companies:

5.13.1. For pre-2019 periods ATED-related gains would remain be computed as at present

5.13.2. For periods from April 2019 all immovable property gains become chargeable

5.14. For ATED-related gains accruing to non-resident persons other than companies, the situation would be as for closely-held companies, but chargeable to CGT.

5.15. The government welcomes views on this and on how further simplification can be achieved.

Questions for Chapter 5

Question 13) Do you consider that it is right to harmonise ATED-related CGT given the changes proposed in this document?

Question 14) Are there any issues, risks, or complexities created by harmonising the ATED-related CGT rules in the manner proposed, and how can these be addressed?

Question 15) For businesses: Will the proposals for disposals of residential property mean that your company will now be required to register for UK CT?

Question 16) For businesses: Will the proposals for disposals of residential property lead to an increase in your administrative burdens or costs? Please provide details of the expected one-off and ongoing costs.

Question 17) For individuals: Will the proposals for disposals of residential property mean that you will be required to pay Capital Gains tax for the first time?

6. Ownership by and through collective investment vehicles (CIVs)

6.1. The government recognises that there is significant investment by non-residents in UK commercial property through CIVs (funds in which investors pool their money, and benefit from risk spreading and professional management of the underlying assets). The impact of the rules on non-residents investing through such funds as well as on the funds industry as a whole needs to be carefully considered.

6.2. This chapter sets out a number of issues, and invites comments and input on what more needs to be taken into account.

UK CIVs

6.3. Existing tax rules for certain types of UK CIVs, for example Real Estate Investment Trusts (REITs), Property Authorised Investment Funds (PAIFs), and Exempt Unauthorised Unit Trusts (EUUTs) mean that gains on direct disposals by those funds are not charged to tax.

6.4. Where this is the case, existing tax rules are designed to ensure that those UK resident investors who are not themselves exempt on income or gains, are charged to tax when they realise value from the fund. For example, distributions from such funds may be charged to tax as income (and subject to withholding tax rules), or disposals by the investors of their interests in the fund may be chargeable to CT or CGT.

6.5. In contrast, disposals by non-resident investors of their interests in these funds are not currently charged to UK tax. This measure brings non-residents into the UK tax base, including through the indirect disposal rules described in Chapter 4.

6.6. Disposals by non-residents of interests in UK funds will now be within scope of UK tax, including indirect disposals, provided the property richness and ownership threshold tests in Chapter 4 are met. This creates a level playing field and will remove the ability of UK residents to use offshore structures to avoid UK tax on what would otherwise be chargeable UK gains.

Ownership by and through UK Real Estate Investment Trusts (UK REITs)

6.7. A Real Estate Investment Trust (REIT) is a limited company or group of companies required to invest mainly in property. The UK REIT's profits and gains of its property rental business (PRB) chargeable to CT are exempt. However the UK REIT is required to distribute 90% of PRB profits as property income distributions (PIDs), which are taxed as income from property in the shareholders' hands.

6.8. There is no requirement to distribute PRB exempt gains. However, if such gains are distributed then they are treated as PIDs. UK resident shareholders are taxed on gains from the disposal of shares in a REIT. Non-resident UK REIT members and non-resident shareholders in UK REITs, as well as foreign REITs with interests in UK property, under existing rules are outside the scope of UK capital gains.

6.9. If a REIT satisfies the property richness test then any disposal of shares in the REIT by a non-resident will be subject to charge, provided that the person making the disposals held a 25% or greater interest in the UK REIT at some point in the five years prior to the disposal.

6.10. A disposal of UK property by a non-resident member of a UK REIT will come within the scope of UK tax. The effect of this will be to treat the resultant gain as an exempt gain under the REIT rules (as opposed to being exempt by reason of residence, as is the case now). Any distribution of the proceeds from such a disposal would then be treated as a property income distribution (PID) and so subject to 20% withholding tax (currently, any distribution of gains made by a non-resident member of a UK REIT would be a normal dividend and not subject to withholding tax).

6.11. A REIT may be subject to a tax charge if it pays a dividend to a company beneficially entitled, directly or indirectly, to 10% or more of the voting rights in the REIT. However, it is permissible for corporate investors to fragment their holdings through two or more subsidiaries so that each company holds less than 10% of the shares in the REIT. Chapter 4 explains that aggregation rules will be introduced for connected parties for the purposes of the 25% test.

6.12. Consideration will be given to whether any changes to the UK REIT rules (and to similar UK fund rules that exempt gains in particular circumstances) are required to ensure that the new rules for non-residential property are robust and cannot be easily avoided.

Ownership by and through UK CIVs other than REITs

6.13. The basic proposition for any UK CIV that would currently be exempt from CT or CGT on gains made on disposals of UK property is to continue to exempt the gain on any direct disposal by the CIV, but then to apply the rules for indirect disposals as described in Chapter 4 where a non-resident disposes of interests in the CIV itself.

6.14. As with UK REITs, consideration will be given to whether any other changes to existing rules for UK CIVs are needed to create a coherent and robust regime.

Overseas CIVs

6.15. At present some funds are exempt from gains on disposal of UK commercial property only by reason of not being UK tax resident. It follows that once non-residents' disposals are brought within scope of UK tax, then disposals by these funds will be chargeable in accordance with the normal rules.

6.16. In general this is the outcome that the government wants, since it would be inconsistent with the rationale for introducing the measure to exclude non-resident funds that are major investors in non-residential UK property; in addition, any exclusion for non-resident funds would be a fault line that could be easily exploited.

Questions for Chapter 6

Question 18) Do you agree with the general approach to ownership of non-residential property through CIVs outlined above?

Question 19) Will the proposals for CIVs mean that you will now be required to register for UK tax?

Question 20) Will the proposals for CIVs lead to an increase in your administrative burdens or costs? Please provide details of the expected one-off and ongoing costs.

Question 21) Are there changes needed to the rules for CIVs, particularly around exemptions, to ensure a robust system of taxing non-residents on gains on disposal of interests in UK property?

Question 22) Are there any specific circumstances where the treatment of gains on non-residential UK property should be different to the treatment of gains on UK residential property in the context of a CIV?

Question 23) Do you have any further comments on the taxation of gains on non-residential UK property held through CIVs?

7. Reporting and compliance

Overview of reporting requirements

7.1. This measure applies a new tax charge to persons who are not resident in the UK. This presents obvious compliance challenges for both non-residents who are subject to the charge and to HMRC in terms of both awareness and enforcement; the former particularly in cases where a disposal of interests in UK property is made by one non-resident to another, which may be through or as part of a complex corporate and/or trust structure.

7.2. HMRC anticipate that the majority of those brought into scope by this measure will be aware of the new rules and will comply with them; reporting the transaction and paying their tax on time. In the case of larger transactions, it is unlikely that the taxpayer will be unaware of the rules or deliberately fail to comply.

7.3. There will still be cases, however, where taxpayers fail to report a transaction to HMRC, whether through lack of awareness of their obligations or otherwise.

7.4. For this reason, in addition to the obligation on the person making the disposal, the government intends to require in some circumstances that certain UK advisors involved in the transaction should notify HMRC that a disposal has taken place.

Returning the disposal

7.5. This measure will apply both to those within the Self Assessment (SA) regime (for those liable to CGT) and to those within the Corporation Tax regime.

7.6. Under the current rules for reporting disposals liable to NRCGT, a transaction must be reported by the seller on an electronic form within 30 days of the disposal being completed. If the seller is in the SA regime, they may defer payment until the tax is due under the normal SA processes. Otherwise they must pay within 30 days.

7.7. For transactions within these new rules by non-residents chargeable to CGT, the process will be as for the existing regime for NRCGT. This is the case for both direct and indirect, residential and non-residential disposals.

7.8. For transactions falling within the CT regime the non-resident will be required to register for CT Self-Assessment with HMRC, and will return the gain or loss within that framework, and pay any tax to the corporation tax timescales appropriate for the amount. Again this applies to both direct and indirect, residential and non-residential disposals.

7.9. If the non-resident is within the CT Self-Assessment framework already for other reasons they will use their normal accounting period, but if they are not then the accounting period will be one day long beginning and ending on the date of disposal.

7.10. The process for those who need to register for CT Self-Assessment is likely to involve submission of an electronic form at the time of disposal.

Indirect disposals where the conditions are not met

7.11. Where a non-resident does not meet the condition of owning 25% or more of the property rich entity at the disposal or within five years prior to the disposal, they need not return the disposal.

Indirect disposals: Third-party reporting

7.12. In order to ensure that HMRC is aware of indirect disposals by non-residents, the measure will impose a reporting requirement on certain advisors who are aware of the conclusion of the transaction.

7.13. This requirement is likely to have the following conditions:

- 7.13.1. The advisor is based in the UK
- 7.13.2. The advisor has received fees for advice or services relating to a transaction that could fall within these rules
- 7.13.3. The advisor has reason to believe, in a business capacity, that a contract for disposal of UK property has been concluded that could fall within these rules
- 7.13.4. The advisor cannot reasonably satisfy themselves that the transaction has been reported to HMRC

7.14. The time limit for third-party reporting will be 60 days. This allows time for the non-resident within the CGT regime to report the transaction to HMRC (as required within 30 days), and thereby obtain proof which the advisor can take as satisfaction that the transaction has been reported.

7.15. The government recognises that this is an area that needs to be refined and targeted through careful consultation with affected parties, and welcomes views on how the obligation could be formulated to meet the policy objective without creating unnecessary burdens.

Charges on other group companies

7.16. There will be provisions in respect of recovery of tax from a non-resident company to enable recovery to be made instead from a UK representative of the company, or from a related company[12].

Penalties

7.17. The government proposes that the existing penalties for failure to notify, and for late or incorrect returns will apply to non-residents disposing of UK non-residential property as appropriate for the regime they are in.

7.18. The penalties for late or non-reporting detailed in schedule 23 to the Finance Act 2011 will apply in relation to the proposed reporting requirement on third-parties.

[12] See Chapters 6 and 7 of Part 22 of the Corporation Tax Act 2010

Questions for Chapter 7

Question 24) **Do you foresee any difficulties with the reporting requirements for the seller?**

Question 25) **Do you foresee any difficulties with the charge on the UK group company?**

Question 26) **Do you agree with the proposal to use the normal CT Self-Assessment framework?**

Question 27) **Will the proposed information and reporting requirements lead to an increase in your administrative burdens or costs? Please provide details of the expected one-off and ongoing costs.**

Question 28) **For third-party advisors: what is the best way to ensure the proposed information and reporting requirements do not lead to an undue increase in your administrative burdens or costs? Please provide details of likely one-off and ongoing costs in respect of any options or proposals.**

Question 29) **What channels and methods should HMRC use to raise awareness of this change in the law, to ensure that affected non-residents will know that they are impacted?**

8. Summary of consultation questions

Chapter 2 Scope of the Measure

Question 1) Are there any issues specific to non-residents when considering how they fit into the UK definitions of persons chargeable to UK tax (CGT or CT)?

Question 2) Do you see any issues or complications arising with respect to rebasing which need to be addressed?

Chapter 3 Direct disposals

Question 3) Do you agree with the basic principle that gains on direct disposals within these new rules should be computed using the same computational rules as other chargeable gains?

Question 4) Further to the specific modifications identified, are any other changes needed to recognise differences in how the tax system applies to non-residents?

Question 5) For businesses: Will the proposals for direct disposals mean that your company will now be required to register for UK CT?

Question 6) For businesses: Will the proposals for direct disposals lead to an increase in your administrative burdens or costs? Please provide details of the expected one-off and ongoing costs.

Question 7) For individuals: Will the proposals for direct disposals mean that you will be required to pay Capital Gains tax for the first time?

Chapter 4 Indirect disposals

Question 8) Do you consider that the rules for indirect transactions are fair and effective?

Question 9) Are any other conditions necessary to ensure the policy is robust in meeting the objective of taxing non-residents on gains on indirect disposals?

Question 10) For businesses: Will the proposals for indirect disposals mean that your company will now be required to register for UK CT?

Question 11) For businesses: Will the proposals for indirect disposals lead to an increase in your administrative burdens or costs? Please provide details of the expected one-off and ongoing costs.

Question 12) For individuals: Will the proposals for indirect disposals mean that you will be required to pay Capital Gains tax for the first time?

Chapter 5 Disposals of residential property

Question 13) Do you consider that it is right to harmonise ATED-related CGT given the changes proposed in this document?

Question 14) Are there any issues, risks, or complexities created by harmonising the ATED-related CGT rules in the manner proposed, and how can these be addressed?

Question 15) For businesses: Will the proposals for disposals of residential property mean that your company will now be required to register for UK CT?

Question 16) For businesses: Will the proposals for disposals of residential property lead to an increase in your administrative burdens or costs? Please provide details of the expected one-off and ongoing costs.

Question 17) For individuals: Will the proposals for disposals of residential property mean that you will be required to pay Capital Gains tax for the first time?

Chapter 6 Collective Investment Vehicles

Question 18) Do you agree with the general approach to ownership of non-residential property through CIVs outlined above?

Question 19) Will the proposals for CIVs mean that you will now be required to register for UK tax?

Question 20) Will the proposals for CIVs lead to an increase in your administrative burdens or costs? Please provide details of the expected one-off and ongoing costs.

Question 21) Are there changes needed to the rules for CIVs, particularly around exemptions, to ensure a robust system of taxing non-residents on gains on disposal of interests in UK property?

Question 22) Are there any specific circumstances where the treatment of gains on non-residential UK property should be different to the treatment of gains on UK residential property in the context of a CIV?

Question 23) Do you have any further comments on the taxation of gains on non-residential UK property held through CIVs?

Chapter 7 Reporting and compliance

Question 24) Do you foresee any difficulties with the reporting requirements for the seller?

Question 25) Do you foresee any difficulties with the charge on the UK group company?

Question 26) Do you agree with the proposal to use the normal CT Self-Assessment framework?

Question 27) Will the proposed information and reporting requirements lead to an increase in your administrative burdens or costs? Please provide details of the expected one-off and ongoing costs.

Question 28) For third-party advisors: what is the best way to ensure the proposed information and reporting requirements do not lead to an undue increase in your administrative burdens or costs? Please provide details of likely one-off and ongoing costs in respect of any options or proposals.

Question 29) What channels and methods should HMRC use to raise awareness of this change in the law, to ensure that affected non-residents will know that they are impacted?

9. The consultation process: how to respond

This consultation is being conducted in line with the Tax Consultation Framework. There are five stages to tax policy development:

Stage 1 Setting out objectives and identifying options.

Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 Drafting legislation to effect the proposed change.

Stage 4 Implementing and monitoring the change.

Stage 5 Reviewing and evaluating the change.

This consultation is taking place during Stage 3 of the process. The government has announced its intention to make changes to give effect to the policy objectives set out in this consultation document, and to do so in the way described.

While there are some aspects of detailed policy design that are still open, this consultation is predominantly about ensuring that the objectives stated in the consultation document are achieved without unexpected impacts. Further technical consultation on draft legislation is envisaged, with the legislation coming into force from April 2019.

How to respond

The deadline for responses to this consultation is 16 February 2018.

A summary of the questions in this consultation is included at Chapter 8.

Responses, request for hard copies, and general queries about the content or scope of consultation can be sent by email to

NRCG.Consultation@hmrc.gsi.gov.uk,

or by post to:

NRCG Consultation,
HM Revenue & Customs,
Room 3C/04,
100 Parliament Street,
London,
SW1A 2BQ.

For queries over the phone, you can contact the lead official, James Konya, on 03000 544 525 (from a text phone prefix this number with 18001).

Please do not send consultation responses to the Consultation Coordinator.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio, and Braille) may be obtained free of charge from the above address. This document can also be accessed from HMRC's GOV.UK pages. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentially can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles. The Consultation Principles are available on the Cabinet Office website: http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance

If you have any comments or complaints about the consultation process please contact:

John Pay,
Consultation Coordinator,
Budget Team,
HM Revenue & Customs,
100 Parliament Street,
London,
SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.

Summary of Impacts

Exchequer impact (£m)	2017-18	2018 -19	2019 -20	2020 -21	2021 -22	2022 -23
	+5	+15	+35	+115	+140	+165
	These figures were set out in Table 2.1 of Autumn Budget 2017 and have been certified by the Office of Budget Responsibility. More detail can be found in the policy costings document published alongside Autumn Budget 2017.					
Economic impact	This measure is not expected to have any significant macroeconomic impacts.					
Impact on individuals, households and families	This proposal is expected to affect: • Non-resident individuals and trusts will brought into capital gains tax (CGT) for direct disposals of UK commercial property (i.e. the physical property); and • Non-resident individuals and trusts who will be brought into CGT on gains for indirect disposals (via an envelope, e.g. at share level). These individuals and trusts are expected to incur one-off costs of familiarisation with the new rules, registering for CGT and setting up all the systems and processes needed in order to calculate and pay CGT. On-going costs include keeping records of disposals, calculating the amount of tax due, filing and paying the tax, and notifying HMRC of transactions. The number of individual and trusts affected and the impacts on them will be explored as part of the consultation. Individuals acting in the capacity of advisors will be impacted by the new requirement to notify of indirect transactions. Again this will be explored as part of the consultation. We do not expect there to be any impact on households and families.					
Equalities impacts	It is not anticipated that there will be any particular impacts on groups sharing protected characteristics.					
Impact on businesses and Civil Society Organisations	This measure is expected to affect: • Non-resident companies who will be brought into CT on gains for direct disposals of UK immovable property; • Non-resident companies who will be brought into CT on gains for indirect disposals (via an envelope, e.g. at share level);					

	• Agents assisting with non-resident sellers with the sales process who are now required to inform HMRC of transactions. These businesses are expected to incur one-off costs of familiarisation with the new rules, registering for CT and setting up all the systems and processes needed in order to calculate and pay CT. On-going costs include keeping records of disposals, calculating the amount of CT due, online filing software and paying the CT and, for agents, reporting transactions to HMRC. The number of businesses affected and the impacts on them will be explored as part of the consultation.
Impact on HMRC or other public sector delivery organisations	There are anticipated to be both IT and operational impacts from this proposal for HMRC, and these have been estimated to be in the region of £2.5 million per annum.
Other impacts	Other impacts have been considered and none have been identified.

Annex A:
Relevant current UK legislation

A.1. Section 1 of the Taxation of Chargeable Gains Act 1992 (TCGA 1992) provides, broadly, that companies are chargeable to CT, and not CGT, in respect of chargeable gains accruing to them. Section 5 of the Corporation Tax Act 2009 (CTA 09) limits the charge to CT to UK resident companies, and non-UK resident companies that carry on a trade in the UK through a UK permanent establishment (PE). In the latter case, the chargeable gains are limited to those that arise on disposals of assets that are (or have been) used for the purposes of that PE[13].

A.2. There are comparable rules for persons other than companies in section 2 of TCGA 1992 that require the UK "residence condition" to be met in a tax year in order for a gain to give rise to a CGT charge. Subject to this, an individual who leaves the UK to live abroad and ceases to be resident in the UK will still be taxable on certain gains made in years of assessment for 5 years after they leave the UK if their non-residence is temporary[14].

A.3. There are two specific circumstances where non-residents may be charged to tax on gains, both relating to disposals of UK residential property.

A.4. The first is where the gain is an "ATED-related gain", which applies where there is a disposal of UK residential property that has been subject to the Annual Tax on Enveloped Dwellings (ATED) charge. That proportion of the chargeable gain that is apportioned to the period of ownership for which ATED is payable (and not relieved) is subject to ATED-related CGT at a flat rate of 28%. It applies mainly to disposals by companies and, in some limited circumstances, trustees and individuals, and applies regardless of the residence of the person making the disposal[15].

A.5. The second is where the disposal is chargeable to Non-Resident Capital Gains Tax (NRCGT). NRCGT applies to all disposals of UK residential property by non-resident individuals, trustees etc. and by certain closely-held companies[16]. NRCGT does not apply to that proportion of the gain chargeable to ATED-related CGT.

[13] Sections 10 and 10B TCGA 1992
[14] Section 10A TCGA 1992
[15] Sections 1, 2B and 4(3A) TCGA 1992 and section 2(2A) (a) CTA 2009
[16] Sections 1, 14D and 14F TCGA 1992