

## **1 Disposals of assets by non-UK residents and payments on account etc**

- (1) Schedule 1 amends the law relating to the taxation of chargeable gains so as to—
  - (a) extend the cases in which gains accruing to persons not resident in the United Kingdom are chargeable to tax,
  - (b) abolish the specific charge to tax on ATED-related chargeable gains, and
  - (c) provide that gains accruing to companies are chargeable only to corporation tax.
- (2) That Schedule—
  - (a) makes those amendments in a new Part 1 of TCGA 1992,
  - (b) repeals other provisions contained in the previous version of that Part or in Part 2 of that Act and restates their effect in rewritten form (whether in the new Part 1 or elsewhere), and
  - (c) makes provision that relates to, or is otherwise connected with, the matters mentioned in subsection (1) or this subsection.
- (3) Schedule 2 makes provision—
  - (a) requiring returns and payments on account to be made, for the purposes of capital gains tax and corporation tax, in respect of any direct or indirect disposal of an interest in land in the United Kingdom—
    - (i) by a person not resident in the United Kingdom, or
    - (ii) by a person in the overseas part of a tax year, and
  - (b) requiring returns and payments on account to be made, for the purposes of capital gains tax, in respect of any disposal on which a residential property gain accrues where the disposal is—
    - (i) by a person resident in the United Kingdom, or
    - (ii) by a person not resident in the United Kingdom of an asset connected to the person's branch or agency.

## SCHEDULES

### SCHEDULE 1

Section 1(1)

#### CHARGEABLE GAINS ACCRUING TO NON-RESIDENTS ETC

#### PART 1

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

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

#### **“PART 1**

#### CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

#### **CHAPTER 1**

#### CAPITAL GAINS TAX

#### *Charge to capital gains tax*

#### **1 Capital gains tax**

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

*Territorial scope of charge*

**1A Territorial scope**

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

**1B Non-UK residents: UK branch or agency**

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

- (a) it is situated in the United Kingdom at the time of the disposal and it is, or was, used in or for the purposes of the trade, profession or vocation at or before that time,
  - (b) it is situated in the United Kingdom at that time and it is, or was, used or held for the purposes of the branch or agency at or before that time, or
  - (c) it is acquired for use by or for the purposes of the branch or agency (wherever it is situated at that time).
- (3) Section 1A(3)(a) does not apply to a person who, as a result of Part 2 of TIOPA 2010 (double taxation arrangements), is exempt from income tax for the tax year in respect of the profits or gains of the branch or agency.
- (4) In the case of a profession or vocation carried on by a person, an asset does not have a relevant connection to the person's UK branch or agency if—
- (a) the asset was only used in or for the purposes of the profession or vocation before 14 March 1989, or
  - (b) the asset was only used or held for the purposes of the branch or agency before that date.
- (5) In this Act, unless the context otherwise requires, “branch or agency”—
- (a) means any factorship, agency, receivership, branch or management, but
  - (b) does not include any person within the exemptions in section 82 of the Management Act (general agents and brokers).

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

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

- (4) The grant of an option by a person binding the person to dispose of an interest in UK land is (so far as it would not otherwise be the case) regarded as a disposal of an interest in UK land by the person for the purposes of section 1A(3)(b).
- (5) This does not affect the operation of section 144 in relation to the grant of the option (or otherwise).
- (6) In this section –
  - “franchise” means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls, and
  - “land” includes –
    - (a) buildings and structures, and
    - (b) land under the sea or otherwise covered by water.

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

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

#### *Deduction of allowable losses*

#### **1E Losses deductible only when within scope of tax etc**

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

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

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

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

#### *UK resident individuals with split tax years*

#### **1G Gains accruing to UK resident individuals in split years**

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

#### *Rates of CGT*

#### **1H The main rates of CGT**

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

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

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

- (1) If any of an individual’s income for a tax year is chargeable to income tax at a higher income tax rate, gains accruing to the individual in the tax year are charged –
  - (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
  - (b) at the rate of 20% (if they are other kinds of gains).
- (2) If –
  - (a) none of an individual’s income for a tax year is chargeable to income tax at a higher income tax rate, but

- (b) the individual is chargeable to capital gains tax for the tax year on an amount that exceeds the unused part of the individual's basic rate band,  
the excess ("the higher rate excess") is charged at the rate of 28% (so far as comprising residential property gains or carried interest gains) or at the rate of 20% (so far as comprising other kinds of gains).
- (3) The remainder of this section sets out special rules which apply depending on the nature of the gains within subsection (2)(b).
- (4) If –
- (a) the gains consist of or include gains ("entrepreneur or investor gains") chargeable at the rate of 10% under section 169N(3) or 169VC(2), and
  - (b) the total amount of the entrepreneur or investor gains exceeds the unused part of the individual's basic rate band, that unused part is used fully against those gains.
- (5) The effect of so doing is that other gains comprised in the higher rate excess are then charged –
- (a) at the rate of 28% (if they are residential property gains or carried interest gains), or
  - (b) at the rate of 20% (if they are other kinds of gains).
- (6) If the total amount of the entrepreneur or investor gains does not exceed the unused part of the individual's basic rate band –
- (a) so much of that unused part as is equal to that total amount is used against those gains, and
  - (b) accordingly, the higher rate excess consists only of gains other than entrepreneur or investor gains.
- (7) The individual may allocate so much of the unused part of the individual's basic rate band as then remains to –
- (a) any residential property gains or carried interest gains, or
  - (b) any other gains.
- (8) The effect of the allocation is that the gains to which the allocation is made are charged –
- (a) at the rate of 18% (if they are residential property gains or carried interest gains), or
  - (b) at the rate of 10% (if they are other kinds of gains).
- (9) Any gains to which no allocation is made are charged –
- (a) at the rate of 28% (if they are residential property gains or carried interest gains), or
  - (b) at the rate of 20% (if they are other kinds of gains).

## **1J Section 1I: definitions and other supplementary provision**

- (1) For the purposes of section 1I –
- a "higher income tax rate" means –
- (a) the higher rate or the default higher rate,
  - (b) the savings higher rate, or
  - (c) the dividend upper rate, and



“the unused part of the individual’s basic rate band” means the amount by which the basic rate limit exceeds the individual’s Step 3 income.

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

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

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

*Annual exempt amount*

**1K Annual exempt amount**

- (1) If an individual is (or, apart from this section, would be) chargeable to capital gains tax for a tax year on chargeable gains, the annual exempt amount for the year is to be deducted from those gains (but no further than necessary to eliminate them).
- (2) The annual exempt amount for a tax year is £11,700.
- (3) The annual exempt amount may not be deducted from chargeable gains to which paragraph 2 of Schedule 1 applies (foreign gains of non-UK domiciled individuals accruing in one year and remitted in later year).
- (4) The deduction of the annual exempt amount –
  - (a) is made after the deduction of allowable losses accruing in the tax year, but
  - (b) is made before the deduction of allowable losses accruing in a previous tax year or, if section 62 applies, in a subsequent tax year.
- (5) The annual exempt amount may be deducted from gains in whatever way is most beneficial to a person chargeable to capital gains tax (irrespective of the rate of tax at which the gains would otherwise have been charged).
- (6) An individual is not entitled to an annual exempt amount for a tax year if section 809B of ITA 2007 (claim for remittance basis) applies to the individual for the year.
- (7) For the tax year in which an individual dies and for the next two tax years, this section applies to the individual's personal representatives as if references to the individual were to those personal representatives.
- (8) This section applies in relation to trustees in accordance with the provision made by Schedule 1C.

**1L Increasing annual exempt amount to reflect increases in CPI**

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

*Temporary periods of non-residence*

**1M Temporary non-residents**

- (1) If, in the case of the disposal of an asset by an individual who is temporarily non-resident –
- (a) a gain or loss accrues to the individual in the temporary period of non-residence, and
  - (b) the asset is not excluded from this subsection by section 1N (certain assets acquired in that period),
- the gain or loss is treated instead as accruing to the individual in the period of return.
- (2) If –
- (a) a gain is, as a result of subsection (1), treated as accruing to an individual in a tax year for which the remittance basis applies to the individual,
  - (b) the tax year consists of or includes the period of return, and
  - (c) the gain was remitted to the United Kingdom in the temporary period of non-residence,
- the gain is treated instead as remitted to the United Kingdom in the period of return.
- (3) If –
- (a) an individual is temporarily non-resident, and
  - (b) a gain would, as a result of section 86, have accrued to the individual in a tax year falling wholly or partly in the temporary period of non-residence if the individual had been resident in the United Kingdom for that year,
- the gain is treated instead as accruing to the individual in the period of return (but see also section 86A).
- (4) Nothing in any double taxation arrangements prevents a charge to capital gains tax arising as a result of this section.
- (5) Nothing in this section is to affect a gain or loss which, apart from this section, would be chargeable to capital gains tax or would be an allowable loss.
- (6) For the purposes of this section each of the following expressions has the meaning given by Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance) –
- “the period of return”
  - “temporarily non-resident”
  - “the temporary period of non-residence”.
- (7) In this section the reference to “the remittance basis” applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.

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

- (1) An asset is excluded from section 1M(1) if –
- (a) it was acquired by the individual in the temporary period of non-residence,

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

### *Interpretation*

## **10 Definitions used in Chapter**

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

## **CHAPTER 2**

### CORPORATION TAX ON CHARGEABLE GAINS

#### *Corporation tax on chargeable gains: the general scheme*

## **2 Corporation tax on chargeable gains**

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

## **2A Company’s total profits to include chargeable gains**

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

### *Territorial scope*

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

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

## **2C Non-UK resident company with UK permanent establishment**

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

### *Application of CGT principles etc*

## **2D Application of CGT principles in calculating gains and losses**

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

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

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

## **2F Interaction of capital gains tax and corporation tax**

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

### *Supplementary*

## **2G Assets of a company vested in a liquidator**

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

### CHAPTER 3

#### ATTRIBUTION OF GAINS OF NON-UK RESIDENT CLOSE COMPANIES

##### *Gains of non-UK resident companies not otherwise chargeable*

### 3 Gains attributed to UK resident individuals etc

- (1) This section applies if—
  - (a) a chargeable gain accrues at any time to a non-UK resident close company,
  - (b) the gain is connected to avoidance (see section 3A),
  - (c) the gain is not connected to a foreign trade or other economically significant foreign activities (see section 3A), and
  - (d) apart from this section, the gain would not be chargeable to corporation tax or capital gains tax.
- (2) The gain is apportioned among participators, or indirect participators, in the company—
  - (a) who are resident in the United Kingdom at that time, or
  - (b) who are trustees of a settlement and are not resident in the United Kingdom at that time.
- (3) The amount apportioned is equal to the proportion of the gain corresponding to the extent of the person's interest in the company as a participator or indirect participator.
- (4) That amount is treated as a chargeable gain accruing to the person to whom it is apportioned.
- (5) No apportionment of a gain is made to an individual if—
  - (a) the gain accrues in a tax year which, as respects the individual, is a split year, and
  - (b) the gain accrues in the overseas part of the year.
- (6) No apportionment of a gain is made to a person if the total amount that would, apart from this subsection, be apportioned to—
  - (a) the person, and
  - (b) persons connected to the person,
 is 25% or less of the gain.
- (7) A person ("P") is an "indirect participator" in a company ("A") if—
  - (a) another company ("B") which is a non-UK resident close company is a participator in A, and
  - (b) P is a participator in B or P is a participator in a third non-UK resident close company which is participator in B,
 and so on through any number of non-UK resident close companies that are participators in other non-UK resident close companies.
- (8) P's interest as an indirect participator in A in the case of any gain is determined by—
  - (a) apportioning the gain among the participators in A according to the extent of their respective interests as participators, and



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

### **3A Gains connected to avoidance or foreign activities etc**

- (1) A gain accruing to a company on the disposal of an asset is taken to be “connected to avoidance” unless it is shown that neither—
  - (a) the disposal of the asset by the company, nor
  - (b) the acquisition or holding of the asset by the company,
 formed part of a scheme or arrangements of which the main purpose, or one of the main purposes, was avoidance of liability to capital gains tax or corporation tax.
- (2) A gain is “connected to a foreign trade” if it accrues on the disposal of an asset used only—
  - (a) for the purposes of a trade carried on by the company wholly outside the United Kingdom, or
  - (b) for the purposes of the foreign part of a trade carried on by the company partly within, and partly outside, the United Kingdom,
 and the reference here to the foreign part of a trade is to the part of the trade carried on outside the United Kingdom.
- (3) For this purpose an asset is to be regarded as used only for the purposes of a trade carried on by the company wholly outside the United Kingdom if—
  - (a) the asset is accommodation, or an interest or right in accommodation, situated outside the United Kingdom, and
  - (b) the accommodation has for each relevant period been furnished holiday accommodation of which a person has made a commercial letting.
- (4) Each of the following is a “relevant period”—
  - (a) the period of 12 months ending with the date of the disposal and each of the two preceding periods of 12 months, or
  - (b) if the company has beneficially owned the accommodation (or interest or right) for more than 36 months, the period of 12

months ending with the date of the disposal and each of the preceding periods of 12 months throughout which the company had that beneficial ownership.

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

### **3B Participators and their interests**

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

that interest as a participator is, so far as represented by the beneficial interest, to be treated instead as the interest of the trustees of the settlement.

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

*Prevention of multiple charges*

**3C Prevention of double UK taxation**

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

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

*Non-UK domiciled individuals and temporary non-residents*

### **3D Non-UK domiciled individuals**

- (1) This section applies if, as a result of section 3, an amount in respect of a gain accruing to a company in a tax year is apportioned to an individual who is not domiciled in the United Kingdom in that year.
- (2) The apportioned amount is regarded for the purposes of paragraph 1 of Schedule 1 as accruing on a disposal of a foreign asset if the asset disposed of by the company is a foreign asset (but not otherwise).
- (3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) –
  - (a) treat any consideration obtained by the company on the disposal of the asset as deriving from the apportioned amount, and
  - (b) if that consideration is less than the market value of the asset, treat the asset as deriving from the apportioned amount.
- (4) The apportioned amount may not be reduced or extinguished by a loss under section 3 if –
  - (a) the apportioned amount is regarded for the purposes of paragraph 1 of Schedule 1 as accruing on a disposal of a foreign asset,
  - (b) the remittance basis applies to the individual for the tax year in question, and
  - (c) any of the apportioned amount is remitted to the United Kingdom in a subsequent tax year.
- (5) In this section –
  - “foreign asset” means an asset situated outside the United Kingdom, and
  - a reference to “the remittance basis” applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.

### **3E Temporary non-residents**

- (1) This section applies if –
  - (a) an individual is temporarily non-resident, and
  - (b) a gain or loss accrues to a company in a tax year falling wholly or partly in the temporary period of non-residence.

- (2) So much of the gain as would, as a result of section 3, have been treated as accruing to the individual in the tax year if the residence assumption were made is to be treated as accruing to the individual in the period of return.
- (3) So much of the loss accruing in the tax year as would, in accordance with section 3(9), have reduced or extinguished a gain treated as accruing to the individual in that year as a result of section 3 if the residence assumption were made is to be treated as accruing to the individual in the period of return.
- (4) For the purposes of this section the “residence assumption” is –
  - (a) that the individual was resident in the United Kingdom for the tax year in which the gain or loss accrued to the company, and
  - (b) that the tax year was not a split year as respects the individual.
- (5) Nothing in any double taxation arrangements prevents a charge to capital gains tax arising as a result of this section.
- (6) For the purposes of this section each of the following expressions has the meaning given by Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance) –
  - “the period of return”
  - “temporarily non-resident”
  - “the temporary period of non-residence”.

*Application to groups*

**3F Non-resident groups of companies**

- (1) This section applies, for the purposes of section 3, certain provisions of this Act (modified as mentioned below) in relation to non-resident companies which are members of a non-resident group of companies.
- (2) The applied provisions are –
  - (a) section 41(8),
  - (b) section 171 but as if subsections (1)(b) and (1A) were omitted,
  - (c) section 173 but as if “to which this section applies” in subsections (1)(a) and (2)(a) were omitted, as if “such” in subsections (1)(c) and (2)(c) were omitted and as if subsection (3) were omitted,
  - (d) section 174(4) but as if “at a time when both were members of the group” were substituted for “in a transfer to which section 171(1) applied”,
  - (e) section 175(1) but as if “to which this section applies” were omitted, and
  - (f) section 179 but as if subsections (1)(b) and (1A) were omitted, as if for any reference to a group of companies there were substituted a reference to a non-resident group of companies and as if for any reference to a company there were substituted a reference to a non-resident company.

- (3) In this section –
- “non-resident company” means a company which is not resident in the United Kingdom,
  - “non-resident group of companies” –
    - (a) in the case of a group none of whose members are resident in the United Kingdom, means that group, and
    - (b) in the case of a group some of whose members are not resident in the United Kingdom, means the members which are not resident in the United Kingdom, and
- “group” is to be read in accordance with section 170.

### *Supplementary*

#### **3G Supplementary provisions**

- (1) If tax payable by a person (“P”) as a result of section 3 is paid by –
- (a) the company (“C”) to which the gain accrues, or
  - (b) a company by reference to which P is regarded as an indirect participator in C,
- the amount paid is not a payment to P for tax purposes.
- (2) The reference here to tax purposes is to the purposes of income tax, capital gains tax or corporation tax.
- (3) For the purposes of section 3 the amount of a gain or loss accruing to a company is calculated as if the company were chargeable to corporation tax on the gain.”

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

4 After section 36 insert –

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

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

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

- (a) the assets are held on 5 April 2019,
- (b) there is a disposal after that date, and
- (c) the disposal is a direct or indirect disposal of UK land (within the meaning of that Schedule).”

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

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

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

8 After section 271 insert –

*“Visiting forces and official agents etc*

**271ZA Visiting forces and staff of designated allied headquarters**

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

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

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

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

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

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

12 For Schedule 1 substitute –

“SCHEDULE 1

UK RESIDENT INDIVIDUALS NOT DOMICILED IN UK

*Foreign gains treated as accruing when remitted to UK*

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

*Use of allowable losses against foreign gains remitted in later year*

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

*Matching rules for relieving allowable losses*

- 3 (1) This paragraph applies in the case of an individual for a tax year if—
- (a) the remittance basis applies to the individual for the tax year, and
  - (b) an election under section 16ZA has effect for the tax year.
- (2) Allowable losses accruing to the individual must be matched to chargeable gains accruing to the individual in accordance with paragraph 4.
- (3) If allowable losses are matched to chargeable gains accruing on disposals of foreign assets—
- (a) which actually accrue in the tax year, but
  - (b) which are, as a result of paragraph 1, treated as not accruing in the tax year,
- the amount of those gains is reduced by the matched amount. (and the allowable losses are reduced accordingly).
- (4) So far as allowable losses are matched to other chargeable gains, they are deducted from chargeable gains accruing to the individual in the tax year.
- (5) This is subject to—
- (a) paragraph 2 (no use of allowable losses against foreign gains remitted in later year), and
  - (b) section 1E(4) (prohibition of deduction of losses from gains treated as accruing under section 87, 87K, 87L or 89(2)).



*Rules for matching losses to chargeable gains*

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

*Definitions*

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

13 After Schedule 1 insert –

“SCHEDULE 1A

ASSETS DERIVING 75% OF VALUE FROM UK LAND ETC

PART 1

INTRODUCTION

- 1 This Schedule makes provision, for the purposes of section 1A(3)(c) or 2B(4)(b), for determining in the case of any disposal of any asset –
- (a) whether the asset derives at least 75% of its value from UK land (see Part 2 of this Schedule), and
  - (b) whether the person making the disposal has a substantial indirect interest in the UK land (see Part 3 of this Schedule).

PART 2

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

*The basic rule*

- 2 (1) An asset derives at least 75% of its value from UK land if –
- (a) the asset consists of a right or an interest in a company, and
  - (b) at the time of the disposal, at least 75% of the total market value of the company’s qualifying assets derives (directly or indirectly) from interests in UK land.
- (2) Market value may be traced through any number of companies, partnerships, trusts and other entities or arrangements.
- (3) It is irrelevant whether the law under which a company, partnership, trust or other entity or an arrangement is established or has effect is –
- (a) the law of any part of the United Kingdom, or
  - (b) the law of any territory outside the United Kingdom.
- (4) The assets held by a company, partnership or trust or other entity or arrangement must be attributed to the shareholders, partners, beneficiaries or other participants at each stage in whatever way is appropriate in the circumstances.
- (5) For the purposes of this paragraph –
- “interest in UK land” has the meaning given by section 1C, and
- “qualifying assets” has the meaning given by paragraph 3.
- (6) The provision made by this paragraph is subject to exceptions provided by –
- (a) paragraph 4 (interests in UK land used for trading purposes), and

- (b) paragraph 5 (certain disposals of rights or interests in connected companies).

*Meaning of “qualifying assets”*

- 3 (1) Subject as follows, all of the assets of a company are qualifying assets.
- (2) An asset of a company is not a qualifying asset if it is to any extent matched by a related party liability
- (3) An asset of a company is matched by a related party liability if –
- (a) the asset consists of a right under a transaction (for example, a right under a loan relationship or derivative contract),
  - (b) the right entitles the company to require another person to meet a liability arising under the transaction, and
  - (c) the other person is someone whose assets fall to be taken into account in the tracing exercise mentioned in paragraph 2 or has obligations (whether as a trustee or otherwise) in relation to the holding of assets comprised in any trust or other arrangement that fall to be taken into account in that exercise.
- (4) So far as it would not otherwise be the case, a person is to be regarded as meeting the condition in sub-paragraph (3)(c) if, as determined in accordance with Part 8ZB of CTA 2010, the person is a related party of the company.
- (5) An interest in UK land is a qualifying asset even if it is matched by a related party liability.
- (6) In this paragraph a liability includes a contingent liability (such as one arising as a result of the giving of a guarantee, indemnity or other form of financial assistance).

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

- 4 (1) A disposal of a right or interest in a company is not to be regarded as a disposal of an asset deriving at least 75% of its value from UK land if it is reasonable to conclude that, so far as the market value of the company’s qualifying assets derives (directly or indirectly) from interests in UK land –
- (a) all of the interests in UK land are used for trading purposes, or
  - (b) all of the interests in UK land other than those of an insignificant value are used for trading purposes.
- (2) An interest in UK land is “used for trading purposes” if (and only if), at the time of the disposal –
- (a) it is being used in, or for the purposes of, a qualifying trade, or
  - (b) it has been acquired for use in, or the purposes of, a qualifying trade.
- (3) A trade is a “qualifying” trade if –

- (a) it has been carried on by the company, or by a person connected with the company, throughout the period of one year ending with the time of the disposal on a commercial basis with a view to the realisation of profits, and
  - (b) it is reasonable to conclude that the trade will continue to be carried on (for more than an insignificant period of time) on a commercial basis with a view to the realisation of profits.
- (4) For the purposes of this paragraph, an interest in UK land is regarded as being of insignificant value if, having regard to all the circumstances (including, in particular, anything relating to the value or nature of the company's qualifying assets), it is reasonable to regard the value of the interest as insignificant.

*Exception for certain disposals of rights or interests in connected companies*

- 5 (1) This paragraph applies if –
- (a) there are two or more disposals of rights or interests in companies that are linked with each other,
  - (b) some but not all of the disposals would, apart from this paragraph, be disposals of assets deriving at least 75% of their value from UK land, and
  - (c) if one of the companies included all of the assets of the others, a disposal of a right or interest in it would not be a disposal of an asset deriving at least 75% of its value from UK land.
- (2) None of the disposals are to be regarded as disposals of assets deriving at least 75% of their value from UK land.
- (3) For the purpose of applying sub-paragraph (1)(c) in any case, an asset of a company is to be left out of account if it consists of a right under a transaction (for example, a right under a loan relationship or derivative contract) that entitles it to require –
- (a) another company whose assets fall to be taken into account under that provision in that case, or
  - (b) a person connected with anyone by whom any of the disposals is made,
- to meet a liability arising under the transaction.
- (4) An asset is not to be left out of account if it is an interest in UK land.
- (5) For the purposes of this paragraph a disposal of a right or interest in a company is linked with a disposal of a right or interest in another company if –
- (a) the disposals are made under the same arrangements,
  - (b) the disposals are made by the same person or by persons connected with each other,
  - (c) the disposals are made to the same person or to persons connected with each other, and
  - (d) in the case of each disposal, the person making the disposal is connected with the company in which the right or interest is disposed of.

- (6) For the purposes of this paragraph, the question whether or not a person is connected with another is to be determined immediately before the arrangements are entered into.

### PART 3

#### WHETHER PERSON HAS SUBSTANTIAL INDIRECT INTEREST IN UK LAND

##### *Basic rule*

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

##### *Meaning of "25% investment"*

- 7 (1) A person ("P") has a 25% investment in a company ("C") if—
- (a) P possesses or is entitled to acquire 25% or more of the voting power in C,
  - (b) in the event of a disposal of the whole of the equity in C, P would receive 25% or more of the proceeds,
  - (c) in the event that the income in respect of the equity in C were distributed among the equity holders in C, P would receive 25% or more of the amount so distributed, or
  - (d) in the event of a winding-up of C or in any other circumstances, P would receive 25% or more of C's assets which would then be available for distribution among the equity holders in C in respect of the equity in C.
- (2) In this paragraph references to the equity in C are to—
- (a) the shares in C other than restricted preference shares, or
  - (b) loans to C other than normal commercial loans.
- (3) For this purpose "shares in C" includes—
- (a) stock, and
  - (b) any other interests of members in C.
- (4) For the purposes of this paragraph a person is an equity holder in C if the person possesses any of the equity in C.

- (5) For the purposes of this paragraph—  
“normal commercial loan” means a loan which is a normal commercial loan for the purposes of section 158(1)(b) or 159(4)(b) of CTA 2010, and  
“restricted preference shares” means shares which are restricted preference shares for the purposes of section 160 of CTA 2010.
- (6) In a case where C is a company which does not have share capital, in applying for the purposes of this paragraph the definitions of “normal commercial loan” and “restricted preference shares”—  
(a) sections 160(2) to (7) and 161 to 164 of CTA 2010, and  
(b) any other relevant provisions of that Act,  
have effect with the necessary modifications.
- (7) In this paragraph references to a person receiving any proceeds, amount or assets include—  
(a) the direct or indirect receipt of the proceeds, amount or assets, and  
(b) the direct or indirect application of the proceeds, amount or assets for the person’s benefit,  
and it does not matter whether the receipt or application is at the time of the disposal, distribution, winding-up or other circumstances or at a later time.
- (8) If—  
(a) there is a direct receipt or direct application of any proceeds, amount or assets by or for the benefit of a person (“A”), and  
(b) another person (“B”) directly or indirectly owns a percentage of the equity in A,  
there is, for the purposes of sub-paragraph (7), an indirect receipt or indirect application of that percentage of the proceeds, amount or assets by or for the benefit of B.
- (9) For this purpose the percentage of the equity in A directly or indirectly owned by B is to be determined by applying the rules in sections 1155 to 1157 of CTA 2010 with such modifications (if any) as may be necessary.
- (10) Sub-paragraph (7) is not to result in a person being regarded as having a 25% investment in another person merely as a result of their being parties to a normal commercial loan.
- (11) Any reference in this paragraph, in the case of a person who is a member of a partnership, to the proceeds, amount or assets of the person includes the person’s share of the proceeds, amount or assets of the partnership (apportioning those things between the partners on a just and reasonable basis).

*Attribution of rights and interests*

- 8 (1) In determining for the purposes of paragraph 7 the investment that a person (“P”) has in a company, P is to be taken to have all of the rights and interests of any person connected with P.

- (2) A person is not to be regarded as connected with another person for the purposes of this paragraph merely as a result of their being parties to a loan that is a normal commercial loan for the purposes of paragraph 7.
- (3) Section 286 (connected persons: interpretation) has effect for the purposes of this paragraph—
  - (a) as if, in subsection (2), for the words from “, or is a relative” to the end there were substituted “or is a lineal ancestor or lineal descendant of the individual or of the individual’s spouse or civil partner”, and
  - (b) as if subsections (4) and (8) were omitted.

#### PART 4

#### ANTI-AVOIDANCE

- 9 (1) This paragraph applies if a person has entered into any arrangements the main purpose, or one of the main purposes, of which is to obtain a tax advantage for the person as a result (wholly or partly) of—
  - (a) a provision of this Schedule applying or not applying, or
  - (b) double taxation arrangements having effect despite a provision of this Schedule in a case where the advantage is contrary to the object and purpose of the double taxation arrangements.
- (2) The tax advantage is to be counteracted by the making of such adjustments as are just and reasonable.
- (3) The adjustments may be made (whether by an officer of Revenue and Customs or the person) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (4) The counteraction has effect in a treaty shopping case regardless of section 6(1) of TIOPA 2010.
- (5) This paragraph applies by reference to—
  - (a) arrangements entered into on or after 22 November 2017 in a treaty shopping case, and
  - (b) arrangements entered into on or after 6 July 2018 in any other case.
- (6) In this paragraph—
  - “arrangements” (except in the expression “double taxation arrangements”) includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
  - “double taxation arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010,
  - “tax” means capital gains tax or corporation tax,
  - “tax advantage” includes—
    - (a) relief or increased relief from tax,
    - (b) repayment or increased repayment of tax,

- (c) avoidance or reduction of a charge to tax or an assessment to tax,
- (d) avoidance of a possible assessment to tax,
- (e) deferral of a payment of tax or advancement of a repayment of tax, and
- (f) avoidance of an obligation to deduct or account for tax, and

“treaty shopping case” means a case where this paragraph applies as a result of sub-paragraph (1)(b).”

14 After Schedule 1A insert –

“SCHEDULE 1B

RESIDENTIAL PROPERTY GAINS

*Meaning of “residential property gain”*

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

*Attribution of gain to residential property*

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

A is the number of days in the applicable period on which the land to which the disposal relates consists of or includes a dwelling, and

B is the total number of days in the applicable period.
- (3) There is mixed use of land on any day on which the land consists of –
  - (a) one or more dwellings, and
  - (b) other land.
- (4) If the disposal is of an interest in land subsisting under a contract for the acquisition of land consisting of or including a building that is to be constructed or adapted for use as a dwelling, that land is taken to consist of or include a dwelling throughout the applicable period.
- (5) In this paragraph “the applicable period” means the period –



- (a) beginning with the day on which the person making the disposal acquired the interest in land being disposed of or, if later, the day from which the interest in land became chargeable, and
  - (b) ending with the day before the day on which the disposal occurs.
- (6) For the purposes of this paragraph an interest in land became “chargeable” –
- (a) in any case where the disposal is of an interest in land in the United Kingdom by a person in a tax year in which the person is not UK resident, from 6 April 2015, and
  - (b) in any other case, from 31 March 1982.
- (7) If the interest in land disposed of by the person results from interests in land acquired by the person at different times, the person is regarded for the purposes of this paragraph as having acquired the interest disposed of at the time of the first acquisition.

*Disposing of residential property*

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

*Interest in land*

- 4 (1) For the purposes of this Schedule an “interest in land” means –
- (a) an estate, interest, right or power in or over land, or
  - (b) the benefit of an obligation, restriction or condition affecting the value of an estate, interest, right or power in or over land,
- other than an excluded interest.
- (2) The following interests are “excluded interests” –
- (a) any interest or right held for securing the payment of money or the performance of any other obligation,
  - (b) a licence to use or occupy land,
  - (c) in relation to land in England and Wales or Northern Ireland, a tenancy at will or an advowson, franchise or manor, and

- (d) such other descriptions of interest or right in relation to land as may be specified in regulations made by the Treasury.
- (3) An interest or right is not within sub-paragraph (2)(a) if it is –
  - (a) a rentcharge, or
  - (b) in relation to land in Scotland, a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000.
- (4) The grant of an option by a person binding the person to dispose of an interest in land is (so far as it would not otherwise be the case) regarded as a disposal of an interest in land by the person for the purposes of this Schedule.
- (5) This does not affect the operation of section 144 in relation to the grant of the option (or otherwise).
- (6) In applying the domestic concepts of law mentioned in this paragraph to land outside the United Kingdom, this paragraph is to be read so as to produce the result most closely corresponding with that produced in relation to land in the United Kingdom.
- (7) In this paragraph –
  - “franchise” means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls, and
  - “land” includes –
    - (a) buildings and structures, and
    - (b) land under the sea or otherwise covered by water.

*Dwelling: basic meaning*

- 5 (1) For the purposes of this Schedule a building is a dwelling at any time when –
  - (a) it is used, or suitable for use, as a dwelling and it is not an institutional building, or
  - (b) it is in the process of being constructed or adapted for use as a dwelling.
- (2) Land that at any time is, or is intended to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure) is taken to be part of the dwelling at that time.
- (3) A building is an institutional building if –
  - (a) it is used as residential accommodation for school pupils,
  - (b) it is used as residential accommodation for members of the armed forces,
  - (c) it is used as a home or other institution providing residential accommodation for children,
  - (d) it is used as a home or other institution providing residential accommodation with personal care for persons in need of personal care because of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder,
  - (e) it is used as a hospital or hospice,

- (f) it is used as a prison or similar establishment,
  - (g) it is used as a hotel or inn or similar establishment,
  - (h) it is otherwise used, or suitable for use, as an institution that is the sole or main residence of its residents,
  - (i) it falls within –
    - (i) paragraph 4 of Schedule 14 to the Housing Act 2004 (buildings in England or Wales occupied by students and managed or controlled by their educational establishment etc), or
    - (ii) any corresponding provision having effect in Scotland or Northern Ireland, or
  - (j) it qualifies in accordance with the next sub-paragraph as student accommodation.
- (4) A building qualifies as student accommodation in accordance with this sub-paragraph at any time if the time falls in a tax year in which –
- (a) the accommodation provided by the building includes at least 15 bedrooms,
  - (b) the accommodation is purpose-built, or is converted, for occupation by students, and
  - (c) the accommodation is occupied by students on at least 165 days.
- (5) Accommodation is to be regarded as occupied by persons as students if they occupy it wholly or mainly for undertaking a course of education (otherwise than as school pupils).

*Building temporarily unsuitable for use as a dwelling*

- 6 (1) A building is treated for the purposes of paragraph 5 as continuing to be suitable for use as a dwelling at any time when it has become temporarily unsuitable for use as a dwelling.
- (2) There is an exception to this rule if –
- (a) the temporary unsuitability resulted from accidental damage to the building, and
  - (b) the damage resulted in the building becoming unsuitable for use as a dwelling for a period of at least 90 consecutive days (“the 90 day period”).
- (3) This exception does not apply if the damage occurred in the course of work that –
- (a) was being done for the purpose of altering the building, and
  - (b) itself involved, or could be expected to involve, making the building unsuitable for use as a dwelling for at least 30 consecutive days.
- (4) If the exception applies, work done in the 90 day period to restore the building to suitability for use as a dwelling is not to count for the purposes of paragraph 5 as constructing or adapting the building for use as a dwelling.
- (5) For the purposes of this paragraph –

- (a) references to accidental damage include damage otherwise caused by events beyond the control of the person disposing of the interest in land,
  - (b) references to alteration of a building include its partial demolition, and
  - (c) the 90 day period does not include the day of the disposal (or later days).
- (6) For the purposes of this paragraph a building's unsuitability for use as a dwelling is not regarded as temporary if paragraph 7 applies (disposal of a building that has undergone works).

*Disposal of a building that has undergone works*

- 7 (1) If—
- (a) a person disposes of an interest in land on which a building has been available for use as a dwelling, and
  - (b) as a result of qualifying works, the building has, at or before the time of completion of the disposal, ceased to exist or become unsuitable for use as a dwelling,
- the building is to be regarded for the purposes of paragraph 5 as unsuitable for use as a dwelling throughout the works period.
- (2) For the purposes of this paragraph works are “qualifying” works if—
- (a) any planning permission or development consent required for the works, or for any change of use with which they are associated, has been granted (whether before or after completion), and
  - (b) the works have been carried out in accordance with the permission or consent.
- (3) In this paragraph “the works period” means—
- (a) the period when the works were in progress, and
  - (b) such period (if any) ending immediately before the start of the works throughout which the building was, for reasons connected with the works, not used as dwelling.
- (4) If at any time when qualifying works are in progress—
- (a) the building was undergoing any other work, or put to any other use, in relation to which planning permission or development consent was required but has not (at any time) been granted, or
  - (b) anything else was being done in contravention of a condition or requirement attached to a planning permission or development consent relating to the building,
- the works period does not include that time.
- (5) If sub-paragraph (1) would have applied but for the fact that, at the completion of the disposal, the works are not qualifying works, the works are regarded as not affecting the building's suitability for use as a dwelling at any time before the disposal.

*Other definitions*

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

15 After Schedule 1B insert –

“SCHEDULE 1C

ANNUAL EXEMPT AMOUNT IN CASES INVOLVING SETTLED PROPERTY

*Introductory*

- 1 (1) This Schedule provides for the application of section 1K (in some cases with modifications) in relation to the trustees of a settlement for a tax year.
- (2) The application of this Schedule depends on (among other things) whether or not –

- (a) a settlement is for the benefit of a disabled person, and
  - (b) a settlement is a qualifying UK settlement.
- (3) For the definitions of those expressions, see paragraphs 3 and 7 respectively.
- (4) In this Schedule any reference to the application of section 1K in relation to an individual for a tax year is to its application in relation to an individual who is resident and domiciled in the United Kingdom for the year.

*Settlements for the benefit of disabled persons*

- 2 (1) In the case of a settlement for the benefit of a disabled person for a tax year, section 1K applies in relation to the trustees of the settlement for the year as it applies in relation to an individual for the year.
- (2) This paragraph needs to be read with—
- (a) paragraph 6 (cases where settlement is a qualifying UK settlement comprised in a group), and
  - (b) paragraph 8 (sub-fund settlements).
- 3 (1) A settlement is a “settlement for the benefit of a disabled person” for a tax year if, for the whole or part of that year, settled property is held on trusts which secure that, during the lifetime of a disabled person, the property and income tests are met.
- (2) The property test is met if any of the property which is applied for the benefit of a beneficiary is applied for the disabled person’s benefit.
- (3) The income test is met if either—
- (a) the disabled person is entitled to all of the income (if any) arising from any of the property, or
  - (b) if any income arising from any of the property is applied for the benefit of a beneficiary, it is applied for the disabled person’s benefit.
- (4) A settlement is not prevented from being a settlement for the benefit of a disabled person for a tax year just because—
- (a) the trustees have power to apply amounts (of any nature) not exceeding the de minimis threshold for that year,
  - (b) the trustees have the powers of advancement conferred by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958,
  - (c) the trustees have those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by—
    - (i) proviso (a) of section 32(1) of the Trustee Act 1925, or
    - (ii) section 33(1)(a) of the Trustee Act (Northern Ireland) 1958, or
  - (d) the trustees have powers to the same effect as the powers mentioned in paragraph (b) or (c).

- (5) For the purposes of sub-paragraph (4)(a) “the de minimis threshold” means –
- (a) £3,000, or
  - (b) 3% of the maximum value of the settled property during the tax year,
- whichever is the lower.
- (6) In this paragraph “disabled person” has the meaning given by Schedule 1A to the Finance Act 2005.
- (7) If the income from settled property is held for the benefit of a disabled person (“D”) on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), the reference in this paragraph to D’s lifetime is to be read as a reference to the period during which the income is held on trust for D.
- (8) This paragraph applies for the purposes of this Schedule.
- 4 (1) The Treasury may by order –
- (a) specify circumstances in which paragraph 3(4)(a) is, or is not, to apply, and
  - (b) amend the definition of “the de minimis threshold” in paragraph 3(5).
- (2) The order may –
- (a) make different provision for different purposes, and
  - (b) contain transitional and saving provision.
- (3) A statutory containing an order under this paragraph which reduces the annual exempt amount in any case may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

*Other settlements*

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

*Special rules for qualifying UK settlements comprised in groups*

- 6 (1) This paragraph reduces the annual exempt amount for trustees of a settlement for a tax year if the settlement is one of two or more qualifying UK settlements comprised in a group.
- (2) In the case of a settlement for the benefit of a disabled person for the year, the annual exempt amount for the year is to be reduced so that it is equal to –

- (a) one-tenth of an individual's amount for that year, or
    - (b) the amount resulting from dividing the individual's amount for that year by the number of settlements in the group,

whichever is the greater.
  - (3) In the case of any other settlement, the annual exempt amount for the year is to be reduced so that it is equal to –
    - (a) one-tenth of an individual's amount for that year, or
    - (b) the amount resulting from dividing half of an individual's amount for that year by the number of settlements in the group,

whichever is the greater.
  - (4) In this paragraph “an individual's amount”, in relation to a tax year, means the annual exempt amount applying to an individual for the year under section 1K.
  - (5) For the purposes of this paragraph all qualifying UK settlements in relation to which the same person is the settlor constitute a group.
  - (6) If –
    - (a) two or more persons are settlors in relation to a settlement, and
    - (b) a settlement is consequently comprised in two or more groups comprising different numbers of settlement,

sub-paragraphs (2)(b) and (3)(b) have effect by reference to the largest group.
- 7
- (1) In this Schedule “qualifying UK settlement”, in relation to a tax year, means any settlement in relation to which both of the following conditions are met –
    - (a) the trustees of the settlement are resident in the United Kingdom during any part of the tax year, and
    - (b) the property comprised in the settlement is not held for a charitable or pensions purpose.
  - (2) Property comprised in a settlement is held for a charitable purpose if (and only if) –
    - (a) it is held for charitable purposes only, and
    - (b) it cannot become applicable for other purposes.
  - (3) Property comprised in a settlement is held for a pensions purpose if (and only if) it is held for the purposes of –
    - (a) a registered pension scheme,
    - (b) a superannuation fund to which section 615(3) of the Taxes Act applies, or
    - (c) an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004) that is not a registered pension scheme.
  - (4) For this purposes of any provision of this Schedule other than paragraph 8 a settlement is not a qualifying UK settlement if –



- (a) in the case of one for the benefit of a disabled person, it was made before 10 March 1981, or
- (b) in any other case, it was made before 6 June 1978.

*Special rules for principal settlements and sub-funds*

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

16 After Schedule 4 insert—

“SCHEDULE 4AA

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

PART 1

INTRODUCTION

- 1 (1) Part 2, 3 or 4 of this Schedule applies if—
- (a) a person disposes of an asset that the person held on 5 April 2019,
  - (b) the disposal is either a direct or indirect disposal of UK land, and
  - (c) the disposal is made by a non-resident or a UK resident in the overseas part of a tax year.
- (2) See also paragraph 16 (non-UK resident company holding UK land becoming resident in UK after 5 April 2019).
- (3) For the purposes of this Schedule—

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

## PART 2

### INDIRECT DISPOSALS AND DIRECT DISPOSALS NOT CHARGEABLE BEFORE 6 APRIL 2019

#### *Introduction*

- 2 (1) This Part of this Schedule applies to –
- (a) all indirect disposals of UK land,
  - (b) direct disposals of UK land that were not fully residential before 6 April 2019, and
  - (c) direct disposals of UK land by persons who were not chargeable before 6 April 2019.
- (2) For the purposes of this paragraph a direct disposal of UK land made by a person was “not fully residential before 6 April 2019” if in the period –
- (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 6 April 2015, and
  - (b) ending with 5 April 2019,
- there was no day on which the land to which the disposal relates consisted of or included a dwelling.
- (3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time before 6 April 2019, consisted of or included a building to be constructed or adapted for use as a dwelling, the disposal is taken to be fully residential before that date.

- (4) For the purposes of this paragraph, a disposal is made by a person who was not chargeable before 6 April 2019 if, immediately before that date, the person was –
- (a) a company which was not a closely-held company (see sub-paragraph (5)),
  - (b) a widely-marketed scheme (see sub-paragraph (6)), or
  - (c) a company carrying on life assurance business (as defined in section 56 of the Finance Act 2012) where the interest in UK land was, immediately before that date, held for the purpose of providing benefits to policyholders in the course of that business.
- (5) The question as to whether a company is “a closely-held company” is determined in accordance with Part 1 of Schedule C1; but if –
- (a) the company is a divided company within the meaning of section 14G, and
  - (b) the company would not otherwise be regarded as a closely-held company,
- the company is to be so regarded if the conditions in subsection (3) of that section are met.
- (6) A person is a “widely-marketed scheme” if –
- (a) the person is a scheme within the meaning of section 14F, and
  - (b) condition A or B in that section is met,
- reading the reference in subsection (8)(a) of that section to the non-resident CGT disposal as a reference to the disposal mentioned in paragraph 1(1).
- (7) In determining for the purposes of this paragraph whether or not –
- (a) a person is a closely-held company, or
  - (b) a person is a widely-marketed scheme,
- arrangements are to be ignored if the main purpose of, or one of the main purposes of, them is to secure a tax advantage as a result of the person not being a closely-held company or the person being a widely-marketed scheme.
- (8) In this paragraph –
- (a) “arrangements” and “tax advantage” have the same meaning as in section 16A, and
  - (b) any reference to section 14F, 14G or Schedule C1 are to those provisions as they had effect on 5 April 2019 (before their repeal by Schedule 1 to the Finance Act 2019).

*Re-basing to 5 April 2019*

- 3 (1) In calculating the gain or loss accruing on the disposal it is be assumed that the asset was on 5 April 2019 sold by the person, and immediately reacquired by the person, at its market value on that date.

- (2) This paragraph has effect subject to any election made by the person under paragraph 4 (retrospective basis of calculation).

*Election for retrospective basis of calculation*

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

*Calculation of residential property gain if election made under paragraph 4*

- 5 (1) This paragraph applies if –
- (a) a person makes an election under paragraph 4 in respect of a disposal on which a gain accrues, and
  - (b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.
- (2) Paragraph 2 of Schedule 1B has effect as if –
- (a) sub-paragraphs (5) and (6) of that paragraph were omitted, and
  - (b) in that paragraph, “the applicable period” had the definition given by the next sub-paragraph.
- (3) “The applicable period” means the period –
- (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and
  - (b) ending with the day before the day on which the disposal is made.

PART 3

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

*Introduction*

- 6 (1) This Part of this Schedule applies to any direct disposal of UK land if –
- (a) the person held the interest in UK land being disposed of throughout the period beginning with 6 April 2015 and ending with the disposal, and
  - (b) the disposal was fully residential before 6 April 2019.
- (2) For this purpose a direct disposal of UK land made by a person is “fully residential before 6 April 2019” if in the period –
- (a) beginning with 6 April 2015, and
  - (b) ending with 5 April 2019,

every day on which the land to which the disposal relates consisted of a dwelling.

- (3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time in that period, did not consist of a building to be constructed or adapted for use as a dwelling, the disposal is taken to be not fully residential before 6 April 2019.
- (4) This Part of this Schedule does not apply to a direct disposal of UK land made by a person who was not chargeable before 6 April 2019, as determined for the purposes of paragraph 2.

*Re-basing to 5 April 2015*

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

*Election for retrospective basis of calculation*

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

*Election for straight-line time apportionment*

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

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

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

PART 4

DIRECT DISPOSALS OF ASSETS PARTLY CHARGEABLE BEFORE 6 APRIL 2019

*Introduction*

- 12 (1) This Part of this Schedule applies to any direct disposal of UK land if—
- (a) neither Part 2 nor Part 3 of this Schedule applies to the disposal, and
  - (b) the interest in UK land being disposed of was not a post-April 2015 asset that was fully residential before 6 April 2019.
- (2) For this purpose—

- (a) the interest in UK land being disposed of is a “post-April 2015 asset” if it was acquired by the person after 5 April 2015, and
  - (b) the asset “was fully residential before 6 April 2019” if, in the period beginning with the day on which it was acquired and ending with 5 April 2019, every day on which the land to which the disposal relates consisted of a dwelling.
- (3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time in that period, did not consist of a building to be constructed or adapted for use as a dwelling, the disposal is taken to be not fully residential before 6 April 2019.

*Re-basing to 5 April 2015 and 5 April 2019*

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

*Election for retrospective basis of calculation*

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

*Calculation of residential property gain if election made under paragraph 14*

- 15 (1) This paragraph applies if –
- (a) a person makes an election under paragraph 14 in respect of a disposal on which a gain accrues, and
  - (b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.
- (2) Paragraph 2 of Schedule 1B has effect as if –
- (a) sub-paragraphs (5) and (6) of that paragraph were omitted, and

- (b) in that paragraph, “the applicable period” had the definition given by the next sub-paragraph.
- (3) “The applicable period” means the period—
  - (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and
  - (b) ending with the day before the day on which the disposal is made.

## PART 5

### MISCELLANEOUS

#### *Companies with UK land becoming UK resident after 5 April 2019*

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

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

- 17 (1) This paragraph applies in any case where—
  - (a) the trustees of a settlement cease to be resident in the United Kingdom after 5 April 2019, and
  - (b) the trustees make a direct or indirect disposal of UK land after that date.
- (2) Nothing in Part 2, 3 or 4 of this Schedule applies to the disposal.
- (3) The asset that is disposed of is excepted from the application of section 80(2) (deemed disposal of assets on trustees ceasing to be resident in UK).
- 18 (1) This paragraph applies in any case where—
  - (a) a company ceases to be resident in the United Kingdom after 5 April 2019, and
  - (b) the company makes a direct or indirect disposal of UK land after that date.
- (2) Nothing in Part 2, 3 or 4 of this Schedule applies to the disposal.
- (3) The asset that is disposed of is excepted from the application of section 185(2) and (3) (deemed disposal of assets on company ceasing to be resident in UK).



### *Wasting assets*

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

### *Capital allowances*

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

### *Making of elections*

- 21 (1) An election under any provision of this Schedule is irrevocable.
- (2) An election under any provision of this Schedule must (regardless of section 42(2) of the Management Act) be made by being included in a relevant return relating to the disposal.
- (3) The reference here to an election being included in a relevant return includes its being included as a result of an amendment of the return.
- (4) For the purposes of this paragraph a “relevant return” means—
- (a) in the case of a person other than a company, a return under section 8 or 8A of the Management Act, or
  - (b) in the case of a company, a company tax return under Schedule 18 to the Finance Act 1998,
- or, in either case, a return under Schedule 2 to the Finance Act 2019.
- (5) All such adjustments are to be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as

are required to give effect to an election under any provision of this Schedule.

*Interpretation*

- 22 (1) In this Schedule –
- (a) any reference to an interest in UK land is to be read in accordance with section 1C (and any reference to land is to be read in accordance with that section), and
  - (b) any reference to an asset (other than an interest in UK land) deriving at least 75% of its value from UK land where a person has a substantial indirect interest in that land is to be read in accordance with Schedule 1A.
- (2) If an interest in UK land disposed of by a person results from interests in UK land acquired by the person at different times, the person is regarded for the purposes of this Schedule as having acquired the interest disposed of at the time of the first acquisition.
- (3) For the purposes of this Schedule, whether a building is a dwelling is determined in accordance with Schedule 1B.”
- 17 Omit Schedule 4ZZA (relevant high value disposals: gains and losses).
- 18 Omit Schedule 4ZZB (non-resident CGT disposals: gains and losses).
- 19 Omit Schedule 4ZZC (disposals of residential property interests: gains and losses).

PART 2

CONSEQUENTIAL AMENDMENTS

*TMA 1970*

- 20 In TMA 1970, after section 8B insert –

**“8C Returns so far as relating to capital gains tax**

- (1) This section applies if –
- (a) the amount of chargeable gains accruing to a person in a tax year does not exceed the annual exempt amount for the year applicable to the person under section 1K of the 1992 Act,
  - (b) the total amount or value of the consideration for all chargeable disposals of assets made by the person in the year does not exceed four times that annual exempt amount,
  - (c) the person is not a remittance-basis individual for the year, and
  - (d) a notice under section 8 or 8A is given to the person requiring information for the purpose of establishing the amount in which the person is chargeable to capital gains tax for the year.
- (2) If the person makes a statement confirming the matters set out in subsection (1)(a) to (c), the statement constitutes sufficient compliance with that requirement.

- (3) For the purposes of this section every disposal is a “chargeable disposal” other than—
  - (a) a disposal on which any gain accruing is not a chargeable gain, and
  - (b) a disposal to which section 58 of the 1992 Act applies (spouses and civil partners).
- (4) For the purposes of this section an individual is “a remittance-basis individual” for a tax year if section 809B of ITA 2007, or section 16ZB of the 1992 Act, applies to the individual for the year.”

#### TCGA 1992

21 TCGA 1992 is amended as follows.

22 [...]

#### CTA 2009

23 CTA 2009 is amended as follows.

24 [...]

### PART 3

#### COMMENCEMENT AND TRANSITIONAL PROVISIONS ETC

- 25 (1) The amendments made by this Schedule have effect—
  - (a) for the purposes of capital gains tax, for the tax year 2019-20 and subsequent tax years, and
  - (b) for the purposes of corporation tax, for accounting periods beginning on or after 6 April 2019.
- (2) The amendments made by this Schedule also have effect for the purposes of corporation tax in relation to disposals made on or after 6 April 2019 (whether in their application to accounting periods beginning on, and ending on or after, that date or to later accounting periods).
- 26 (1) This paragraph applies to the following losses—
  - (a) allowable NRCGT losses accruing to a person before 6 April 2019, and
  - (b) ring-fenced ATED-related allowable losses accruing to a person before that date.
- (2) If losses to which this paragraph applies accrued to a company, they are deductible under section 2A(1) of TCGA 1992 so far as not previously deducted from chargeable gains—
  - (a) under section 8(1)(b) of that Act as that provision had effect before the amendments made by this Schedule, or
  - (b) under section 2A(1) of that Act,
 despite the fact that the losses accrued at a time when, had gains accrued instead, the gains would have been chargeable to capital gains tax.
- (3) If losses to which this paragraph applies accrued to any other person, they are to be treated for the purposes of section 1E of TCGA 1992 as if they accrued on a disposal of assets that were within section 1A(3) of that Act.

- (4) In this paragraph –
- (a) the reference to allowable NRCGT losses is to be read in accordance with Schedule 4ZZB to TCGA 1992 (as that Schedule has effect before its repeal by this Schedule), and
  - (b) the reference to ring-fenced ATED-related allowable losses is to be read in accordance with section 2B of that Act (as that section has effect before its repeal by this Schedule).
- 27 (1) This paragraph applies where this Schedule re-enacts in TCGA 1992 (with or without modification) an enactment contained in TCGA 1992 repealed by this Schedule.
- (2) The repeal and re-enactment does not affect the continuity of the law.
- (3) Any subordinate legislation or other thing which –
- (a) has been made or done, or has effect as if made or done, under or for the purposes of the repealed provision, and
  - (b) is in force or effective on 5 April 2019,
- has effect in relation to times after that date as if made or done under or for the purposes of the corresponding provision of TCGA 1992.
- (4) Any reference (express or implied) in any enactment, instrument or document to a provision of TCGA 1992 is to be read as including, in relation to times, circumstances or purposes in relation to which the corresponding repealed provision had effect, a reference to that corresponding provision.
- This sub-paragraph applies only so far as the context permits.
- (5) Any reference (express or implied) in any enactment, instrument or document to a repealed provision of TCGA 1992 is to be read as including, in relation to times, circumstances or purposes in relation to which the corresponding provision has effect, as or (as the context may require) as including a reference to that corresponding provision.
- This sub-paragraph applies only so far as the context permits.
- (6) The generality of this paragraph is not to be affected by specific transitional, transitory or saving provision made elsewhere by this Schedule.
- (7) This paragraph has effect instead of section 17(2) of the Interpretation Act 1978.
- 28 (1) The Treasury may by regulations make provision, in relation to a case in which they consider that a provision of this Schedule changes the effect of the law, for the purpose of returning the effect of the law to what it would have been if this Act had not been passed.
- (2) This power may not be exercised after 5 April 2022.
- (3) Regulations under this paragraph may amend, repeal or revoke any provision made by or under –
- (a) this Schedule or any other provision of this Act, or
  - (b) any other Act.
- (4) Regulations under this paragraph may contain provision having retrospective effect.
- (5) Regulations under this paragraph may contain incidental, supplemental, consequential provision and savings.

- (6) In sub-paragraph (3)(b) “Act” includes an Act of the Scottish Parliament and Northern Ireland legislation.

## SCHEDULE 2

Section 1(3)

### RETURNS FOR DISPOSALS OF LAND ETC

#### PART 1

#### RETURNS AND PAYMENTS ON ACCOUNT: DISPOSALS OF LAND ETC

##### *Disposals to which Schedule applies*

- 1 (1) This Schedule applies to—
- (a) any direct or indirect disposal of UK land made, on or after 6 April 2019, by a non-resident or a UK resident in the overseas part of a tax year, and
  - (b) any disposal made, on or after 6 April 2020, on which a CGT residential property gain accrues where the disposal is by a UK resident or by a non-UK resident of a branch or agency asset,
- but this Schedule does not apply to excluded disposals.
- (2) A disposal is an excluded disposal if—
- (a) it is a disposal on which, as a result of any of the no gain/no loss provisions, neither a gain nor a loss accrues,
  - (b) it is the grant of a lease for no premium to a person not connected with the grantor under a bargain made at arm’s length,
  - (c) it is a disposal by a resident of an asset situated outside the United Kingdom qualifying for double taxation relief, or
  - (d) it is a disposal of an asset situated outside the United Kingdom taxed on the remittance basis.
- (3) The Treasury may by regulations amend sub-paragraph (2).
- (4) See also paragraph 6 for a case where, for certain purposes, a disposal is treated as a disposal to which this Schedule applies.

##### *Obligation to deliver a return to officer of Revenue and Customs*

- 2 (1) If a person makes a disposal to which this Schedule applies, the person—
- (a) must make a return in respect of the disposal, and
  - (b) must deliver the return to an officer of Revenue and Customs on or before the 30th day following the day of the completion of the disposal,
- but this is subject to the exceptions made by sub-paragraphs (2) and (3).
- (2) If—
- (a) a person makes a disposal to which this Schedule applies as a result of paragraph 1(1)(b), and
  - (b) the person would not be liable under paragraph 3 to pay an amount on account of the person’s liability to tax for the chargeable period concerned,

the person is not required to make or deliver a return under this paragraph in respect of the disposal (but this exception is ignored in determining whether paragraph (b) applies).

- (3) A person is not required to make or deliver a return under this paragraph in respect of a disposal if the filing date for the return would otherwise fall on or after –
- (a) the date on which the person has delivered to an officer of Revenue and Customs the person's ordinary tax return containing a self-assessment that takes account of the disposal, or
  - (b) the date on or before which the person has (by notice) been required to deliver to an officer of Revenue and Customs the person's ordinary tax return for the chargeable period concerned.
- (4) If –
- (a) a person makes two or more disposals to which this Schedule applies, and
  - (b) the disposals are made in the same chargeable period with the same completion date,
- the person must make and deliver a single return with respect to the disposals.

*Obligation to make a payment on account*

- 3 (1) This paragraph applies if –
- (a) a person is required to make a return under this Schedule in respect of any disposal, and
  - (b) as at the filing date for the return, an amount of tax is notionally chargeable on the person (as determined in accordance with paragraph 4).
- (2) The person is liable to pay that amount on account of the person's liability to tax for the chargeable period concerned so far as that amount has not already become payable as a result of any previous return under this Schedule in respect of a disposal in that period.
- (3) The amount is payable on the filing date for the return.
- (4) In the case of payments on account of a company's liability to corporation tax on chargeable gains, this paragraph has effect in respect of disposals made on or after such day as may be appointed by the Treasury by order (and different days may be appointed for different purposes).
- (5) For cases where there are repayments of amounts previously paid on account of tax, see paragraphs 5 and 6.

*Calculation of an amount of tax notionally chargeable*

- 4 (1) This paragraph applies for determining the amount of tax (if any) which is notionally chargeable on a person as at the filing date for a return.
- (2) The amount of tax notionally chargeable on the person as at that date is the amount of tax for which the person would be liable for the chargeable period concerned, ignoring, for this purpose, the following disposals –

- (a) disposals which have a completion date later than the completion date of the disposal in respect of which the return is made (but see sub-paragraph (3)), and
  - (b) disposals on which gains accrue but which are not disposals to which this Schedule applies.
- (3) A disposal on which a loss accrues is not to be ignored under sub-paragraph (2)(a) if the time at which the disposal is made (as determined under section 28 of TCGA 1992) falls on or before the completion date of the disposal in respect of which the return is made.

*Repayments of amounts previously paid on account of tax*

- 5 (1) This paragraph applies if –
- (a) a person makes and delivers a return under this Schedule in respect of any disposal,
  - (b) the person has previously paid amounts on account of the person's liability to tax for the chargeable period concerned, and
  - (c) the amounts exceed the amount of tax notionally chargeable on the person as at the filing date for the return.
- (2) The excess is repayable to the person on the filing date for the return.
- (3) In determining the total amount of payments that have, at any time, been made on account of a person's liability to tax for a chargeable period, account must be taken of amounts already repaid under this paragraph.
- 6 (1) If –
- (a) a person makes a disposal on which an allowable loss accrues, and
  - (b) had a gain accrued instead, the disposal would have been one to which this Schedule applies as a result of paragraph 1(1)(b),
- the person may make and deliver a return under this Schedule in respect of the disposal for the purpose of securing the application of paragraph 5.
- (2) Accordingly, the disposal is treated for that purpose as if it were a disposal to which this Schedule applies.
- (3) This paragraph does not apply in respect of a disposal if the filing date for the return which the person would otherwise be entitled to make and deliver falls on or after the date mentioned in paragraph 2(3)(a) or (b).

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

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

*Making of reasonable expectations and estimates etc*

- 8 (1) If, in determining whether a disposal is one to which this Schedule applies –
- (a) a question arises as to whether a provision of TCGA 1992 applies, and
  - (b) the determination of the question requires account to be taken of times after the completion of the disposal,
- it is to be assumed that the provision does apply if, at the time of the completion of the disposal, it is reasonable to expect that it will apply.
- (2) If, at any time after the completion of the disposal, it becomes reasonable to expect that, by reference to the person's residence, a provision of TCGA 1992 will apply (when, at the time of the completion of the disposal, that was not the case), this Schedule is to have effect –
- (a) as if there were an additional disposal which completed at that subsequent time, and
  - (b) as if the additional disposal were in all other respects a replication of the actual disposal.
- (3) A person is not required to make or deliver a return in respect of the additional disposal mentioned in sub-paragraph (2) if doing so would not result in the person becoming liable to pay an amount on account of the person's liability to tax for the chargeable period concerned.
- (4) If, at any time after the completion of the disposal, it becomes reasonable to conclude that a provision of TCGA 1992 conferring a relief applies (when, at the time of the completion of the disposal, that was not the case), the person may (but need not) assume, for the purposes of this Schedule –
- (a) that there is an additional disposal which completed at that subsequent time, and
  - (b) that the additional disposal is in all other respects a replication of the actual disposal.
- (5) In determining the amount of tax notionally chargeable as at the filing date for a return in respect of the additional disposal mentioned in sub-paragraph (2) or (4), the actual disposal mentioned in that sub-paragraph is ignored.
- (6) If, for the purposes of this Schedule, it is necessary to determine whether (and how) section 1I of TCGA 1992 applies, it is reasonable to make estimates of matters relevant to the application of that section.
- (7) For the purposes of this Schedule it is to be assumed that a person has made a claim or election or given a notice if, at the time of the completion of the disposal in respect of which a return is required to be made under this Schedule, it is reasonable to expect that one will be made or given.

*Contents of return*

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



### Interpretation

- 10 (1) In this Part of this Schedule –
- “the chargeable period concerned”, in relation to a disposal, means the chargeable period in which the disposal is made,
  - “the filing date”, in relation to a return in respect of a disposal, means the date on or before which the return in respect of the disposal must be delivered to an officer of Revenue and Customs,
  - “lease” has the meaning given by paragraph 10 of Schedule 8 to TCGA 1992,
  - “ordinary tax return” means –
    - (a) in the case of a person other than a company, a return under section 8 or 8A of TMA 1970, and
    - (b) in the case of a company, a company tax return under Schedule 18 to FA 1998,
  - “premium” has the meaning given by paragraph 10 of Schedule 8 to TCGA 1992,
  - “tax” means capital gains tax or corporation tax on chargeable gains.
- (2) In this Part of this Schedule the “completion” of a disposal is regarded as occurring –
- (a) at the time of the disposal, or
  - (b) if the disposal is under a contract which is completed by a conveyance, transfer or other instrument, at the time when the instrument takes effect.
- (3) In this Part of this Schedule any reference to a direct or indirect disposal of UK land which is made by a non-resident or a UK resident in the overseas part of a tax year is to –
- (a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) of TCGA 1992 because the asset disposed of is within paragraph (b) or (c) of that subsection,
  - (b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) of that Act in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c),
  - (c) a disposal on which a gain accrues that falls to be dealt with by section 2B(4) of that Act, or
  - (d) a disposal of an asset on which a gain does not accrue but which, had a gain accrued, would fall to be dealt with as mentioned in any of the preceding paragraphs of this sub-paragraph.
- (4) In this Part of this Schedule any reference to a disposal on which a CGT residential property gain accrues where the disposal is –
- (a) by a UK resident, or
  - (b) by a non-UK resident of a branch or agency asset,
- is to a disposal on which a residential property gain accrues that falls to be dealt with by section 1A(1) or (3)(a) of TCGA 1992.
- (5) For this purpose –
- (a) the reference to a gain falling to be dealt with by section 1A(1) of TCGA 1992 does not include a gain on a disposal within sub-paragraph (3)(b), and

- (b) “residential property gain” has the meaning given by Schedule 1B to TCGA 1992.
- (6) For the purposes of this Part of this Schedule a disposal “qualifies for double taxation relief” if, at the time of the completion of the disposal, it is reasonable to conclude that a chargeable gain accruing on the disposal will be relieved (to any extent) as a result of Part 2 of TIOPA 2010.
- (7) For the purposes of this Part of this Schedule a disposal is “taxed on the remittance basis” if it is one on which gains accrue that are treated, as a result of paragraph 1 of Schedule 1 to TCGA 1992, as accruing when they are remitted to the United Kingdom.
- (8) This Part of this Schedule has effect as if it were included in TCGA 1992.

## PART 2

### NOTIFICATION OF CHARGEABLE AMOUNTS, AMENDMENTS OF RETURNS, ENQUIRIES ETC

#### *Requirement to notify HMRC of amounts chargeable to tax*

- 11 (1) A person is not required to give a notice under the notification of liability provisions merely by reference to a chargeable gain accruing on a disposal if –
- (a) the person delivers a return under this Schedule in respect of the disposal, and
  - (b) the return is delivered before the end of the notification period within the meaning of those provisions.
- (2) But sub-paragraph (1) does not apply if the amount of tax notionally chargeable on the person as at the filing date for the return (as determined in accordance with paragraph 4) is less than the amount of tax for which the person is liable for the chargeable period concerned.
- (3) In this paragraph “the notification of liability provisions” means –
- (a) in the case of a person other than a company, section 7 of TMA 1970, and
  - (b) in the case of a company, paragraph 2 of Schedule 18 to FA 1998.

#### *Amendments of returns*

- 12 (1) The amendment provisions applicable to ordinary tax returns apply in relation to returns made by a person under this Schedule as they apply in relation to ordinary tax returns, but subject to the following limitation.
- (2) An amendment is permitted only so far as –
- (a) the return under this Schedule could, when originally delivered, have included the amendment by reference to things already done, and
  - (b) reasons are given by the person for making the amendment.
- (3) For the purposes of this paragraph “the amendment provisions applicable to ordinary tax returns” means –
- (a) in the case of a person other than a company, sections 9ZA and 9ZB of TMA 1970, and

- (b) in the case of a company, paragraphs 15 and 16 of Schedule 18 to FA 1998.

### Enquiries

- 13 (1) The enquiry provisions apply in relation to returns made by a person under this Schedule as they apply in relation to ordinary tax returns, but subject as follows.
- (2) If the person is required to deliver an ordinary tax return, the time allowed for giving a notice of enquiry into a return under this Schedule is the same as that allowed for giving a notice of enquiry into the ordinary tax return.
- (3) If the person is not required to deliver an ordinary tax return, the time allowed for giving a notice of enquiry into a return under this Schedule is determined on the assumption that the person was required to deliver an ordinary tax return and that it was delivered at the later of –
- (a) the last day for delivery of ordinary tax returns under the applicable provision, and
  - (b) the day on which the return under this Schedule was delivered.
- (4) If there is an enquiry into a return under this Schedule –
- (a) nothing in paragraph 5 requires any repayment to be made before the day on which the enquiry is completed, but
  - (b) the officer of Revenue and Customs concerned may, at any time before that day, make the repayment, on a provisional basis, to such extent as the officer thinks fit.
- (5) If –
- (a) a notice of enquiry (“the main enquiry notice”) is given at any time into an ordinary tax return for a chargeable period, and
  - (b) a notice of enquiry into a return under this Schedule has not been given, on or before that time, in respect of a disposal to which this Schedule applies which is made in that period,
- the main enquiry notice is also taken to constitute a notice of enquiry into the return under this Schedule in respect of the disposal.
- (6) If –
- (a) a final closure notice (“the main closure notice”) is given at any time which completes an enquiry into an ordinary tax return for a chargeable period, and
  - (b) a final closure notice of an enquiry into a return under this Schedule has not been given, on or before that time, in respect of a disposal to which this Schedule applies which is made in that period,
- the main closure notice is also taken to constitute a final closure notice of the enquiry into the return under this Schedule in respect of the disposal.
- (7) For the purposes of this paragraph “the enquiry provisions” means –
- (a) in the case of a person other than a company, sections 9A and 28A of TMA 1970 and the other provisions of that Act so far as they relate to those sections, and
  - (b) in the case of a company, paragraphs 24 and 32 of Schedule 18 to FA 1998 and the other provisions of that Schedule so far as they relate to those paragraphs.

*Amendments of returns during enquiry etc*

- 14 (1) For other provisions which, as a result of paragraph 12 and 13, are relevant to returns made by a person under this Schedule, see—
- (a) in the case of a person other than a company, sections 9B and 9C of TMA 1970, and
  - (b) in the case of a company, paragraphs 30 and 31 of Schedule 18 to FA 1998.
- (2) In the case of Schedule 3ZA to TMA 1970 (date by which payment to be made after amendment or correction of self-assessment)—
- (a) paragraph 1(2) of that Schedule has effect as if the reference to section 59B(3) and (4) of TMA 1970 included a reference to paragraph 4 of this Schedule, and
  - (b) the other provisions of that Schedule have effect in accordance with the provision made elsewhere by this Part of this Schedule (see, in particular, paragraph 17(2)).
- (3) For provisions of that Schedule relevant to returns made by a person under this Schedule, see—
- (a) paragraph 2 (amendment of return by taxpayer),
  - (b) paragraph 3 (correction of return by HMRC),
  - (c) paragraph 4 (jeopardy amendment by HMRC), and
  - (d) paragraph 5 (amendment of return by closure notice).

*Revenue determinations*

- 15 (1) The Revenue determination provisions applicable to ordinary tax returns apply in relation to returns made by a person under this Schedule as they apply in relation to ordinary tax returns, but subject to the following modifications.
- (2) The modifications are that—
- (a) any reference to being given a notice is to be read as a reference to being required to deliver a return under this Schedule,
  - (b) any reference to the filing date is to be read as a reference to the filing date within the meaning of this Part of this Schedule (but see paragraph (e)),
  - (c) any reference to the amounts to be determined is to be read as a reference to the amount of tax which is notionally chargeable on a person as at the filing date for a return under this Schedule,
  - (d) any reference in any enactment to the purposes for which a determination is to have effect is to be ignored, and
  - (e) the determination may not be made after the end of the period of 3 years beginning with the last day for delivery of an ordinary tax return under the applicable provision for the chargeable period concerned.
- (3) If—
- (a) a determination is made as a result of this paragraph, but
  - (b) it is then superseded by a return made under this Schedule,
- any amount which, as a result of the supersession, is payable or repayable under paragraph 3 or 5 is to be payable or repayable on the filing date for the return.

- (4) For the purposes of this paragraph “the Revenue determination provisions” means –
- (a) in the case of a person other than a company, section 28C of TMA 1970, and
  - (b) in the case of a company, paragraph 36 of Schedule 18 to FA 1998.

#### *Discovery assessments*

- 16 (1) A return made by a person under this Schedule is treated for the purposes of the discovery provisions as if it were an assessment required to be included as part of the person’s ordinary tax return (whether or not the person is actually required to deliver an ordinary tax return).
- (2) References in the discovery provisions to an ordinary tax return for a chargeable period include a return under this Schedule made in respect of a disposal for the chargeable period concerned.
- (3) For the purposes of this paragraph “the discovery provisions” means –
- (a) in the case of a person other than a company, section 29 of TMA 1970 and the other provisions of that Act relating to that section, and
  - (b) in the case of a company, paragraph 41(1) of Schedule 18 to FA 1998 and the other provisions of that Schedule relating to that subparagraph.

#### *Interpretation*

- 17 (1) Expressions have the same meaning in this Part of this Schedule as they have in Part 1 of this Schedule (see paragraph 10).
- (2) A return made by a person under this Schedule is to be treated for the purposes of –
- (a) any provision made by or under TMA 1970, or
  - (b) any provision made by or under Schedule 18 to FA 1998,
- as if it contained a self-assessment of an amount of tax.

### PART 3

#### CONSEQUENTIAL AMENDMENTS

##### *Amendments of TMA 1970*

- 18 (1) TMA 1970 is amended as follows.
- (2) Omit section 7A (disregard of certain NRCGT gains for purposes of section 7.)
  - (3) Omit sections 12ZA to 12ZN (NRCGT returns) and the italic heading before those sections.
  - (4) In section 28A (completion of enquiry into personal or trustee return) –
    - (a) in subsection (1), omit “or 12ZM”, and
    - (b) in the heading, omit “or NRCGT return”.
  - (5) Omit section 28G (determination of amount notionally chargeable where no NRCGT return delivered).

- (6) In section 29 (assessment where loss of tax discovered), omit subsection (7)(a)(ia).
- (7) Omit section 29A (non-resident CGT disposals: determination of amount which should have been assessed).
- (8) In section 34 (ordinary time limit of 4 years), omit subsection (1A).
- (9) In section 42 (procedure for making claims etc), in subsection (11)(a) –
- (a) omit “12ZB”, and
  - (b) after “12AA of this Act” insert “or a return under Schedule 2 to the Finance Act 2019”.

- (10) After section 59A insert –

**“59AZA Payments on account of capital gains tax: disposals of land etc**

For provision requiring payments to be made on account of capital gains tax, see Schedule 2 to the Finance Act 2019.”

- (11) Omit section 59AA (non-resident CGT disposals: payments on account of capital gains tax).
- (12) In section 59B (payment of income tax and capital gains tax: assessments other than simple assessments) –
- (a) in subsection (1)(b), for “or 59AA of this Act” substitute “of this Act or under Schedule 2 to the Finance Act 2019”, and
  - (b) omit subsection (2A).
- (13) In section 59BA (payment of income tax and capital gains tax: simple assessments), in subsection (1)(b), for “or 59AA of this Act” substitute “of this Act or under Schedule 2 to the Finance Act 2019”.

- (14) After section 59E insert –

**“59EA Payments on account of corporation tax: disposals by non-residents of land etc**

For provision requiring payments to be made by companies not resident in the United Kingdom on account of corporation tax, see Schedule 2 to the Finance Act 2019.”

- (15) In section 107A (relevant trustees), in subsection (2)(b) –
- (a) omit “, 59AA”, and
  - (b) after “59B of this Act” insert “or under Schedule 2 to the Finance Act 2019”.
- (16) In section 118 (interpretation), omit the definition of “NRCGT return”.
- (17) In Schedule 3ZA (date by which payment to be made after amendment or correction of self-assessment) –
- (a) in paragraph 1(1), omit “or an advance self-assessment (see section 12ZE(1))”,
  - (b) in paragraph 1(2), omit “59AA(2) or”,
  - (c) in paragraph 2(1), omit “or an amendment of an advance self-assessment under section 12K (amendment of NRCGT return by taxpayer)”.

- (d) in paragraph 2(3), omit “or 12ZN(3)” and “or advance self-assessment”,
- (e) in paragraph 3(1), omit “or 12ZL” and “or NRCGT return”, and
- (f) in paragraph 5(1), omit “or advance self-assessment”.

*Amendments of other Acts*

- 19 (1) TCGA 1992 is amended as follows.
- (2) In section 222A (determination of main residence: disposals by non-residents) –
- (a) in subsection (6)(a), for “the NRCGT return” substitute “the return under Schedule 2 to the Finance Act 2019”, and
  - (b) in subsection (7)(a), for “an NRCGT return” substitute “a return under Schedule 2 to the Finance Act 2019”.
- (3) In section 223A (amount of relief: disposals by non-residents), in subsection (3)(b), for “the NRCGT return” substitute “the return under Schedule 2 to the Finance Act 2019”.
- 20 (1) Schedule 24 to FA 2007 (penalties for errors) is amended as follows.
- (2) In paragraph 1(4) –
- (a) in the entry relating to capital gains tax, in the second column, for “section 12ZB of TMA 1970 (NRCGT return)” substitute “Schedule 2 to FA 2019”, and
  - (b) in the first entry relating to corporation tax, in the second column, after “Schedule 18 to FA 1998” insert “or return under Schedule 2 to FA 2019”.
- (3) In paragraph 21C, for “section 59AA(2) of TMA 1970 (non-resident CGT disposals: payments on account of capital gains tax)” substitute “Schedule 2 to FA 2019”.
- 21 (1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.
- (2) For paragraph 21ZA and the italic heading before it substitute –
- “Application of paragraph 21 in case of returns under Schedule 2 to FA 2019*
- 21ZA(1) For the purposes of paragraph 21 any reference to the making by a person of –
- (a) a return under section 8 or 8A of TMA 1970, or
  - (b) a return under paragraph 3 of Schedule 18 to FA 1998,
- includes the making by the person of a return under Schedule 2 to FA 2019.
- (2) In the application of paragraph 21 in relation to a return under Schedule 2 to FA 2019, the return is to be treated as if it required a self-assessment of an amount of tax.
- (3) For the purposes of paragraph 21, the definition of “the notice of enquiry” in its application to a return under Schedule 2 to FA 2019 needs to be read in the light of the provision made by paragraph 13 of that Schedule.”

- 22 (1) Schedule 55 to FA 2009 (penalty for failure to make returns etc) is amended as follows.
- (2) In the table in paragraph 1(5), in item 2A, in the third column, for “NRCGT return under section 12ZB of TMA 1970” substitute “Return under Schedule 2 to FA 2019 (other than one made under paragraph 6 of that Schedule)”.
- (3) In the table in paragraph 1(5), in the third column, after item 7 insert—

“7A	Corporation tax	Return under Schedule 2 to FA 2019”
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- (4) Schedule 55 to FA 2009, as amended by this paragraph, is taken to have come into force for the purposes of returns under this Schedule on the day on which this Act is passed.

#### *Late payment interest*

- 23 So far as relating to amounts that are payable (or repayable) in respect of capital gains tax as a result of a requirement under this Schedule, sections 101 to 103 of FA 2009 (late payment interest on sums due to HMRC etc) come into force on 6 April 2019.

#### *Commencement*

- 24 (1) Subject as follows, the amendments made by this Part of this Schedule have effect in relation to disposals made on or after 6 April 2019.
- (2) Section 12ZG of TMA 1970 (cases where advance self-assessment not required) continues to have effect in relation to disposals made on or after that date but before 6 April 2020; and that section has effect in relation to those disposals—
- (a) as if references to an NRCGT return were to a return under this Schedule, and
- (b) as if references to section 12ZE(1) of TMA 1970 were to paragraph 3 of this Schedule.
- (3) The amendment made by paragraph 18(14) has effect in accordance with provision made by an order under paragraph 3(4).