

*Status: Point in time view as at 26/06/2020.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, SCHEDULE 5AAA is up to date with all changes known to be in force on or before 29 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 5AAA

#### UK PROPERTY RICH COLLECTIVE INVESTMENT VEHICLES ETC

##### Textual Amendments

- F1** Sch. 5AAA inserted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by Finance Act 2019 (c. 1), **Sch. 1 para. 21**

### PART 1

#### INTRODUCTION: KEY EXPRESSIONS

##### *Meaning of “collective investment vehicle”, “participant” and “unit”*

- 1 (1) In this Schedule “collective investment vehicle” means—
- (a) a collective investment scheme,
  - (b) an AIF,
  - (c) a company which is [<sup>F2</sup>a company UK REIT or is the principal company of a group UK REIT],
  - [<sup>F3</sup>(d) a company which—
    - (i) is resident outside the United Kingdom,
    - (ii) is not a member of a group, and
    - (iii) meets the property income condition,
  - (e) a company which—
    - (i) is resident outside the United Kingdom,
    - (ii) is the principal company of a group,
    - (iii) is not a close company or is a close company but only because it has a qualifying investor as a direct or indirect participant, and
    - (iv) meets the property income condition, or
  - (f) a company which—
    - (i) is resident outside the United Kingdom,
    - (ii) is a member of a group but is not the principal company of the group,
    - (iii) is a close company but only because it has a qualifying investor, or a company wholly (or almost wholly) owned by qualifying investors, as a direct participant, and
    - (iv) meets the property income condition.]
- (2) A company meets the property income condition [<sup>F4</sup>for the purposes of subparagraph (1)(d)] if—

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- (a) it is not a close company or is a close company but only because it has a qualifying investor as a direct or indirect participator,
- (b) at least half of its income [<sup>F5</sup>derives directly or indirectly from long-term property investments],
- (c) it distributes all, or substantially all, of its [<sup>F6</sup>profits from long-term property investments] on an annual basis, and
- (d) it is not liable to tax on [<sup>F7</sup>its profits under the law of any territory in which it is resident so far as the profits derive directly or indirectly from long-term property investments.]

[ A company meets the property income condition for the purposes of sub-<sup>F8</sup>(2A) paragraph (1)(e) or (f) if—

- (a) at least half of the income of the group derives directly or indirectly from long-term property investments,
- (b) all, or substantially all, of the group’s profits from long-term property investments are distributed on an annual basis, and
- (c) the company is not liable to tax on its profits under the law of any territory in which it is resident so far as the profits derive directly or indirectly from long-term property investments.]

(3) Paragraph 46 (meaning of “close company”, “qualifying investor” and “direct or indirect participator”) applies for the purposes of [<sup>F9</sup>this paragraph but, for the purposes of sub-paragraph (1)(f)(iii), paragraph 46 has effect as if sub-paragraph (3) (c) were omitted].

(4) [<sup>F10</sup>For the purposes of this paragraph “long-term property investments” means] direct or indirect investments in—

- (a) land, or
- (b) estates, interests or rights in or over land,

which are made on a long-term basis.

(5) In this Schedule “participant” means—

- (a) in relation to a collective investment scheme or an AIF, a person who takes part in the arrangements or undertaking constituting the scheme or AIF, whether by becoming the owner of, or of any part of, the property that is the subject of or held by the arrangements or undertaking or otherwise, or
- (b) in relation to a company within (1)(c) or (d), a shareholder in the company.

(6) In this Schedule “unit” means—

- (a) in the case of a collective investment scheme or an AIF, the rights or interests (however described) of the participant in the scheme or AIF, or
- (b) in the case of a company within (1)(c) or (d), a share in the company.

(7) In this paragraph—

“AIF” has the meaning given by regulation 3 of the Alternative Investment Fund Managers Regulations 2013, and

[<sup>F11</sup>“profits” does not include profits of a capital nature.]

<sup>F12</sup>  
...

[ For the purposes of this paragraph whether a company is a member of a group, or is <sup>F13</sup>(8) the principal company of a group, is determined in accordance with section 170.]

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### Textual Amendments

- F2** Words in Sch. 5AAA para. 1(1)(c) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(a)**
- F3** Sch. 5AAA para. 1(1)(d)-(f) substituted for Sch. 5AAA para. 1(1)(d) and word (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(b)**
- F4** Words in Sch. 5AAA para. 1(2) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(c)(i)**
- F5** Words in Sch. 5AAA para. 1(2)(b) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(c)(ii)**
- F6** Words in Sch. 5AAA para. 1(2)(c) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(c)(iii)**
- F7** Words in Sch. 5AAA para. 1(2)(d) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(c)(iv)**
- F8** Sch. 5AAA para. 1(2A) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(d)**
- F9** Words in Sch. 5AAA para. 1(3) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(e)**
- F10** Words in Sch. 5AAA para. 1(4) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(f)**
- F11** Words in Sch. 5AAA para. 1(7) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(g)(i)**
- F12** Words in Sch. 5AAA para. 1(7) omitted (10.4.2020) by virtue of [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(g)(ii)**
- F13** Sch. 5AAA para. 1(8) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **3(h)**

### *Meaning of “offshore collective investment vehicle”*

- 2 (1) In this Schedule “offshore collective investment vehicle” means—
- (a) a collective investment vehicle constituted as a body corporate resident outside the United Kingdom,
  - (b) a collective investment vehicle under which property is held on trust for the participants where the trustees of the property are not resident in the United Kingdom, or
  - (c) a collective investment vehicle constituted by other arrangements that create rights in the nature of co-ownership where the arrangements take effect as a result of the law of a territory outside the United Kingdom.

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(2) In this paragraph—

“body corporate” does not include a limited liability partnership, and  
“co-ownership” is not restricted to the meaning of that term in the law of any part of the United Kingdom.

*Meaning of a collective investment vehicle being “UK property rich” etc*

- 3 (1) For the purposes of this Schedule the question whether a collective investment vehicle is “UK property rich” at any time is determined by applying the rules in Part 2 of Schedule 1A [<sup>F14</sup>(but without regard to paragraphs 5 and 6 of that Schedule)] on the following assumptions.
- (2) The assumptions are—
- (a) that (so far as this would not otherwise be the case) the vehicle were a company, and
  - (b) that a disposal were made at that time of a right or interest in that company.
- (3) If that disposal would be regarded for the purposes of Schedule 1A as a disposal of an asset deriving at least 75% of its value from UK land, the vehicle is regarded for the purposes of this Schedule as being UK property rich at that time.
- (4) For the purposes of this Schedule the question whether a company is “UK property rich” at any time is determined by applying the rules in Part 2 of Schedule 1A [<sup>F15</sup>(but without regard to paragraphs 5 and 6 of that Schedule)] on the assumption that a disposal were made at that time of a right or interest in the company.
- (5) If that disposal would be regarded for the purposes of Schedule 1A as a disposal of an asset deriving at least 75% of its value from UK land, the company is regarded for the purposes of this Schedule as being UK property rich at that time.

#### **Textual Amendments**

- F14** Words in Sch. 5AAA para. 3(1) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), 4
- F15** Words in Sch. 5AAA para. 3(4) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), 4

## **PART 2**

### BASIC RULES

#### *Application of Act to offshore CIV*

- 4 (1) This paragraph applies to an offshore collective investment vehicle—
- (a) which is not a company, and
  - (b) which is not constituted by two or more persons carrying on a trade or business in partnership.
- (2) It is to be assumed that, for relevant purposes—

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- (a) the vehicle is a company, and
  - (b) the rights of the participants are shares in that company.
- (3) The reference here to “relevant purposes” means—
- (a) the purposes of this Schedule, and
  - (b) the purpose of applying section 1A(3)(b) or (c) or 2B(4) (and the other provisions of this or any other Act so far as relevant to their application) in relation to the vehicle.
- (4) This paragraph does not apply to a collective investment vehicle in relation to which an election has effect under Part 3 of this Schedule (election for transparency).
- (5) This paragraph applies in relation to a collective investment vehicle to which section 103D applies (tax transparent funds) but does not affect the operation of the rules set out in—
- (a) section 103D(4) to (9) (calculation of gains on disposal of units etc), or
  - (b) section 103DA (share pooling etc).
- (6) If this paragraph applies in relation to a collective investment vehicle, section 99 (application of Act to unit trust schemes) does not apply in relation to the scheme.

**Modifications etc. (not altering text)**

- C1** Sch. 5AAA para. 4(2) modified by 2010 c. 4, s. 269ZZB(9) (as inserted (with effect in accordance with Sch. 4 para. 42 of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [Sch. 4 para. 11](#) (with [Sch. 4 paras. 43-46](#)))

*Units in a CoACS treated as shares in a company*

- 5 (1) This paragraph applies to a unit in an authorised contractual scheme which is a co-ownership scheme where, as a result of the application of section 103D (application of Act to tax transparent funds), the unit is treated as an asset for the purposes of this Act.
- (2) The asset is treated for the purposes of Schedule 1A as if it were a share in a company.

*Disposals by non-UK residents*

- 6 (1) This paragraph applies if—
- (a) a person disposes of an asset that derives at least 75% of its value from UK land (as determined in accordance with Part 2 of Schedule 1A), and
  - (b) the disposal has an appropriate connection to a collective investment vehicle (see sub-paragraphs (3) to (6) for the cases in which this test is met).
- (2) For the purposes of section 1A(3)(c) or 2B(4)(b) (disposals by non-UK residents of assets deriving 75% of value from UK land etc), the person is treated as having a substantial indirect interest in the UK land at the time of the disposal.
- (3) A disposal has an appropriate connection to a collective investment vehicle if the asset disposed of consists of a right or interest in—
- (a) a collective investment vehicle, or
  - (b) a company at least half of whose market value derives from its being a direct or indirect participant in one or more collective investment vehicles.

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- (4) A disposal has an appropriate connection to a collective investment vehicle if—
  - (a) the vehicle is constituted by two or more persons carrying on a trade or business in partnership, and
  - (b) the disposal is made by a person as a participant in the vehicle.
- (5) A disposal has an appropriate connection to a collective investment vehicle if the vehicle is a company and the disposal is made by it.
- (6) A disposal has an appropriate connection to a collective investment vehicle if—
  - (a) a company (which is not the vehicle) makes the disposal, and
  - (b) the vehicle, and one or more other collective investment vehicles that are UK property rich, have a 50% investment in the company.
- (7) Collective investment vehicles have a 50% investment in a company if, applying the rule in paragraph 9 (but without regard to paragraph 10) of Schedule 1A as if references to 25% were references to 50%, the vehicles would be regarded as having a 50% investment in the company at the time of the disposal.
- (8) For this purpose the collective investment [<sup>F16</sup>vehicles] are to be regarded as if they were a single person.
- (9) This paragraph is subject to paragraph 7 (collective investment vehicles expected to have no more than 40% investments in UK land).

#### Textual Amendments

**F16** Word in *Sch. 5AAA para. 6(8)* substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\), regs. 1\(1\), 5](#)

- 7 (1) This paragraph applies to a disposal which would otherwise have an appropriate connection to a collective investment vehicle as a result of paragraph 6(3), (5) or (6).
- (2) A disposal does not have an appropriate connection to a collective investment vehicle if, at the time of the disposal, the vehicle mentioned in paragraph 6(3)(a) or (5) or (6), or each of the vehicles mentioned in paragraph 6(3)(b), meets—
  - (a) the non-UK real estate condition, and
  - (b) the genuine diversity of ownership condition or, if the vehicle is a company, the non-close condition.
- (3) If—
  - (a) a disposal is made as mentioned in paragraph 6(6), and
  - (b) the vehicle mentioned there is constituted by two or more persons carrying on a trade or business in partnership,
 the condition in sub-paragraph (2)(b) is taken to be met if the company mentioned in paragraph 6(6) meets the non-close condition.
- (4) A vehicle meets the non-UK real estate condition at any time if, by reference to the prospectus for the vehicle as the prospectus has effect at that time, no more than 40% of the expected market value of the vehicle's investments is intended to derive from investments consisting of—
  - (a) interests in UK land, or

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- (b) rights or interests in companies which are UK property rich.
- (5) A vehicle meets the genuine diversity of ownership condition at any time if, at that time—
- (a) it meets [<sup>F17</sup>the conditions in regulation 75(2), (3) and (4)(a)] of the Offshore Funds (Tax) Regulations 2009, or
- (b) it meets the condition in regulation 75(5) of those Regulations [<sup>F18</sup>(assuming for this purpose that regulation 75(4)(b) is omitted)],
- and those Regulations apply for the purposes of this sub-paragraph as if any collective investment vehicle which is not an offshore fund were regarded as an offshore fund [<sup>F19</sup>(and see also paragraphs 46A and 51)].
- (6) A company meets the non-close condition at any time if, at that time, it—
- (a) is not a close company, or
- (b) is a close company but only because it has a qualifying investor as a direct or indirect participator.
- (7) Paragraph 46 (meaning of “close company”, “qualifying investor” and “direct or indirect participator”) applies for the purposes of sub-paragraph (6).

#### Textual Amendments

- F17** Words in Sch. 5AAA para. 7(5)(a) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **6(a)**
- F18** Words in Sch. 5AAA para. 7(5)(b) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **6(b)**
- F19** Words in Sch. 5AAA para. 7(5) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **6(c)**

### PART 3

#### ELECTION FOR TRANSPARENCY

##### *Election for collective investment vehicle to be treated as partnership*

- 8 (1) This paragraph applies to an offshore collective investment vehicle—
- (a) which is UK property rich, and
- (b) which is transparent for income tax purposes otherwise than as a result of being constituted by two or more persons carrying on a trade or business in partnership.
- (2) The manager of the vehicle may make an election for the vehicle to be treated for the purposes of—
- (a) this Act, and
- (b) the Management Act, and any other provision of the Corporation Tax Acts, so far as relating to the taxation of chargeable gains,

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as if, in relation to all times on and after its constitution, it were to be regarded as a partnership.

- (3) Accordingly, as a result of sub-paragraph (2)(b), it follows that, in applying rules such as section 1154 of CTA 2010 (meaning of “75% subsidiary” etc) for the purposes of Part 12 of that Act (Real Estate Investment Trusts) so far as relating to the taxation of chargeable gains, the vehicle is to be regarded as a partnership.
- [<sup>F20</sup>(4) Section 12AA of the Management Act applies as a result of sub-paragraph (2) but as if —
- (a) subsection (1) of that section authorised the giving of a notice under subsection (2) or (3) for the purpose of facilitating the amount in which each partner is chargeable to tax on chargeable gains,
  - (b) that section authorised the giving of the notice to the manager of the vehicle, and
  - (c) that section authorised a single notice under subsection (2) or (3) of that section requiring the making and delivery, in accordance with the notice, of a return every year (whether or not any partnership property has been disposed of in the period to which the return relates).]

(5) The election has effect whether or not the vehicle would, but for the making of the election, be regarded as a person chargeable to capital gains tax or corporation tax on chargeable gains.

(6) For the purposes of this paragraph whether or not an offshore collective investment vehicle is regarded as being UK property rich may be determined by reference to the prospectus for the vehicle on the assumption that investments are made by the vehicle in accordance with the prospectus.

(7) For the purposes of this paragraph a collective investment vehicle is “transparent for income tax purposes” if, on the assumption that there are participants who are individuals resident in the United Kingdom, any sums which form part of the income of the vehicle—

    - (a) would be chargeable to income tax on those assumed participants under a provision specified in section 830(2) of ITTOIA 2005 in respect of such of those sums as would be referable to their interests, or
    - (b) if any of that income is derived from assets within the United Kingdom, would be so chargeable had the assets been outside the United Kingdom.

(8) If an election is made under this paragraph in relation to a collective investment vehicle—

    - (a) section 99 (application of Act to unit trust schemes) does not apply in relation to the vehicle, and
    - (b) section 103D (tax transparent funds) does not apply in relation to the vehicle.

#### Textual Amendments

**F20** Sch. 5AAA para. 8(4) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), 7



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### *Further provision about election*

- 9 (1) An election under paragraph 8 in relation to an offshore collective investment vehicle—
- (a) has effect only if the participants in the vehicle at the time at which it is made have consented to the making of the election,
  - (b) must be made by notice given to an officer of Revenue and Customs, and
  - (c) must be made before the end of the period of 12 months beginning with the relevant acquisition date.
- (2) For this purpose “the relevant acquisition date” means the earliest date on which—
- (a) an interest in UK land, or
  - (b) a right or interest in a company that is UK property rich,
- forms part of the property that is the subject of or held by the vehicle.
- (3) An election under paragraph 8 is irrevocable.

[ An election under paragraph 8 must include the following information in the case of <sup>F21</sup>(4) each participant in the vehicle—

- (a) the participant’s name and, if the participant has one, the participant’s unique taxpayer reference,
- (b) the participant’s usual or last known place of residence or the participant’s place of business, and
- (c) in the case of a participant who is an individual, the participant’s date of birth.]

#### **Textual Amendments**

**F21** Sch. 5AAA para. 9(4) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **8**

### *Units in CIVs held by life insurance companies*

- 10 (1) This paragraph applies if an election under paragraph 8 has effect in relation to an offshore collective investment vehicle.
- (2) The election is treated as having no effect for the purposes of this Act in relation to any units in the vehicle which are held by an insurance company for the purposes of its long-term business.

### *Relationship to re-basing rules under Schedule 4AA for non-UK residents*

- 11 (1) This paragraph applies if—
- (a) an election under paragraph 8 has effect in relation to an offshore collective investment vehicle, and
  - (b) as a result of the election, Part 3 or 4 of Schedule 4AA would (but for this paragraph) apply in relation to a disposal made by a participant in the vehicle.
- (2) The disposal is to be regarded for the purposes of Schedule 4AA as if it were one to which Part 2 of that Schedule applies.

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## PART 4

### EXEMPTION

#### *Exemption for qualifying offshore CIV that is UK property rich etc*

- 12 (1) An election may be made for a collective investment vehicle, or a company which is not a collective investment vehicle, to be exempt from corporation tax on chargeable gains accruing to it on—
- (a) all direct disposals of UK land, and
  - (b) all indirect disposals of UK land.
- (2) An election may be made in respect of a collective investment vehicle if each of the following entitlement conditions is met—
- (a) the vehicle is offshore,
  - (b) the vehicle is a company (whether as a result of paragraph 4 or otherwise),
  - (c) the vehicle is UK property rich,
  - (d) the vehicle meets all of the qualifying conditions set out in paragraph 13, and
  - (e) if the vehicle is an AIF, it would also meet the definition of a collective investment vehicle for another reason.
- (3) An election may be made in respect of a company which is not a collective investment vehicle if each of the following entitlement conditions is met—
- (a) the company is wholly (or almost wholly) <sup>F22</sup>and directly] owned by a collective investment scheme which is constituted by two or more persons carrying on a trade or business in partnership or is constituted by a CoACS,
  - (b) the appropriate entity is UK property rich, and
  - (c) the company meets all of the qualifying conditions set out in paragraph 13, and it does not matter where the company is resident.
- [ In sub-paragraph (3)(a) the reference to direct ownership by a collective investment <sup>F23</sup>(3A) scheme is to ownership otherwise than through—
- (a) a company, or
  - (b) a partnership, trust or other entity or arrangements.]

(4) In sub-paragraph (3)(b) the “appropriate entity” means—

    - (a) in a case where the collective investment scheme is constituted by two or more persons carrying on a trade or business in partnership, the company, and
    - (b) in a case where the collective investment scheme is constituted by a CoACS, the CoACS.

(5) If an election is made under this paragraph in respect of a collective investment vehicle—

    - (a) the vehicle is referred to in this Part of this Schedule as “a qualifying fund”, and
    - (b) any reference in this Part of this Schedule to a qualifying fund, in relation to any time after the election is made (including any time after the election ceases to have effect), is to be read as a reference to the arrangements, undertaking or company which met the definition of collective investment vehicle when the election was made.

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- (6) If an election is made under this paragraph in respect of a company which is not a collective investment vehicle—
- (a) the company is referred to in this Part of this Schedule as “a qualifying company”, and
  - (b) any reference in this Part of this Schedule to a qualifying company, in relation to any time after the election is made (including any time after the election ceases to have effect), is to be read as a reference to the company.
- (7) Section 103D (application of Act to tax transparent funds) does not apply for the purpose of determining whether sub-paragraph (3)(a) applies.
- (8) In this paragraph—
- “AIF” has the meaning given by regulation 3 of the Alternative Investment Fund Managers Regulations 2013, and
  - “CoACS” means an authorised contractual scheme which is a co-ownership scheme.

#### Textual Amendments

- F22** Words in Sch. 5AAA para. 12(3)(a) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **9(a)**
- F23** Sch. 5AAA para. 12(3A) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **9(b)**

#### *Qualifying conditions and information provided to HMRC*

- 13 (1) For the purposes of paragraph 12(2), a collective investment vehicle meets the qualifying conditions in this paragraph at any time if, at that time—
- (a) it is a collective investment scheme and it meets the genuine diversity of ownership condition,  
[ it is a collective investment scheme, it meets the UK tax condition and it is wholly (or almost wholly) owned by one or more other collective investment schemes each of which meets the genuine diversity of ownership condition,]
  - <sup>F24</sup>(ab) it is a collective investment scheme, it meets the UK tax condition and it is wholly (or almost wholly) owned by one or more other collective investment schemes each of which meets the genuine diversity of ownership condition,]
  - (b) it is a company (otherwise than as a result of paragraph 4) and it meets the recognised stock exchange condition and the non-close condition, or
  - (c) it is a collective investment vehicle (of any kind) and it meets the UK tax condition and the non-close condition.
- (2) For the purposes of paragraph 12(3), a company which is not a collective investment vehicle meets the qualifying conditions in this paragraph at any time if, at that time, either—
- (a) the company meets the UK tax condition and the non-close condition, or
  - <sup>F25</sup>(b) the collective investment scheme directly owning the company—
    - (i) meets the genuine diversity of ownership condition, or
    - (ii) is wholly (or almost wholly) and directly owned by one or more qualifying partnerships each of which meets the genuine diversity of ownership condition,]
- [ In sub-paragraph (2)(b)—

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- <sup>F26</sup>(2A) (a) references to direct ownership are to ownership otherwise than through—
- (i) a company, or
  - (ii) a partnership, trust or other entity or arrangements, and
- (b) “qualifying partnership” means a collective investment scheme which is constituted by two or more persons carrying on a trade or business in partnership.]
- (3) For the purposes of this paragraph a collective investment scheme meets the genuine diversity of ownership condition at any time if, at that time—
- (a) it meets [<sup>F27</sup>the conditions in regulation 75(2), (3), and (4)(a)] of the Offshore Funds (Tax) Regulations 2009, or
  - (b) it meets the condition in regulation 75(5) of those Regulations [<sup>F28</sup>(assuming for this purpose that regulation 75(4)(b) is omitted)],
- and those Regulations apply for the purposes of this sub-paragraph as if any collective investment scheme which is not an offshore fund were regarded as an offshore fund [<sup>F29</sup>(and see also paragraphs 46A and 51)].
- (4) For the purposes of this paragraph a company meets the recognised stock exchange condition at any time if, at that time—
- (a) it has ordinary share capital, and
  - (b) the shares forming part of its ordinary share capital are regularly traded on a recognised stock exchange.
- (5) For the purposes of this paragraph a company meets the non-close condition at any time if, at that time, it—
- (a) is not a close company, or
  - (b) is a close company but only because it has a qualifying investor as a direct or indirect participator.
- (6) Paragraph 46 (meaning of “close company”, “qualifying investor” and “direct or indirect participator”) applies for the purposes of sub-paragraph (5).
- (7) For the purposes of this paragraph a company meets the UK tax condition at any time if, on the assumption that all of the shares in it were disposed of for their market value at that time, the person making the election reasonably considers at that time that, as a result solely of double taxation arrangements, no more than 25% of the total proceeds would fall to be left out of account for the purposes of this Act.
- [ If any of the proceeds arise to a company which is wholly (or almost wholly) owned
- <sup>F30</sup>(8) by one or more investors to which paragraph 33 applies, the company is to be treated for the purposes of sub-paragraph (7) as if it were exempt from corporation tax in respect of chargeable gains accruing to it otherwise than as a result of double taxation arrangements.]

#### Textual Amendments

**F24** Sch. 5AAA para. 13(1)(ab) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **10(a)**

**F25** Sch. 5AAA para. 13(2)(b) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **10(b)**

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- F26** Sch. 5AAA para. 13(2A) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **10(c)**
- F27** Words in Sch. 5AAA para. 13(3)(a) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **10(d)(i)**
- F28** Words in Sch. 5AAA para. 13(3)(b) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **10(d)(ii)**
- F29** Words in Sch. 5AAA para. 13(3) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **10(d)(iii)**
- F30** Sch. 5AAA para. 13(8) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **10(e)**
- 14 (1) An election under paragraph 12 has effect only if it is accompanied by information of such description as may be specified by an officer of Revenue and Customs about disposals made by participants in the relevant fund at any time in—
- (a) the period of two years ending with the day before the day on which the election is made, or
  - (b) if shorter, the period beginning with the constitution of the relevant fund and ending with the day before the day on which the election is made.
- (2) Information is not required by sub-paragraph (1) to accompany the election so far as—
- (a) it has already been provided to an officer of Revenue and Customs in a form and manner, and at times, specified by an officer of Revenue and Customs, and
  - (b) the election sets out those occasions on which the information has been so provided.
- 15 (1) An election under paragraph 12 has effect subject to such conditions as to the provision of information or documents to an officer of Revenue and Customs as may be specified by an officer of Revenue and Customs.
- (2) The information or documents must be provided to an officer of Revenue and Customs in respect of every period of account of the relevant fund which ends at a time when the election has effect.
- (3) The information or documents must be provided to an officer of Revenue and Customs within the period of 12 months from the end of the period of account.
- (4) The conditions as to the provision of information or documents may include—
- (a) conditions relating to the participants in the relevant fund, and
  - (b) conditions requiring information or documents in respect of the operation of any provision of this Schedule (or any provision of this Act relevant to this Schedule).
- (5) In the case of an election under paragraph 12—
- (a) a designated HMRC officer may revoke the election if, in the officer's opinion, there has been, without reasonable excuse, a breach of any provision made by or under this paragraph, but

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- (b) an officer of Revenue and Customs (whether or not designated) may waive a breach of any provision made by or under this paragraph if, in the officer's opinion, there is no reasonable excuse for the breach but, having regard to all the circumstances, the breach is nonetheless insignificant.
- (6) The circumstances to which the officer may have regard in determining whether a breach is insignificant include the number and seriousness of previous breaches.
- (7) In this paragraph “period of account”, in relation to the relevant fund, means any period for which accounts of the relevant fund are drawn up.
- (8) If the period of account would otherwise be longer than 12 months, the period of account is to be treated for the purposes of this paragraph as split into more than one period of account, and—
  - (a) the first deemed period of account is to be 12 months long, and
  - (b) any subsequent deemed period of account is to start when the previous deemed period of account ends and is to end 12 months later or, if earlier, when the actual period of account ends.

*Exemption for direct or indirect disposals of UK land by persons in which fund invests*

- 16 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company (“Q”),
  - (b) Q is UK property rich by reference (wholly or partly) to particular interests in UK land (“the relevant UK property”), and
  - (c) a person other than Q makes a disposal at a time when the election has effect.
- (2) If—
- (a) the disposal is a direct disposal of any of the relevant UK property by a person, and
  - (b) immediately before the disposal, Q has a 40% investment in the person,
- the appropriate proportion of any gain accruing to the person on the disposal is not a chargeable gain.
- (3) If the disposal is an indirect disposal of UK land in a case where—
- (a) the interests in UK land in question consist of or include any of the relevant UK property, and
  - (b) immediately before the disposal, Q has a 40% investment in the company in question,
- the appropriate proportion of any gain accruing to the person on the disposal is not a chargeable gain.
- (4) For the purposes of this paragraph the “appropriate proportion” means the proportion that so much of the consideration for the disposal as forms part (directly or indirectly) of the assets of Q bears to the total consideration for the disposal.
- (5) For the purposes of this paragraph a person has a 40% investment in a company if, applying the rule in paragraph 9 (but without regard to paragraph 10) of Schedule 1A as if references to 25% were references to 40%, the person would be regarded as having a 40% investment in the company immediately before the disposal.
- (6) In this paragraph—

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“the interests in UK land in question” means the interests in UK land taken into account in determining whether the disposal is an indirect disposal of UK land, and

“the company in question”, in relation to a disposal of a right or interest in a company by the person, means that company.

- (7) If an officer of Revenue and Customs considers that the operation of this paragraph would otherwise result in the total proportion of a gain that is not a chargeable gain exceeding the whole of the gain, the officer may make such adjustments to the appropriate proportion of a gain accruing to any person as the officer considers just and reasonable to prevent that result.

#### *Making of election and period for which it has effect*

- 17 (1) An election under paragraph 12—
- (a) must be made by the relevant fund manager, and
  - (b) must be made by notice given to an officer of Revenue and Customs.
- (2) An election under paragraph 12 must specify the day from which it is to have effect.
- (3) The election has effect in relation to disposals on or after the day specified in the election.
- (4) A day may be specified in the election even if it falls before the day on which the election is made.
- (5) But a day that falls more than 12 months before the day on which the election is made may be specified only if an officer of Revenue and Customs consents.
- (6) For this purpose—
- (a) consent may be given generally (for example, by describing, in a notice published by an officer of Revenue and Customs, cases in which consent is deemed to be given), or
  - (b) consent may be given in relation to particular cases.

#### *Revocation of election*

- 18 (1) In addition to the case set out in paragraph 15(5)(a), a designated HMRC officer may revoke an election under paragraph 12 if, in order to safeguard the public revenue, the officer considers it is appropriate to revoke the election.
- (2) In the case of an election under paragraph 12 which is revoked by a designated HMRC officer (whether under this paragraph or paragraph 15), the revocation must be made by notice given by a designated HMRC officer to the relevant fund manager.
- (3) The relevant fund manager may revoke an election under paragraph 12 by giving notice of the revocation to an officer of Revenue and Customs.
- (4) A notice of revocation of an election under paragraph 12 must specify the day from which the election is to cease to have effect.
- (5) The election ceases to have effect in relation to disposals made on or after the day specified in the notice of revocation.

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- (6) The relevant fund manager may specify a day in a notice of revocation even if the day falls before the day on which the notice is given but only if an officer of Revenue and Customs consent.
  - (7) For this purpose—
    - (a) consent may be given generally (for example, by describing, in a notice published by an officer of Revenue and Customs, cases in which consent is deemed to be given), or
    - (b) consent may be given in relation to particular cases.
- 19 (1) A notice of revocation given by a designated HMRC officer under paragraph 15 or 18 must state the grounds for revoking the election under paragraph 12.
- (2) The relevant fund manager may bring an appeal against the revocation of the election.
  - (3) The appeal must be made by notice given to the designated HMRC officer during the period of 30 days beginning with the day on which the notice of revocation is given.
  - (4) In the case of an appeal which is notified to the tribunal (see Part 5 of the Management Act), the tribunal must not allow the appeal unless it considers that a designated HMRC officer could not reasonably have been satisfied that there were grounds for revoking the election.

*Qualifying fund or company ceasing to meet applicable exemption conditions*

- 20 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made at any time in respect of a qualifying fund or qualifying company, and
  - (b) at any subsequent time, the qualifying fund or qualifying company ceases to meet the applicable exemption conditions.
- (2) The election ceases to have effect from that subsequent time in relation to disposals made at or after that time.
- (3) This paragraph needs to be read with—
- (a) paragraph 27 (temporary period of no more than 30 days during which certain of applicable exemption conditions not met),
  - (b) paragraph 28 (temporary period of no more than 9 months during which applicable exemption conditions not met), and
  - (c) paragraph 30 (steps taken by relevant fund manager to wind up relevant fund).

*Deemed disposal: payments not otherwise taxable where value derived from direct or indirect disposals of UK land*

- 21 (1) This paragraph applies if—
- (a) an election under paragraph 12 that has been made in respect of a qualifying fund or qualifying company has effect at any time,
  - (b) a participant in the relevant fund is entitled to receive an amount at that time (“the relevant time”) which represents, in substance, value derived (directly or indirectly) from a direct disposal of UK land or from the UK land component of an indirect disposal of UK land, and



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- (c) the amount is regarded as being of a revenue nature and does not fall to be taken into account for the purposes of income tax or corporation tax on income [<sup>F31</sup>(whether in the case of the participant or anyone else)].
- (2) In the case of an election made in respect of a qualifying fund, the participant in the relevant fund is deemed for the purposes of this Act—
  - (a) to have sold its units in the relevant fund immediately before the relevant time at their market value immediately before that time, and
  - (b) to have reacquired those units immediately after the relevant time at their market value immediately after that time.
- (3) In the case of an election made in respect of a qualifying company, the participant in the relevant fund is deemed for the purposes of this Act—
  - (a) to have sold its rights and interests in [<sup>F32</sup>the relevant entity] immediately before the relevant time at their market value immediately before that time, and
  - (b) to have reacquired those rights and interests immediately after the relevant time at their market value immediately after that time.
- (4) In this paragraph “the UK land component” of an indirect disposal of UK land means the interests in UK land taken into account in determining whether the disposal is an indirect disposal of UK land.  
[ In this paragraph “the relevant entity” means—  
<sup>F33</sup>(5) (a) in a case where the relevant fund is constituted by a CoACS (within the meaning of paragraph 12), the CoACs, and  
(b) in any other case, the qualifying company.]

#### Textual Amendments

- F31** Words in Sch. 5AAA para. 21(1)(c) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **11(a)**
- F32** Words in Sch. 5AAA para. 21(3)(a) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **11(b)**
- F33** Sch. 5AAA para. 21(5) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **11(c)**

#### *Deemed disposal if election ceases to have effect*

- 22 (1) This paragraph applies if at any time an election which has been made under paragraph 12 in respect of a qualifying fund or qualifying company ceases to have effect.
- (2) In the case of an election made in respect of a qualifying fund, each participant in the relevant fund is deemed for the purposes of this Act—
  - (a) to have sold its units in the relevant fund immediately before that time, and
  - (b) to have immediately reacquired those rights and interests, at their market value immediately before that time.

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- (3) In the case of an election made in respect of a qualifying company, each participant in the relevant fund is deemed for the purposes of this Act—
- (a) to have sold its rights and interests in [<sup>F34</sup>the relevant entity] immediately before that time, and
  - (b) to have immediately reacquired those rights and interests, at their market value immediately before that time.
- [ In this paragraph “the relevant entity” has the same meaning as in paragraph 21.]  
<sup>F35</sup>(4)

#### Textual Amendments

- F34** Words in [Sch. 5AAA para. 22\(3\)\(a\)](#) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **12(a)**
- F35** [Sch. 5AAA para. 22\(4\)](#) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **12(b)**

#### *Gains accruing on disposals under paragraph 21 or 22*

- 23 (1) This paragraph applies if a disposal of an asset is deemed to have been made by a person at any time under—
- (a) paragraph 21, or
  - (b) paragraph 22 but only as a result of paragraph 20 (qualifying fund or qualifying company ceasing to meet the applicable exemption conditions).
- (2) Any gain (“the deemed gain”) accruing to the person on the disposal is treated as accruing to the person in accordance with the rules set out in the remainder of this paragraph.
- (3) If, at the time of the deemed disposal or a subsequent time—
- (a) the person actually disposes of a unit in the relevant fund, or
  - (b) the person receives an amount of a kind mentioned in paragraph 21(1),
- the appropriate portion of the deemed gain is treated as accruing to the person at the time of the actual disposal or the time of the receipt.
- (4) For this purpose “the appropriate portion” means the proportion which—
- (a) the consideration for the actual disposal, or
  - (b) the amount of the receipt,
- bears to the amount of the deemed gain.
- (5) If some of the deemed gain has accrued on one or more previous occasions, the appropriate portion is restricted so that, when added to the appropriate portion or portions on the previous occasion or occasions, it does not exceed 100%.
- (6) In determining the appropriate proportion, so much (if any) of the consideration for the actual disposal or the amount of the receipt as exceeds the amount of the deemed gain is to be ignored.

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- (7) In the case of a disposal under paragraph 21, the remainder of the deemed gain is treated as accruing to the person (unless the whole amount has already accrued) when the relevant fund is wound up.
- (8) In the case of a disposal under paragraph 22, the remainder of the deemed gain is treated as accruing to the person (unless the whole amount has already accrued) at—
  - (a) the end of the period of three years beginning with the time of the deemed disposal, or
  - (b) if earlier, when the relevant fund is wound up.

*Relief for expenses in the case of deemed disposals under paragraph 21 or 22*

- 24
- (1) This paragraph applies if a disposal is deemed to have been made by a person as a result of paragraph 21 or 22.
  - (2) The person is treated for the purposes of section 38(1)(c) as having incurred incidental costs of making the deemed disposal equal to the notional costs.
  - (3) The reference here to the notional costs is to the incidental costs —
    - (a) which the person would reasonably have expected to have incurred if the deemed sale under paragraph 21 or 22 had been an actual sale, and
    - (b) which would have been allowable under section 38(1)(c) if there had been an actual sale.

*Notification to participants in relation to deemed disposals under paragraph 21 or 22*

- 25
- (1) This paragraph applies if—
    - (a) a disposal is deemed to have been made by a person under paragraph 21,
    - (b) a disposal is deemed to have been made by a person under paragraph 22 as a result of the revocation of an election, or
    - (c) an amount is treated as accruing to a person under paragraph 23(7) or (8).
  - (2) The relevant fund manager must notify the person of the matters mentioned in sub-paragraph (1)(a), (b) or (c).
  - (3) The notification—
    - (a) must be in writing, and
    - (b) must be given within the period of 30 days beginning with the relevant time.
  - (4) If this paragraph applies as result of sub-paragraph (1)(a) or (b), “the relevant time” means the time at which the deemed disposal is made.
  - (5) If this paragraph applies as result of sub-paragraph (1)(c), “the relevant time” is the time at which the amount is treated as accruing.
- 26
- (1) A person who fails to comply with paragraph 25 is liable to a penalty not exceeding £3,000.
  - (2) If—
    - (a) there is a failure to comply with that paragraph, and
    - (b) there are two or more persons who are the relevant fund managers each of whom is subject to the duty to notify under that paragraph,

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the total amount of the penalties to which those managers (taken together) are liable is not to exceed £3,000.

- (3) If a person becomes liable to a penalty under this paragraph, an officer of Revenue and Customs must—
  - (a) assess the penalty, and
  - (b) notify the person.
- (4) The assessment must be made within the period of 12 months beginning with the day on which an officer of Revenue and Customs first becomes aware that the person has failed to comply with paragraph 25.
- (5) A person may, by notice, appeal against a decision of an officer of Revenue and Customs that a penalty is payable under this paragraph.
- (6) Notice of appeal under this paragraph must specify the grounds of appeal.
- (7) Notice of appeal under this paragraph must be given—
  - (a) within 30 days after the penalty was notified to the person,
  - (b) to the officer of Revenue and Customs who notified the person.
- (8) A penalty under this paragraph must be paid before the end of the period of 30 days beginning with—
  - (a) the day on which the person was notified of the penalty, or
  - (b) if notice of appeal against the penalty is given, the day on which the appeal is finally determined or withdrawn.

*Temporary period during which applicable exemption conditions not met*

- 27 (1) This paragraph applies if—
  - (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company (“Q”),
  - (b) Q ceases at any time (“the relevant time”) to meet the applicable exemption conditions otherwise than as a result of the vehicle or appropriate entity ceasing to be UK property rich (see paragraph 12(2)(c) or (3)(b)),
  - (c) the election would (but for this paragraph) have, accordingly, ceased to have had effect under paragraph 20 from the relevant time,
  - (d) the relevant fund manager expects Q to meet the applicable exemption conditions within 30 days, and
  - (e) Q does meet those conditions within 30 days.
- (2) The failure by Q to meet the applicable exemption conditions is to be ignored for the purposes of this Part of this Schedule.
- (3) In this paragraph any reference to Q meeting the applicable exemption conditions within 30 days is to Q meeting those conditions before the end of the period of 30 days beginning with the day on which the relevant time falls.
- (4) This paragraph does not apply on more than four occasions in any period of 12 months.
- 28 (1) This paragraph applies if—
  - (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company,

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- (b) but for this paragraph, the election would, as a result of paragraph 20, have ceased to have effect from a particular time for all purposes of this Part of this Schedule (“the relevant time”),
  - (c) the relevant fund manager expects the failure to meet the applicable exemption conditions to last for a temporary period, and
  - (d) at the end of the temporary period, the qualifying fund or qualifying company does meet those conditions.
- (2) It is to be assumed that, for the purposes of any provision of this Part of this Schedule other than paragraph 22, the qualifying fund or qualifying company continues to meet the applicable exemption conditions during the temporary period.
- (3) Accordingly—
- (a) a deemed disposal occurs under paragraph 22 by reference to the failure to meet the applicable exemption conditions, but
  - (b) subject to that, the election continues to have effect during the temporary period.
- (4) A period is not to be regarded as a temporary period for the purposes of this paragraph if it is longer than a period of 9 months beginning with the relevant time.
- (5) This paragraph does not apply if paragraph 27 applies.
- 29 (1) This paragraph applies if paragraph 28 has applied in relation to a qualifying fund or qualifying company on one or more occasions.
- (2) Paragraph 23(8) has effect as if, for the words from “at—” to the end, there were substituted “ when the relevant fund is wound up. ”

*Steps taken by relevant fund manager to wind up relevant fund*

- 30 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company,
  - (b) but for this paragraph, the election would, as a result of paragraph 20, have ceased to have effect from a particular time (“the relevant time”) for all purposes of this Part of this Schedule, and
  - (c) the relevant time occurs at a time when the relevant fund manager is taking steps with a view to the disposal of all of the assets of the relevant fund so that it can be wound up.
- (2) It is to be assumed that, for the purposes of any provision of this Part of this Schedule other than paragraph 22, the qualifying fund or qualifying company continues to meet the applicable exemption conditions until the relevant fund is wound up.
- (3) Accordingly—
- (a) a deemed disposal occurs under paragraph 22 by reference to the failure to meet the applicable exemption conditions, but
  - (b) subject to that, the election continues to have effect until the relevant fund is wound up.

*Deemed disposals of UK land by companies previously owned by fund*

- 31 (1) This paragraph applies if—

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- (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company (“Q”),
  - (b) Q, or a company covered by the election, disposes of all of its rights and interests in another company (“C”) which is UK property rich, and
  - (c) C is covered by the election.
- (2) C is deemed for the purposes of this Act—
- (a) to have sold, at the relevant time, the appropriate proportion of every qualifying asset the actual disposal of which by C would be a direct or indirect disposal of UK land, and
  - (b) to have reacquired the appropriate proportion of the asset immediately after the relevant time,
- at its market value at the relevant time.
- (3) In the case of a disposal, a company is “covered by the election” for the purposes of this paragraph if the disposal is one to which paragraph 16 applies where the election concerned is the one referred to in this paragraph.
- (4) For the purposes of this paragraph “the appropriate proportion” of an asset is equal to whatever would be, for the purposes of paragraph 16, the appropriate portion of any gain if it is assumed—
- (a) that C had sold the asset at the relevant time, and
  - (b) that the total consideration for that sale was such that it results in a gain of £100 accruing to C.
- (5) For the purposes of this paragraph, an asset is a “qualifying asset” if, throughout the period of one year ending with the day on which the disposal of the asset is made, the asset has been held by C or any other company covered by the election or by Q.
- (6) In this paragraph “the relevant time” means the time immediately before the disposal of all the rights and interests in C.

*Deemed disposals of UK land by company or fund ceasing to be qualifying etc*

- 32 (1) This paragraph applies if—
- (a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company (“Q”),
  - (b) the election has had effect for a continuous period of at least five years, and
  - (c) either the election ceases to have effect (otherwise than in disqualifying circumstances) or the relevant fund manager starts to take steps with a view to the disposal of all of the assets of the relevant fund so that it can be wound up.
- (2) Q is deemed for the purposes of this Act—
- (a) to have sold, at the relevant time, every asset the actual disposal of which by Q would be a direct or indirect disposal of UK land, and
  - (b) to have reacquired the asset immediately after the relevant time,
- at its market value at the relevant time.
- (3) In the case of any asset covered by the election for 12 months and held by a company at the relevant time, the company is deemed for the purposes of this Act—
- (a) to have sold, at the relevant time, the appropriate proportion of the asset, and

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- (b) to have reacquired the appropriate proportion of the asset immediately after the relevant time,  
at its market value at the relevant time.
- (4) For the purposes of sub-paragraph (3) an asset held by a company at the relevant time has been “covered by the election for 12 months” if, assuming the asset were disposed of at the relevant time, the disposal would have been one to which paragraph 16 applied by reference to the election.
- (5) For the purposes of sub-paragraph (3) “the appropriate proportion” of an asset is equal to whatever would be, for the purposes of paragraph 16, the appropriate portion of any gain if it is assumed—
  - (a) that the company had sold the asset at the relevant time, and
  - (b) that the total consideration for that sale was such that it results in a gain of £100 accruing to it.
- (6) For the purposes of this paragraph the election ceases to have effect in “disqualifying circumstances” if—
  - (a) it ceases to have effect as a result of a notice of revocation under paragraph 15(5)(a) in a case where a designated officer of Revenue and Customs is of the opinion that there have been at least three serious breaches of provision made by or under paragraph 15 during the period for which the election has had effect, or
  - (b) it ceases to have effect as a result of a notice of revocation under paragraph 18(1).
- (7) In this paragraph “the relevant time” means the time immediately before—
  - (a) the election ceases to have effect, or
  - (b) the relevant fund manager starts to take steps with a view to the disposal of all or the assets of the relevant fund so that it can be wound up.
- (8) For the purposes of this paragraph an election made under paragraph 12 in respect of Q is taken to be the same election as one made at a subsequent time in respect of another qualifying fund or qualifying company (“A”) if, at the subsequent time, Q is wholly owned by A.

*Exemption for disposals by companies wholly owned by certain investors*

- 33 [F<sup>36</sup>(1) This paragraph applies in the case of—
- (a) a collective investment vehicle in respect of which an election under paragraph 8 has been made (a “transparent fund”),
  - (b) a qualifying fund or qualifying company in respect of which an election under paragraph 12 has been made,
  - (c) a company which is a company UK REIT or is the principal company of a group UK REIT, or
  - (d) an open-ended investment company to which Part 4A of the Authorised Investment Funds (Tax) Regulations 2006 applies and which is UK property rich (a “PAIF”);
- and a reference in the remainder of this paragraph to the fund concerned is to the transparent fund, the relevant fund, the company UK REIT or principal company, or the PAIF (as the case may be).

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(2) If—

- (a) a participant in the fund concerned disposes of a unit in the fund concerned, and
  - (b) the participant is a company which is wholly (or almost wholly) owned by one or more investors to which this paragraph applies,
- any gain accruing on the disposal is not a chargeable gain.]

[ If a company which is wholly (or almost wholly) owned by one or more investors to  
<sup>F37</sup>(2A) which this paragraph applies disposes of a right or interest in a company whose assets consist wholly of units in the fund concerned, any gain accruing on the disposal is not a chargeable gain.]

[<sup>F38</sup>(3) Nothing in paragraph 21 is to result in a deemed disposal of an asset held by—

- (a) an investor to which this paragraph applies who is not an insurance company, or
- (b) a company which is wholly (or almost wholly) owned by one or more investors to which this paragraph applies each of whom is not an insurance company.]

(4) Each of the following is an investor to which this paragraph applies—

- (a) any person who is a qualifying institutional investor within the meaning of Schedule 7AC (substantial shareholding exemption),
- (b) a company carrying on life assurance business where, immediately before the disposal, its right or interest in the participant is an asset which, applying the rules in section 138 of the Finance Act 2012, is wholly matched to a liability of its life assurance business that is not BLAGAB,
- (c) a company carrying on long-term business none of which is BLAGAB where, immediately before the disposal, its right or interest in the participant is an asset held for the purposes of its long-term business, and
- (d) a qualifying fund or qualifying company in respect of which an election under paragraph 12 has effect.

(5) In this paragraph “BLAGAB” means basic life assurance and general annuity business.

#### Textual Amendments

- F36** Sch. 5AAA para. 33(1)(2) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **13(a)**
- F37** Sch. 5AAA para. 33(2A) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **13(b)**
- F38** Sch. 5AAA para. 33(3) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **13(c)**



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### *f<sup>F39</sup> Disapplication of paragraphs 5 and 6 of Schedule 1A*

#### **Textual Amendments**

**F39** Sch. 5AAA para. 33A and cross-heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **14**

- 33A. (1) If—
- (a) an election under paragraph 12 has been made in respect of a collective investment vehicle, and
  - (b) there is a disposal of a unit in the vehicle,
- nothing in paragraph 5 or 6 of Schedule 1A (exceptions) applies to the disposal.
- (2) If—
- (a) an election under paragraph 12 has been made in respect of a qualifying company, and
  - (b) there is a disposal of a unit in the relevant fund,
- nothing in paragraph 5 or 6 of that Schedule applies to the disposal so far as it constitutes a disposal of a right or interest in the qualifying company.]

#### *Disapplication of paragraph 3A of Schedule 7AC: qualifying institutional investors*

- 34 (1) This paragraph applies if—
- (a) a gain or loss accrues to a company (“the investing company”) which has ordinary share capital owned by one or more qualifying institutional investors,
  - (b) some of the gain or loss is not chargeable or allowable as a result of paragraph 16(3), and
  - (c) some or all of the ownership of the qualifying institutional investors in the investing company is through the company which is Q for the purposes of paragraph 16(3).
- (2) The ownership of the qualifying institutional investors in the investing company is to be ignored for the purpose of applying the exemption conferred by paragraph 3A of Schedule 7AC so far as the ownership is through Q.
- (3) In this paragraph “qualifying institutional investors” has the same meaning as in Schedule 7AC.
- (4) Paragraph 3B of Schedule 7AC (meaning of “ownership”) applies for the purposes of this paragraph as it applies for the purposes of paragraph 3A of that Schedule.

#### *Relationship between rules in this Part and REIT rules in Part 12 of CTA 2010*

- 35 (1) Nothing in this Part of this Schedule is to exempt so much of any qualifying REIT gain as accrues on a disposal made by a company which is, or is a member of, a UK REIT.
- (2) A chargeable gain is a “qualifying REIT gain” so far as—
- (a) the gain is not a chargeable gain as a result of section 535 or 535A of CTA 2010, and

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- (b) the gain is not one falling to be exempted as a result of the application of either of those sections following a notice given under section 586(1) or 587(1) of that Act (venturing group).
- (3) In this paragraph “UK REIT” has the same meaning as in Part 12 of CTA 2010.
- 36 (1) This paragraph applies if—
- (a) a gain accrues on a disposal made by a company (“the JV company”) which is a member of a group UK REIT,
- (b) the gain is one falling to be exempted as a result of the application of section 535 or 535A of CTA 2010 following a notice given under section 586(1) or 587(1) of that Act (venturing group),
- (c) the principal company of the group UK REIT that gave the notice is covered by an election made under paragraph 12 in respect of a qualifying fund, and
- (d) the JV company is also covered by the election.
- (2) The amount of the gain accruing to the JV company which is not a chargeable gain as a result of the operation, by reference to the election, of the rules in this Part of this Schedule—
- (a) is found by first taking the two steps mentioned below (which require the application of each of the exemption rules without regard to the other), and
- (b) once those two steps are taken, is so much of the amount found by the first step as exceeds the amount found by the second step.
- (3) The first step is, ignoring the effect of Part 12 of CTA 2010, to apply the rules in this Part of this Schedule that operate by reference to the election to identify the amount of the gain which (but for this paragraph) would not be chargeable.
- (4) The second step is, ignoring the effect of this Part of this Schedule, to apply the rules in Part 12 of CTA 2010 that operate in relation to the group UK REIT to identify the amount of the gain accruing to the JV company which falls to be exempted as mentioned in sub-paragraph (1)(b).
- (5) In the case of a disposal, a company is “covered by an election made under paragraph 12” for the purposes of this paragraph if the disposal is one to which paragraph 16 applies where the election concerned is the one referred to in this paragraph.
- (6) In this paragraph “group UK REIT” has the same meaning as in Part 12 of CTA 2010.

*Separate application of exemptions under this Schedule and elsewhere*

- 37 (1) If—
- (a) a person disposes of a right or interest in a company on which a gain or loss accrues, and
- (b) proportions of the gain or loss are not chargeable or allowable as a result of the operation of any relevant exemption provision,
- each relevant exemption provision is to work separately (without regard to the other) in relation to each proportion of the gain or loss to which the relevant exemption provision applies.
- (2) Accordingly—
- (a) each relevant exemption provision is to operate by reference to the whole of the gain or loss (ignoring the effect of the other relevant exemption provision), and

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- (b) the total proportion of the gain or loss which is not chargeable or allowable is the total of the proportions separately found (but not so as to exceed the whole amount of the gain or loss).
- (3) Each of the following is a “relevant exemption provision” for the purposes of this paragraph—
- (a) any provision made by this Part of this Schedule,
  - (b) any provision made by paragraph 3A of Schedule 7AC, and
  - (c) any provision made by Part 12 of CTA 2010.
- (4) This paragraph is subject to paragraphs 34 to 36.

*Meaning of meeting “the applicable exemption conditions”*

- 38 (1) For the purposes of Part of this Schedule a qualifying fund “meets the applicable exemption conditions” at any time if, at that time—
- (a) it is a collective investment vehicle, and
  - (b) it meets the entitlement conditions set out in paragraph 12(2).
- (2) For the purposes of Part of this Schedule a qualifying company “meets the applicable exemption conditions” at any time if, at that time, it meets the entitlement conditions set out in paragraph 12(3).

*Meaning of “the relevant fund” and “the relevant fund manager”*

- 39 (1) In this Part of this Schedule “the relevant fund”—
- (a) in the case of an election in respect of a qualifying fund under paragraph 12, means the collective investment vehicle concerned, and
  - (b) in the case of an election in respect of a qualifying company under paragraph 12, means the collective investment scheme which wholly (or almost wholly) owns that company.
- (2) In this Part of this Schedule “the relevant fund manager”, in the case of an election in respect of a qualifying fund or qualifying company under paragraph 12, means the manager of the relevant fund.

*Meaning of “wholly owned” or “wholly (or almost wholly) owned”*

- 40 (1) For the purposes of this Part of this Schedule a collective investment scheme, or a person or persons together, wholly owns or own a company at any time if the scheme, or person or persons together, has or have a 100% investment in the company at that time.
- (2) Whether a scheme, or person or persons together, have a 100% investment in a company at any time is determined—
- (a) by applying a modified version of the rule in paragraph 9 of Schedule 1A, and,
  - (b) in the case of a collective investment scheme, on the assumption that it is a person.
- (3) The reference here to a modified version of the rule in paragraph 9 of Schedule 1A is to the rule in that paragraph as it has effect without regard to paragraph 10 and as if in sub-paragraph (1) of paragraph 9 the following modifications were made—

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- (a) for the opening words substitute “A person or persons together ( “ P ”) has or have a 100% investment in a company ( “C”) if all of the following conditions are met—”,
  - (b) omit paragraph (a),
  - (c) in each of paragraphs (b), (c) and (d), for “25% or more” substitute “ 100% ”, and
  - (d) for the “or” at the end of paragraph (c) substitute “ and ”.
- 41 (1) For the purposes of this Part of this Schedule a collective investment scheme or person wholly (or almost wholly) owns a company at any time if—
- (a) the scheme or person wholly owns the company at that time, or
  - (b) the scheme or person has a 99% investment in the company at that time.
- (2) Whether a scheme or person has a 99% investment in a company at any time is determined—
- (a) by applying a modified version of the rule in paragraph 9 of Schedule 1A, and,
  - (b) in the case of a collective investment scheme, on the assumption that it is a person.
- (3) The reference here to a modified version of the rule in paragraph 9 of Schedule 1A is to the rule in that paragraph as it has effect without regard to paragraph 10 and as if in sub-paragraph (1) of paragraph 9 the following modifications were made—
- (a) omit paragraph (a),
  - (b) for “25%”, in each place, substitute “ 99% ”, and
  - (c) for the “or” at the end of paragraph (c) substitute “ and ”.

*Meaning of “designated HMRC officer”*

- 42 In this Part of this Schedule “designated HMRC officer” means an officer of Revenue and Customs who has been designated by the Commissioners for Her Majesty's Revenue and Customs for the purpose of revoking elections under paragraph 12.

## PART 5

### REPORTING AND PAYMENT

*Reporting by collective investment vehicles*

- 43 (1) The Treasury may by regulations make provision for managers of collective investment vehicles to elect to provide information to an officer of Revenue and Customs in respect of any participant in the vehicle who holds units the disposal of which would constitute an indirect disposal of UK land.
- (2) The regulations may specify circumstances in which the provision of information or documents in accordance with the regulations is taken to satisfy obligations of the participant (or anyone else) to provide information or documents to an officer of Revenue and Customs.
- (3) The regulations may be framed so as to apply to obligations of a description specified in the regulations.

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#### *Withholding of amounts on account of capital gains tax*

- 44 (1) The Treasury may by regulations make provision for managers of collective investment vehicles to elect to meet the liability to capital gains tax or corporation tax in respect of indirect disposals of UK land made by any participant in the vehicle.
- (2) The regulations may make provision for a simplified calculation of the tax liability of the participant in respect of those disposals.
- (3) The regulations may make provision authorising the manager of a collective investment vehicle (or anyone else of a description specified in the regulations) to deduct an amount on account of capital gains tax from amounts that would otherwise be receivable by the participant.
- (4) The regulations—
- (a) may provide for the times at which amounts deducted on account of capital gains tax are to be paid to Her Majesty's Revenue and Customs, and
  - (b) may set out the extent to which those payments meet the liability of the participant to capital gains tax or corporation tax in respect of any indirect disposal of UK land.

#### *General*

- 45 (1) Regulations under this Part of this Schedule—
- (a) may make different provision for different purposes, and
  - (b) may make supplementary, incidental, consequential or transitional or saving provision.
- (2) Regulations under this Part of this Schedule may make provision having effect in relation to times before the regulations are made.

### **PART 6**

#### **GENERAL**

#### *Meaning of “close company”, “qualifying investor” and “direct or indirect participator”*

- 46 (1) This paragraph has effect for the purposes of the provisions of this Schedule which apply this paragraph (or to which this paragraph is applied).
- (2) Whether a company is “a close company” is determined in accordance with the rules in Chapter 2 of Part 10 of CTA 2010 but subject to the following modifications—
- (a) section 442(a) (non-UK resident companies) is to be treated as omitted,
  - (b) section 444 (companies involved with non-close companies) is to be treated as omitted,
  - (c) section 447(1)(a) (shares in quoted companies beneficially held by non-close companies) is to be treated as omitted,<sup>F40</sup>...
  - (d) for the purposes of any attribution under section 451(4) (rights of a person's associates to be attributed to the person etc in determining “control”) the rights and powers of a person (“A”) are not to be attributed to another person (“P”) merely because A is a partner of P<sup>F41</sup>, and

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- (e) a company (“C”) is not to be regarded as a close company only because a person possesses or is entitled to acquire the greater part of the voting power in C as a result of being—
- (i) a manager of a collective investment vehicle, or
  - (ii) a general partner in a limited partnership which is a collective investment scheme.]
- (3) A “qualifying investor” means—
- (a) a person who is within any of section 528(4A)(a), (b), (c), (i) or (j) of CTA 2010 where, if the collective investment vehicle mentioned in the provision concerned is a company, it meets the non-close condition or, if not, the vehicle meets the genuine diversity of ownership condition,
  - (b) a person who is within any other provision of section 528(4A) of that Act, or
  - (c) a qualifying fund or qualifying company in respect of which an election under paragraph 12 has effect.
- (4) For the purposes of sub-paragraph (3)(a) a collective investment vehicle meets the genuine diversity of ownership condition at any time if, at that time—
- (a) it meets [<sup>F42</sup>the conditions in regulation 75(2), (3) and (4)(a)] of the Offshore Funds (Tax) Regulations 2009, or
  - (b) it meets the condition in regulation 75(5) of those Regulations, [<sup>F43</sup>(assuming for this purpose that regulation 75(4)(b) is omitted)]
- and those Regulations apply for the purposes of this sub-paragraph as if any collective investment vehicle which is not an offshore fund were regarded as an offshore fund [<sup>F44</sup>(and see also paragraphs 46A and 51)].
- (5) For the purposes of sub-paragraph (3)(a) a company meets the non-close condition at any time if, at that time, it—
- (a) is not a close company, or
  - (b) is a close company but only because it has a qualifying investor as a direct or indirect participator,
- applying the provisions of this paragraph for the purposes of this sub-paragraph.
- (6) A person is a “direct participator” if the person is a participator for the purposes of Part 10 of CTA 2010 (see section 454).
- (7) A person is an “indirect” participator in a company if the person has a share or interest in the capital or income of the company through another body corporate or other bodies corporate.
- (8) The reference here to having a share or interest in the capital or income of a company through a body corporate is to be read as follows.
- (9) Suppose that 3 or more bodies corporate are ordered in a series such that each body in the series (other than the last) has a share or interest in the capital or income of the body immediately below it in the series.
- (10) If B is a body that is below, but not immediately below, A in the series, A is said to own a share or interest in the capital or income of B through each body corporate that is between A and B in the series.

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(11) A person is regarded for the purposes of sub-paragraphs (7) to (10) as having a share or interest in the capital or income of a company if the person would be a participator in the company as a result of section 454(2) of CTA 2010.

[<sup>F45</sup>(12) For the purposes of this paragraph any reference to a body corporate includes—

- (a) an offshore collective investment vehicle which is, as a result of paragraph 4, assumed to be a company for the purposes of this Schedule, and
- (b) anything else which is, as a result of provision made elsewhere by this Act, assumed to be a company for the purposes of this Act.]

#### Textual Amendments

- F40** Word in Sch. 5AAA para. 46(2) omitted (with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **15(a)**
- F41** Sch. 5AAA para. 46(2)(e) and word inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **15(a)**
- F42** Words in Sch. 5AAA para. 46(4)(a) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **15(b)(i)**
- F43** Words in Sch. 5AAA para. 46(4)(b) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **15(b)(ii)**
- F44** Words in Sch. 5AAA para. 46(4) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **15(b)(iii)**
- F45** Sch. 5AAA para. 46(12) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **15(c)**

[<sup>F46</sup>References to regulation 75(3) of the *Offshore Funds (Tax) Regulations 2009*

#### Textual Amendments

- F46** Sch. 5AAA para. 46A and cross-heading inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **16**

- 46A. (1) This paragraph applies, in the case of a collective investment vehicle, for the purpose of determining whether the vehicle meets the genuine diversity of ownership condition referred to in any provision of this Schedule.
- (2) The fact that (for any reason) the capacity of the vehicle to receive investments is limited does not prevent regulation 75(3) of the *Offshore Funds (Tax) Regulations 2009* (including as it applies for the purposes of regulation 75(5) of those Regulations) from being met.
- (3) Sub-paragraph (2) does not apply if—
- (a) the limited capacity of the vehicle to receive investments is fixed by the documents of the vehicle (or otherwise), and

*Status: Point in time view as at 26/06/2020.*

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- (b) a pre-determined number of specific persons, or specific groups of connected persons, make investments in the vehicle that collectively exhausts all, or substantially all, of that capacity.]

#### *Other definitions*

47 (1) In this Schedule—

[<sup>F47</sup>“company UK REIT” has the same meaning as in Part 12 of CTA 2010,]

“double taxation arrangements” means arrangements having effect under section 2(1) of TIOPA 2010,

“interest in UK land” is to be read in accordance with section 1C,

“the manager”, in relation to a collective investment vehicle, means—

- (a) any person who is the manager of the property that is the subject of or held by the vehicle, or
- (b) any other person who has, or is expected to have, day-to-day control of that property,

[<sup>F48</sup>“the principal company of a group UK REIT” has the same meaning as in Part 12 of CTA 2010,] and

“prospectus”, in relation to a collective investment vehicle, means any document (however described) which is made available to investors and which sets out descriptions of the investments to be made, or intended to be made, by the vehicle.

(2) For the purposes of this Schedule—

- (a) a reference to a direct disposal of UK land is to a disposal of an interest in UK land, and
- (b) a reference to an indirect disposal of UK land is to a disposal of an asset deriving at least 75% of its value from UK land.

(3) For this purpose the reference to a disposal of an asset deriving at least 75% of its value from UK land is to be read in accordance with Part 2 of Schedule 1A.

#### **Textual Amendments**

**F47** Words in Sch. 5AAA para. 47(1) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **17(a)**

**F48** Words in Sch. 5AAA para. 47(1) inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **17(b)**

#### *Power to make provision in relation to UK property rich collective investment vehicles etc*

48 (1) The Treasury may by regulations make provision for the purposes of any provision of this Act in relation to—

- (a) collective investment vehicles that are UK property rich, or
- (b) investments made (directly or indirectly) by collective investment vehicles in companies that are UK property rich.

(2) Among other things, the regulations—



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- (a) may amend any provision made by this Schedule, or
  - (b) may disapply any provision made by or under this Act or provide for any provision made by or under this Act to have effect with modifications specified in the regulations.
- (3) The regulations may make provision having effect in relation to times before the regulations are made.
- (4) The regulations—
- (a) may make different provision for different purposes, and
  - (b) may make supplementary, incidental, consequential or transitional or saving provision.

## PART 7

### TRANSITIONAL PROVISION

#### *Elections for transparency under paragraph 8*

- 49 (1) This paragraph applies in the case of an offshore collective investment vehicle to which paragraph 8 applies which was constituted before 6 April 2019.
- (2) Paragraph 9(1)(c) has effect as if it permitted the election under paragraph 8 to be made before [<sup>F49</sup>1 October 2020].
- (3) The election is to have effect in relation to disposals made on or after 6 April 2019 (so that paragraph 8(2) has effect subject to this sub-paragraph).
- (4) If a person is a participant in the vehicle on 6 April 2019—
- (a) the making of an election under paragraph 8 is not to be regarded as being a disposal of the person's units in the vehicle, and
  - (b) any question arising for the purposes of this Act, in relation to a disposal on or after 6 April 2019 of the person's units in the vehicle, is to be determined as if the election under paragraph 8 had had effect in relation to all times on or after the vehicle's constitution.

#### Textual Amendments

**F49** Words in Sch. 5AAA para. 49(2) substituted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **18**

- [<sup>F50</sup>49A. (1) This paragraph applies in the case of an offshore collective investment vehicle to which paragraph 8 applies which was constituted on or after 6 April 2019.
- (2) Paragraph 9(1)(c) has effect as if it permitted the election under paragraph 8 to be made before whichever is the later of—
- (a) the end of the period mentioned in paragraph 9(1)(c), or
  - (b) 1 October 2020.]

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#### Textual Amendments

**F50** Sch. 5AAA para. 49A inserted (10.4.2020) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **19**

#### *Elections under paragraph 12 and information about disposals by participants*

50 Nothing in paragraph 14 requires information about disposals made before 6 April 2019.

#### *[<sup>F51</sup>Genuine diversity of ownership condition in case of existing funds*

#### Textual Amendments

**F51** Sch. 5AAA para. 51 and cross-heading inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The UK Property Rich Collective Investment Vehicles \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2020 \(S.I. 2020/315\)](#), regs. 1(1), **20**

51. (1) This paragraph applies, in the case of a collective investment vehicle constituted before 6 April 2020, for the purpose of determining whether the vehicle meets the genuine diversity of ownership condition referred to in any provision of this Schedule.
- (2) It is to be assumed that regulation 75(2) of the Offshore Funds (Tax) Regulations 2009 (including as it applies for the purposes of regulation 75(5) of those Regulations) has effect as if it referred to a statement prepared by the manager of the vehicle, available to HMRC, which—
- (a) specifies the intended categories of investor when the vehicle was marketed,
  - (b) confirms that the interests in the vehicle were made widely available, and
  - (c) confirms that interests in the vehicle were marketed and made available in accordance with the requirements of regulation 75(4)(a) of those Regulations (and that provision is to be read accordingly).]]

**Status:**

Point in time view as at 26/06/2020.

**Changes to legislation:**

Taxation of Chargeable Gains Act 1992, SCHEDULE 5AAA is up to date with all changes known to be in force on or before 29 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.