

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Exclusion of premiums taxed as receipts of a property business etc. is up to date with all changes known to be in force on or before 08 July 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) View outstanding changes

SCHEDULES

SCHEDULE 8

LEASES

Modifications etc. (not altering text)

- C1** Sch. 8 modified (with effect in accordance with s. 39(4)(a)(5) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. 39(3), [Sch. 6 para. 37](#)

Exclusion of premiums taxed ^{F1}as receipts of a property business] etc.

Textual Amendments

- F1** Words in Sch. 8 para. 5 cross-heading substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 388\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))

- 5 (1) Where by reference to any premium ^{F2}any amount is brought into account by virtue of ^{F3}any of sections 277 to 281 of ITTOIA 2005 or sections 217 to 221 of CTA 2009 as a receipt of a UK property business], that amount out of the premium shall be excluded from the consideration brought into account in the computation of the gain accruing on the disposal for which the premium is consideration except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under section 42.
- (2) Where by reference to any premium in respect of a sublease granted out of a lease the duration of which (that is of the lease) does not, at the time of granting the lease, exceed 50 years, ^{F2}any amount is brought into account by virtue of ^{F4}any of sections 277 to 281 of ITTOIA 2005 or sections 217 to 221 of CTA 2009 as a receipt of a UK property business] that amount shall be deducted from any gain accruing on the disposal for which the premium is consideration as computed in accordance with the provisions of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.
- (3) Subject to subsection (4) below, where ^{F5}any amount is brought into account by virtue of ^{F6}section 284 or 285 of ITTOIA 2005 or section 224 or 225 of CTA 2009 (sale of land with right to reconveyance or leaseback) as a receipt of a UK property business], a sum of that amount shall be excluded from the consideration brought into account in the computation of the gain accruing on the disposal of the estate or interest in respect of which income tax becomes so chargeable, except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under section 42.
- (4) If what is disposed of is the remainder of a lease or a sublease out of a lease the duration of which does not exceed 50 years, sub-paragraph (3) shall not apply but the

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amount there referred to shall be deducted from any gain accruing on the disposal as computed in accordance with the provisions of this Act apart from this sub-paragraph and sub-paragraph (3), but not so as to convert the gain into a loss, or to increase any loss.

- [^{F7}(5) References in sub-paragraphs (1) and (2) above to a premium include references to—
- ^{F8}(a)
- (b) a sum that becomes payable by the tenant under the terms subject to which a lease is granted in lieu of the whole or a part of the rent for any period,
- (c) a sum that becomes payable by the tenant under the terms subject to which a lease is granted as consideration for the surrender of the lease, and
- (d) a sum that becomes payable by the tenant (otherwise than by way of rent) as consideration for the variation or waiver of any of the terms of a lease.]
- (6) Section 37 shall not be taken as authorising the exclusion of any amount from the consideration for a disposal of assets taken into account in the computation of the gain by reference to [^{F9}any amount from which a sum representing income tax is required to be deducted under Part 15 of ITA 2007].

Textual Amendments

- F2** Words in Sch. 8 para. 5(1)(2) substituted (with effect in accordance with s. 38 of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 5 para. 63\(2\)\(a\)](#) (with [Sch. 5 para. 73](#))
- F3** Words in Sch. 8 para. 5(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 388\(2\)\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F4** Words in Sch. 8 para. 5(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 388\(2\)\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F5** Words in Sch. 8 para. 5(3) substituted (with effect in accordance with s. 38 of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 5 para. 63\(2\)\(b\)](#) (with [Sch. 5 para. 73](#))
- F6** Words in Sch. 8 para. 5(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 388\(2\)\(c\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F7** Sch. 8 para. 5(5) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 451\(2\)\(d\)](#) (with [Sch. 2](#))
- F8** Sch. 8 para. 5(5)(a) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 388\(2\)\(d\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F9** Words in Sch. 8 para. 5(6) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 349](#) (with [Sch. 2](#))

- 6 [^{F10}(1) [^{F11}If under section 292 of ITTOIA 2005 or section 232 of CTA 2009 (allowance where, by the grant of a sublease, a lessee has converted a capital amount into a right to income) a person is to be treated as incurring expenses in consequence of having granted a sublease,] the amount of any loss accruing to the person on the disposal by way of the grant of the sublease shall be reduced by the total amount of rent which the person is thereby treated as paying, or the total amount of expenses which the person is thereby treated as incurring, over the term of the sublease (and without regard to whether relief is thereby effectively given over the term of the sublease), but not so as to convert the loss into a gain, or to increase any gain.]
- (2) Nothing in section 37 of this Act shall be taken as applying in relation to any amount [^{F12}brought into account][^{F13}by virtue of section 282 of ITTOIA 2005 or section 222 of CTA 2009 (assignments for profit of lease granted at undervalue) as a receipt of a UK property business.].

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- [^{F14}(3) If any adjustment is made—
- (a) under section 301 or 302 of ITTOIA 2005, or
 - (b) under section 238 or 239 of CTA 2009,
- on a claim made under that section, any necessary adjustment shall be made to give effect to the consequences of the claim on the operation of this paragraph or paragraph 5 above.]

Textual Amendments

- F10** Sch. 8 para. 6(1) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 451\(3\)\(a\)](#) (with Sch. 2)
- F11** Words in Sch. 8 para. 6(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 388\(4\)\(a\)](#) (with Sch. 2 Pts. 1, 2)
- F12** Words in Sch. 8 para. 6(2) substituted (with effect in accordance with s. 38 of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 5 para. 63\(3\)](#) (with Sch. 5 para. 73)
- F13** Words in Sch. 8 para. 6(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 388\(4\)\(b\)](#) (with Sch. 2 Pts. 1, 2)
- F14** Sch. 8 para. 6(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 388\(4\)\(c\)](#) (with Sch. 2 Pts. 1, 2)

- [^{F157} If—
- [^{F16}(a) under section 277 of ITTOIA 2005 any amount is brought into account by virtue of section 278 of that Act as a receipt of a UK property business which is carried on by any person, or
 - (b) under section 217 of CTA 2009 any amount is brought into account by virtue of section 218 of that Act as a receipt of a UK property business which is carried on by any company,]
- that person shall be treated for the purposes of the computation of any gain accruing to him as having incurred at the time the lease was granted expenditure of that amount (in addition to any other expenditure) attributable to the asset under section 38(1)(b).]

Textual Amendments

- F15** Sch. 8 para. 7 substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 451\(4\)](#) (with Sch. 2)
- F16** Sch. 8 para. 7(a)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 388\(5\)](#) (with Sch. 2 Pts. 1, 2)

- [^{F177A} References in paragraphs 5 to 7 above to an amount brought into account as a receipt of a ^{F18}... [^{F19}UK property business] include references to an amount brought into account as a receipt of an overseas property business.]

Textual Amendments

- F17** Sch. 8 para. 7A substituted (with effect in accordance with s. 38 of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 5 para. 63\(5\)](#) (with Sch. 5 para. 73)
- F18** Words in Sch. 8 para. 7A repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 388\(6\), Sch. 3 Pt. 1](#) (with Sch. 2 Pts. 1, 2)

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F19 Words in Sch. 8 para. 7A inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 451\(5\)](#) (with Sch. 2)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by [S.I. 2008/3068](#), art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by [S.I. 1989/469](#), reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by [S.I. 1989/469](#), reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)