

*Status: Point in time view as at 31/07/1998.*

**Changes to legislation:** Finance Act 1998, SCHEDULE 21 is up to date with all changes known to be in force on or before 20 June 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

### SCHEDULE 21

Section 121.

#### AMENDMENTS IN CONNECTION WITH TAPER RELIEF

##### *Introductory*

- 1 The <sup>M1</sup>Taxation of Chargeable Gains Act 1992 shall be amended in accordance with the following provisions of this Schedule.

##### **Marginal Citations**

**M1** 1992 c. 12.

##### *Gains of trustees attributed to settlor*

- 2 In section 2 (persons and gains chargeable to capital gains tax), after subsection (3) there shall be inserted the following subsections—
- “(4) Where any amount is treated by virtue of any of sections 77, 86, 87 and 89(2) (read, where applicable, with section 10A) as an amount of chargeable gains accruing to any person in any year of assessment—
- (a) that amount shall be disregarded for the purposes of subsection (2) above; and
  - (b) the amount on which that person shall be charged to capital gains tax for that year (instead of being the amount given by that subsection) shall be the sum of the amounts specified in subsection (5) below.
- (5) Those amounts are—
- (a) the amount which after—
    - (i) making any deductions for which subsection (2) provides, and
    - (ii) applying any reduction in respect of taper relief under section 2A,is the amount given for the year of assessment by the application of that subsection in accordance with subsection (4)(a) above; and
  - (b) every amount which is treated by virtue of sections 77, 86, 87 and 89(2) (read, where applicable, with section 10A) as an amount of chargeable gains accruing to the person in question in that year.”

##### *Annual exempt amount*

- 3 For subsection (5) of section 3 (definition of taxable amount) there shall be substituted the following subsections—

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- “(5) For the purposes of this section an individual’s taxable amount for any year of assessment is the amount which, after—
- (a) making every deduction for which section 2(2) provides,
  - (b) applying any reduction in respect of taper relief under section 2A, and
  - (c) adding any amounts falling to be added by virtue of section 2(5)(b),
- is (apart from this section) the amount for that year on which that individual is chargeable to capital gains tax in accordance with section 2.
- (5A) Where, in the case of any individual, the amount of the adjusted net gains for any year of assessment is equal to or less than the exempt amount for that year, no deduction shall be made for that year in respect of—
- (a) any allowable losses carried forward from a previous year; or
  - (b) any allowable losses carried back from a subsequent year in which the individual dies.
- (5B) Where, in the case of any individual, the amount of the adjusted net gains for any year of assessment exceeds the exempt amount for the year, the deductions made for that year in respect of allowable losses falling within subsection (5A)(a) or (b) above shall not be greater than the excess.
- (5C) In subsections (5A) and (5B) above the references, in relation to any individual’s case, to the adjusted net gains for any year are references to the amount given in his case by—
- (a) taking the amount for that year from which the deductions for which section 2(2)(a) and (b) provides are to be made;
  - (b) deducting only the amounts falling to be deducted in accordance with section 2(2)(a); and
  - (c) in a year in which any amount falls to be brought into account by virtue of section 2(5)(b), adding whichever is the smaller of the exempt amount for that year and the amount falling to be so brought into account.”

*Gains attributed to members of non-resident companies*

- 4 In section 13 (gains attributed to members of non-resident companies), after subsection (10) there shall be inserted the following subsection—

“(10A) A gain which is treated as accruing to any person by virtue of this section shall not be eligible for taper relief.”

*Carry back of losses on death*

- 5 In section 62 (general provisions about death), the following subsections shall be inserted after subsection (2)—

“(2A) Amounts deductible from chargeable gains for any year in accordance with subsection (2) above shall not be so deductible from any such gains so far as they are gains that are brought into account for that year by virtue of section 2(5)(b).

(2B) Where deductions under subsection (2) above fall to be made from the chargeable gains for any year, the provisions of this Act relating to taper

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relief shall have effect as if those deductions were deductions under section 2(2)(a) and (b) and, accordingly, as if—

- (a) those deductions were to be made (before the application of the relief) in computing for that year the excess (if any) mentioned in section 2A(1); and
- (b) for the purpose of determining the gains represented in that excess, the gains for that year from which those deductions are treated as made were to be ascertained in accordance with section 2A(6).”

#### *Gains attributed to settlors and beneficiaries*

- 6 (1) In section 77 (attribution of gains to settlor with an interest in the settlement), after subsection (6) there shall be inserted the following subsection—

“(6A) Without prejudice to so much of this section as requires section 2A to be applied in the computation of any amount that is treated under this section as an amount of chargeable gains accruing to the settlor, chargeable gains that are treated as accruing to the settlor under this section shall not be eligible for taper relief.”

- (2) In section 86 (attribution of gains to settlor with interest in non-resident or dual resident settlement), after subsection (4) there shall be inserted the following subsection—

“(4A) Without prejudice to so much of this section as requires section 2A to be applied in the computation of any amount that is treated under this section as an amount of chargeable gains accruing to the settlor, chargeable gains that are treated as accruing to the settlor under this section shall not be eligible for taper relief.”

- (3) In section 87 (attribution of gains to beneficiaries), after subsection (6) there shall be inserted the following subsection—

“(6A) Without prejudice to so much of this section as requires section 2A to be applied in the computation of the amount of the trust gains for any year of assessment, chargeable gains that are treated as accruing to beneficiaries under this section shall not be eligible for taper relief.”

- (4) In section 89(3) (application of provisions of section 87 in the cases of gains treated as accruing under section 89(2)), after “Subsections (5)” there shall be inserted “ , (6A) ”.

#### *Gains on assets deriving from reorganisation of body carrying on a mutual business etc.*

- 7 In Chapter IV of Part VI (special cases), before section 215 there shall be inserted the following section—

#### *“ Re-organisations of mutual businesses*

##### **214C Gains not eligible for taper relief.**

- (1) A gain shall not be eligible for taper relief if—

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- (a) it is a gain accruing on a disposal in connection with any relevant re-organisation; or
  - (b) it is a gain accruing on anything which, in a case in which capital sums are received under or in connection with a relevant re-organisation, falls under section 22 to be treated as a disposal.
- (2) In this section “a relevant re-organisation” means—
- (a) any scheme of reconstruction or amalgamation applying to a mutual company;
  - (b) the transfer of the whole of a building society’s business to a company in accordance with section 97 and the other applicable provisions of the <sup>M2</sup>Building Societies Act 1986; or
  - (c) the incorporation of a registered friendly society under the <sup>M3</sup>Friendly Societies Act 1992.
- (3) In this section—
- ‘insurance company’ has the meaning given by section 96(1) of the <sup>M4</sup>Insurance Companies Act 1982;
- ‘mutual company’ means—
- (a) a mutual insurance company; or
  - (b) a company of another description carrying on a business on a mutual basis;
- ‘mutual insurance company’ means an insurance company carrying on a business without having a share capital; and
- ‘scheme of reconstruction or amalgamation’ has the same meaning as in section 136.”

**Marginal Citations**

- M2** 1986 c. 53.  
**M3** 1992 c. 40.  
**M4** 1982 c. 50.

*Commercial letting of furnished holiday dwellings*

- 8 In section 241(3) (provisions for the purposes of which letting of furnished holiday dwellings is to be treated as a trade), for “Schedule 6” there shall be substituted “Schedule A1 and Schedule 6”.

*Delayed remittances in respect of foreign assets*

- 9 In section 279(2)(a) (deductions in respect of unremitted gains), after “deducted” there shall be inserted “ (before the application of any taper relief) ”.

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